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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) 786-6697.

REPUBLICATION OF OFFICIAL DOCUMENTS

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CERTIFICATE

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

DENNIS W. COOPER
Code Reviser

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 April 1998 pursuant to RCW 19.52.020 is twelve point zero percent (12.00%).

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

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

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STYLE AND FORMAT OF THE WASHINGTON STATE REGISTER

1. ARRANGEMENT OF THE REGISTER

The Register is arranged in the following six sections:

- (a) **PREPROPOSAL**-includes the Preproposal Statement of Inquiry that will be used to solicit public comments on a general area of proposed rule making before the agency files a formal notice.
- (b) **PROPOSED**-includes the full text of formal proposals, continuances, supplemental notices, and withdrawals.
- (c) **PERMANENT**-includes the full text of permanently adopted rules.
- (d) **EMERGENCY**-includes the full text of emergency rules and rescissions.
- (e) **MISCELLANEOUS**-includes notice of public meetings of state agencies, rules coordinator notifications, summaries of attorney general opinions, executive orders and emergency declarations of the governor, rules of the state Supreme Court, and other miscellaneous documents filed with the code reviser's office under RCW 34.08.020 and 42.30.075.
- (f) **TABLE**-includes a cumulative table of the WAC sections that are affected in the current year.
- (g) **INDEX**-includes a combined subject matter and agency index.

Documents are arranged within each section of the Register according to the order in which they are filed in the code reviser's office during the pertinent filing period. The three part number in the heading distinctively identifies each document, and the last part of the number indicates the filing sequence with a section's material.

2. PRINTING STYLE—INDICATION OF NEW OR DELETED MATERIAL

RCW 34.05.395 requires the use of certain marks to indicate amendments to existing agency rules. This style quickly and graphically portrays the current changes to existing rules as follows:

- (a) In amendatory sections—
 - (i) underlined material is new material;
 - (ii) ~~deleted material is ((lined out between double parentheses))~~;
- (b) Complete new sections are prefaced by the heading NEW SECTION;
- (c) The repeal of an entire section is shown by listing its WAC section number and caption under the heading REPEALER.

3. MISCELLANEOUS MATERIAL NOT FILED UNDER THE ADMINISTRATIVE PROCEDURE ACT

Material contained in the Register other than rule-making actions taken under the APA (chapter 34.05 RCW) does not necessarily conform to the style and format conventions described above. The headings of these other types of material have been edited for uniformity of style; otherwise the items are shown as nearly as possible in the form submitted to the code reviser's office.

4. EFFECTIVE DATE OF RULES

- (a) Permanently adopted agency rules normally take effect thirty-one days after the rules and the agency order adopting them are filed with the code reviser's office. This effective date may be delayed or advanced and such an effective date will be noted in the promulgation statement preceding the text of the rule.
- (b) Emergency rules take effect upon filing with the code reviser's office unless a later date is provided by the agency. They remain effective for a maximum of one hundred twenty days from the date of filing.
- (c) Rules of the state Supreme Court generally contain an effective date clause in the order adopting the rules.

5. EDITORIAL CORRECTIONS

Material inserted by the code reviser's office for purposes of clarification or correction or to show the source or history of a document is enclosed in [brackets].

1997 - 1998
DATES FOR REGISTER CLOSING, DISTRIBUTION, AND FIRST AGENCY ACTION

Issue No.	Closing Dates ¹			Distribution Date	First Agency Hearing Date ³	Expedited Adoption ⁴
	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>	<i>First Agency Adoption Date</i>
97-16	Jul 9	Jul 23	Aug 6	Aug 20	Sep 9	Oct 4
97-17	Jul 23	Aug 6	Aug 20	Sep 3	Sep 23	Oct 18
97-18	Aug 6	Aug 20	Sep 3	Sep 17	Oct 7	Nov 1
97-19	Aug 20	Sep 3	Sep 17	Oct 1	Oct 21	Nov 15
97-20	Sep 3	Sep 17	Oct 1	Oct 15	Nov 4	Nov 29
97-21	Sep 24	Oct 8	Oct 22	Nov 5	Nov 25	Dec 20
97-22	Oct 8	Oct 22	Nov 5	Nov 19	Dec 9	Jan 3, 1998
97-23	Oct 22	Nov 5	Nov 19	Dec 3	Dec 23	Jan 17, 1998
97-24	Nov 5	Nov 19	Dec 3	Dec 17, 1997	Jan 6, 1998	Jan 31
98-01	Nov 26	Dec 10	Dec 24, 1997	Jan 7, 1998	Jan 27	Feb 21
98-02	Dec 10	Dec 24, 1997	Jan 7, 1998	Jan 21	Feb 10	Mar 7
98-03	Dec 24, 1997	Jan 7, 1998	Jan 21	Feb 4	Feb 24	Mar 21
98-04	Jan 7	Jan 21	Feb 4	Feb 18	Mar 10	Apr 4
98-05	Jan 21	Feb 4	Feb 18	Mar 4	Mar 24	Apr 18
98-06	Feb 4	Feb 18	Mar 4	Mar 18	Apr 7	May 2
98-07	Feb 18	Mar 4	Mar 18	Apr 1	Apr 21	May 16
98-08	Mar 4	Mar 18	Apr 1	Apr 15	May 5	May 30
98-09	Mar 25	Apr 8	Apr 22	May 6	May 26	Jun 20
98-10	Apr 8	Apr 22	May 6	May 20	Jun 9	Jul 4
98-11	Apr 22	May 6	May 20	Jun 3	Jun 23	Jul 18
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98-24	Nov 4	Nov 18	Dec 2	Dec 16, 1998	Jan 5, 1999	Jan 30

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.

⁴A minimum of forty-five days is required between the distribution date of the Register giving notice of the expedited adoption and the agency adoption date. No hearing is required, but the public may file written objections. See RCW 34.05.230, as amended by section 202, chapter 409, Laws of 1997.

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;

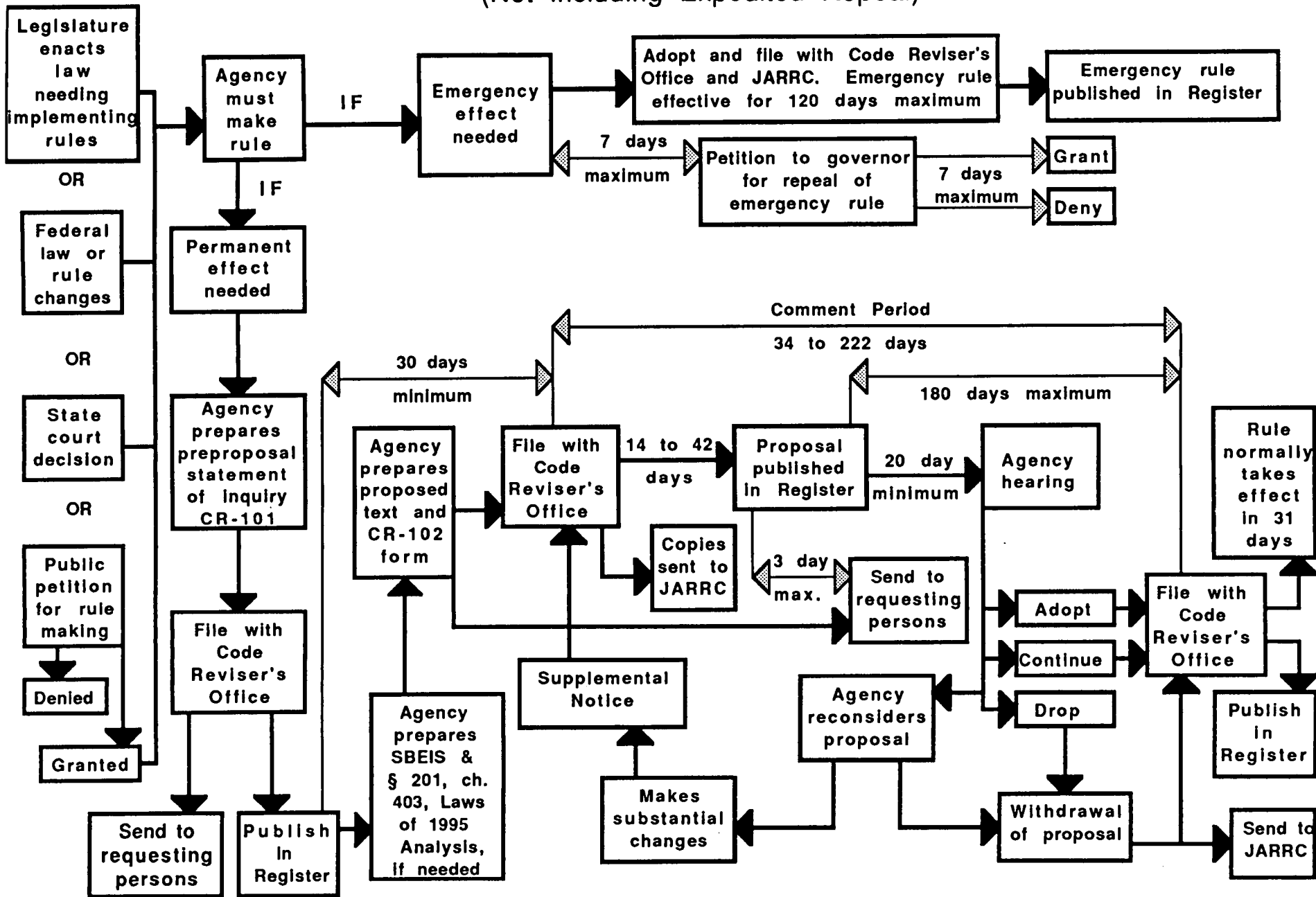
The rule REDUCES costs to business (although an SBEIS may be a useful tool for demonstrating this reduced impact);

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 98-08-012**PREPROPOSAL STATEMENT OF INQUIRY
GAMBLING COMMISSION**

[Filed March 18, 1998, 3:50 p.m.]

Subject of Possible Rule Making: Licensing requirements for nonprofit and commercial entities in such areas as fees and reporting requirements.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 9.46.070.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Rule changes will enable the agency to further streamline the licensing process; increase agency's ability to monitor activities of manufacturers, financiers, and management companies; clarify reporting requirements; allow agency to recover additional fees incurred in the conduct of high level investigations; increase agency's ability to assess the accounting of funds raised by nonprofit organizations.

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

Process for Developing New Rule: Negotiated rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Ben Bishop, Deputy Director, P.O. Box 42400, Olympia, WA 98504-2400, (360) 438-7640; or Carrie Tellefson, Director of Policy, Support and Enforcement, P.O. Box 42400, Olympia, WA 98504-2400, (360) 438-7640; or Soojin Kim, Rules and Policy Coordinator, P.O. Box 42400, Olympia, WA 98504-2400, (360) 438-7654 ext. 310.

Meetings at The Inn at Semi-ah-moo, 9565 Semiahmoo Parkway, Blaine, WA 98230-9326, (360) 371-2000, on April 9 and 10; at the Maple Hall Convention Center, 104 Commercial Street, La Conner, WA 98257, (360) 466-3101, on June 11 and 12; and the Double Tree Inn, 322 North Spokane Falls Court, Spokane, WA 09201 [99201], (509) 455-9600 on July 9 and 10.

Soojin Kim
Rules and Policy Coordinator

WSR 98-08-022**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF AGRICULTURE**

[Filed March 20, 1998, 9:49 a.m.]

Subject of Possible Rule Making: Revisions to chapter 16-86 WAC, Brucellosis, tuberculosis and scrapie in sheep and goats.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 16.36.040.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: General revision of the rule and consideration of a pilot rule project to allow veterinarians to vaccinate female cattle older than twelve months of age (mature) with RB-51 Brucella vaccine.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: United States Department of Agriculture biologics license all biologics. Present labeling allows adult vaccination with permission of state authorities.

Process for Developing New Rule: Pilot rule making; a pilot project with volunteer veterinarians will be instituted by May 1, 1998, to evaluate changing vaccination rules in chapter 16-86 WAC to allow mature brucellosis vaccination.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Dr. Robert W. Mead, State Veterinarian, Washington State Department of Agriculture, P.O. Box 42577, Olympia, WA 98504-2577, (360) 902-1878, FAX (360) 902-2087, e-mail rmead@agr.wa.gov.

March 17, 1998
Candace A. Jacobs
Assistant Director

WSR 98-08-023**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF AGRICULTURE**

[Filed March 20, 1998, 9:51 a.m.]

Subject of Possible Rule Making: New chapter 16-89 WAC, Scrapie control and eradication in sheep and goats.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 16.36.040.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Scrapie has been implicated as the source of bovine spongiform encephalopathy (BSE or Mad Cow Disease) in the United Kingdom. BSE has been implicated as the source of human new variant Creutzfeldt Jacob Disease (CJD). These implications and the need to assure a safe quality product have increased the need to control and eradicate this disease.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: United States Department of Agriculture APHIS VS administers the Voluntary Scrapie Flock Certification Program and enforces the Code of Federal Regulations (CFR) parts 54 and 79, "Scrapie in Sheep and Goats." Washington State Department of Agriculture and United States Department of Agriculture maintain a cooperative agreement to jointly control and eradicate animal diseases.

Process for Developing New Rule: Negotiated rule making; all segments of the sheep and goat industries will be invited to participate in public meetings. The final rules will be negotiated with the Washington Woolgrowers Association Scrapie Coordinating Committee (WWGA) and the WWGA board of directors.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Dr. Robert W. Mead, State Veterinarian, Washington State Department of Agriculture, P.O. Box 42577, Olympia, WA 98504-2577, (360) 902-1878, FAX (360) 902-2087, e-mail rmead@agr.wa.gov. Regional state meetings, committee meetings, phone conferences, FAX and

e-mail. All meetings will be announced at least two weeks in advance.

March 17, 1998
Candace A. Jacobs
Assistant Director

WSR 98-08-034

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF AGRICULTURE

[Filed March 23, 1998, 11:19 a.m.]

Subject of Possible Rule Making: Update livestock identification program WACs to provide consistent language and fee levels with July 1, 1998, statutory reductions; to expand the use of self-inspection slips to further reduce inspection costs for industry and to reduce paperwork and relieve program expenditures by reducing mandatory inspection points.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 16.57.160, 16.57.220, 16.57.240, 16.57.350, 16.58.050, 16.58.030, 16.58.130, 16.65.037, and 16.65.090.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Program licensing and inspection fees are reduced by 20% effective July 1, 1998. In order to operate this mandated program for livestock owners in a cost effective manner, services must be reduced. Additional clarity will be provided to certain rules to be consistent with statutory requirements.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Coordination with United States Department of Agriculture Grain Inspection, Packers and Stockyards Administration (GIPSA) accomplished through discussion and sharing of draft information.

Process for Developing New Rule: Proposed rules will be made available to stakeholders and interested parties for comment and reviewed with the Livestock Identification Advisory Board established in chapter 16.57 RCW.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Washington State Department of Agriculture, Attention: Marcia Greene, P.O. Box 42560, Olympia, WA 98504-2560, phone (360) 902-1852, FAX (360) 902-2086.

March 23, 1998
Julie C. Sandberg
Assistant Director

WSR 98-08-038

PREPROPOSAL STATEMENT OF INQUIRY STATE BOARD OF EDUCATION

[Filed March 24, 1998, 3:38 p.m.]

Subject of Possible Rule Making: Chapter 180-87 WAC, Professional certification—Acts of unprofessional conduct.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28A.70.005 and 28A.70.160.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To do one or more of the following, as deemed appropriate: Make technical adjustments, clarify existing provisions, repeal unnecessary wording, repeal provisions unsupported by rule-making authority, or provide greater flexibility or discretion to persons or entities subject to the rules.

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

Process for Developing New Rule: 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.

March 23, 1998
Larry Davis
Executive Director

WSR 98-08-043

PREPROPOSAL STATEMENT OF INQUIRY GAMBLING COMMISSION

[Filed March 25, 1998, 4:30 p.m.]

Subject of Possible Rule Making: Requirements for pull tab games which have been placed on hold by a customer.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 9.46.070.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Rule change will enable a pull tab operator to remove a pull tab game, which is being held for a customer, from display and replace it with a new pull tab game.

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

Process for Developing New Rule: Negotiated rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Ben Bishop, Deputy Director, P.O. Box 42400, Olympia, WA 98504-2400, (360) 438-7640; or Carrie Tellefson, Director of Policy, Support and Enforcement, P.O. Box 42400, Olympia, WA 98504-2400, (360) 438-7640; or Soojin Kim, Rules and Policy Coordinator, P.O. Box 42400, Olympia, WA 98504-2400, (360) 438-7654 ext. 310.

Meetings at Maple Hall Convention Center, 104 Commercial Street, La Conner, WA 98257, (360) 466-3101, on June 11 and 12; and at the Double Tree Inn, 322 North Spo-

kane Falls Court, Spokane, WA 99201, (509) 455-9600, on July 9 and 10; and at the Inn at Gig Harbor, 3211 56th N.W., Gig Harbor, WA 98335, (253) 851-6665, on August 13 and 14.

Soojin Kim
Rules and Policy Coordinator

WSR 98-08-066
PREPROPOSAL STATEMENT OF INQUIRY
LOTTERY COMMISSION

[Filed March 30, 1998, 3:36 p.m.]

Subject of Possible Rule Making: Instant game rules.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 67.70.040(1).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The lottery is considering amending and adding new sections to chapters 315-10 and 315-11A WAC to establish game play rules and criteria for determining winners of upcoming instant games.

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

Process for Developing New Rule: Agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Mary Jane Ferguson, Rules Coordinator, at (360) 753-1947, FAX (360) 586-6586, P.O. Box 43025, Olympia, WA 98504-3025, with any comments or questions regarding this statement of intent.

March 27, 1998
Mary Jane Ferguson
Rules Coordinator

WSR 98-08-072
PREPROPOSAL STATEMENT OF INQUIRY
EMPLOYMENT SECURITY DEPARTMENT

[Filed March 31, 1998, 1:17 p.m.]

Subject of Possible Rule Making: Amend WAC 192-16-051 to change the definition of "reasonable assurance" consistent with the amended statute. Amend WAC 192-16-052 to define when summer quarter is part of the academic year for instructional, research, or principal administrative staff at educational institutions. Amend WAC 192-16-057 to clarify language consistent with revised statute.

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

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: RCW 50.44.050 is amended by the 1998 legislature to eliminate references to part-time faculty at community and technical colleges, thereby including summer quarter in the definition of "academic year" for

all faculty, provided certain objective criteria are met. RCW 50.44.053 is amended to delete language regarding "contingent" reasonable assurance of continued employment for part-time faculty at community and technical colleges.

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

Process for Developing New Rule: The department intends to hold meetings with stakeholders, interested parties and significantly affected persons to seek their input in the formulation of regulations.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. Persons interested in attending public meetings to discuss the proposed regulations should contact Juanita Myers, Program Coordinator, Unemployment Insurance Division Policy Unit, P.O. Box 9046, Olympia, WA 98504-9046, phone (360) 902-9665, FAX (360) 902-9799.

March 27, 1998
Carver Gayton
Commissioner

WSR 98-08-074
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

(Medical Assistance Administration)

[Filed March 31, 1998, 3:43 p.m.]

Subject of Possible Rule Making: Chapter 388-535 WAC, Dental-related services, describes dental, orthodontic, and denture services available to Medicaid and state medical assistance clients, including prior authorization requirements.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.08.090, 74.09.035, 74.09.520 and 74.09.700; 42 USC 1396d(a); 42 CFR 440.100 and 440.225.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: These rules are necessary to provide and increase access to necessary dental care to Medicaid and state medical assistance clients. The department attempts to pursue cost-avoidance through emphasis on prevention, while ensuring that dentally necessary care is provided to its clients.

Existing rules need to be updated per Executive Order 97-02, in conjunction with updating the dental program billing instructions, to ensure that the rules and billing instructions are readable, concise, founded in law, and fairly applied to affected parties.

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

Process for Developing New Rule: The department invites the interested public to review and provide input on the draft language of this WAC. Draft material and information about how to participate are available by contacting the Department of Social and Health Services representative identified below.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Allen Richards, Program Assistance and Support Services, Medical Assistance Administration, Olympia, WA 98504-5530, phone (360) 586-1008, FAX (360) 753-7315, TTY 1-800-848-5429, e-mail richaa@dshs.wa.gov.

March 31, 1998
 Edith M. Rice, Chief
 Office of Legal Affairs

WSR 98-08-075
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Economic Services Administration)

[Filed March 31, 1998, 3:45 p.m.]

Subject of Possible Rule Making: Amendments to WAC 388-290-090, 388-290-055, and related sections in chapter 388-290 WAC, Subsidized child care.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.04.050, 74.13.0903, and Public Law 104-193, Sections 407 and 605.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To clarify currently existing rules regarding client eligibility based on income, household size, and the types of activities for which child care subsidies can be paid.

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

Process for Developing New Rule: The Department of Social and Health Services will continue to work with stakeholders in the rule-making process, including child care advocates, child care providers, and other state providers.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Roger Long, Program Manager, Department of Social and Health Services, WorkFirst Division, P.O. Box 45480, Olympia, WA 98504, phone (360) 413-3256, FAX (360) 413-3482, TTY (360) 413-3001, e-mail longrv@dshs.wa.gov.

March 30, 1998
 Edith M. Rice, Chief
 Office of Legal Affairs

WSR 98-08-084

PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

(Children's Administration)

[Filed April 1, 1998, 9:23 a.m.]

Subject of Possible Rule Making: Minimum licensing requirements for child placing agencies, foster family homes, staffed residential homes, day treatment programs, group care programs, maternity services, crisis residential centers, facilities for severely and multiply-handicapped children and overnight youth shelters, WAC 388-73-010 through 388-73-399, 388-73-500 through 388-73-904, 388-160-010 through 388-160-560.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.15.030.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The licensing requirements for child care facility are being reviewed as part of the regular process and to comply with the governor's executive order on regulatory reform.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Department of Health, State Fire Marshal's Office, Department of Community, Trade and Economic Development. Representatives from these agencies will be involved in the review process.

Process for Developing New Rule: Meetings with stakeholders will be held in several locations in each region of the state. A work group will be developed from those meetings. Additionally, the Department of Social and Health Services welcomes the public to take part in developing the rules. Anyone interested in participating should contact the staff person indicated below. After the rules are drafted, the Department of Social and Health Services will file a copy with the Office of the Code Reviser with a notice of proposed rule making, and send a copy to everyone currently on the mailing list and anyone else who requests a copy.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Jean L. Croisant, Children's Administration, Division of Program and Policy, P.O. Box 45710, Olympia, WA 98504-5710, (360) 902-7992, TTD [TTY or TDD] (360) 902-7906, FAX (360) 902-7904, e-mail loje300@DShs.wa.gov.

April 1, 1998
 Edith M. Rice, Chief
 Office of Legal Affairs

WSR 98-08-089
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF TRANSPORTATION

[Filed April 1, 1998, 9:30 a.m.]

Subject of Possible Rule Making: Amending WAC 468-38-120 Transport of extra-legal manufactured housing.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 46.44.090.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To provide economic/competitive equity relative to the manufacture and transport of manufactured housing between the states of Washington, Idaho and Oregon.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: No other agencies have overlapping regulatory authority relative to the transport of the housing units. Local jurisdictions will continue to be contacted relative to any move proposed through their jurisdiction and will have final determination of routes requested in their jurisdiction.

Process for Developing New Rule: Negotiated rule making, to rule has been adopted on an emergency basis to coincide with implementation of a complementary Oregon rule.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Barry Diseth, Motor Carrier Services, P.O. Box 47367, Olympia, WA 98504-7367, FAX (360) 664-9440.

March 31, 1998
Gerald E. Smith
Deputy Secretary
Operations

WSR 98-08-099

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF AGRICULTURE

[Filed April 1, 1998, 10:45 a.m.]

Subject of Possible Rule Making: Chapter 16-557 WAC, Washington Asparagus Commission. Adopt rules governing promotional hosting expenses.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 15.04.200 and 15.65.380.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Agricultural commodity commissions are authorized to make expenditures for promotional hosting for agricultural development and trade promotion. These rules will establish guidelines for expenditures.

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

Process for Developing New Rule: The board of the Asparagus Commission may adopt rules and regulations of technical or administrative nature, subject to the provisions of chapter 34.05 RCW, Administrative Procedure Act.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. Address request for information and comments to Jeanne Pickel, Chair, Washington Asparagus Commission,

2705 St. Andrews Loop, Pasco, WA 99301, phone (509) 544-9363, FAX (509) 544-9056.

April 1, 1998

Jeanne Pickel, Chair
Asparagus Commission

WSR 98-08-104

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF LABOR AND INDUSTRIES

[Filed April 1, 1998, 11:02 a.m.]

Subject of Possible Rule Making: Respiratory protection.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 49.17.010, [49.17].040, and [49.17].050.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: On January 8, 1998, OSHA adopted comprehensive changes to its respiratory protection rules (29 CFR 1910 and 1926). WISHA will propose changes to its respiratory protection rules to be at least as effective as OSHA, assure appropriate worker protection throughout the state and improve the clarity of these rules. Washington administrative codes that are affected include (but not limited to) chapter 296-24 WAC, General safety and health standards, chapter 296-62 WAC, General occupational health standards, chapter 296-155 WAC, Safety standards for construction work, chapter 296-65 WAC, Asbestos removal and encapsulation, chapter 296-56 WAC, Longshore, stevedore and related waterfront operations, and chapter 296-78 WAC, Sawmills and woodworking operations.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: OSHA is the only other agency regulating this subject.

Process for Developing New Rule: The department must adopt rules that are at least as effective as OSHA rules as required by the OSHA/WISHA state plan agreement. Amendments will be proposed in response to the Federal Register notice, Volume 63, Number 5, published on January 6, 1998 (Respiratory Protection; Final Rule). The department will request input using a widely distributed mailer and by forming an advisory group.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Christy Wood, WISHA Standards Project Manager, Department of Labor and Industries, WISHA Services Division, P.O. Box 44620, Olympia, WA 98504-4620, phone (360) 902-5524. An advisory group will be formed including representatives from business, labor and the department and a mailer will be sent to chapter 296-62 WAC manual holders requesting input about specific topics.

March 31, 1998

Gary Moore
Director

WSR 98-08-107**PREPROPOSAL STATEMENT OF INQUIRY
OFFICE OF MINORITY AND
WOMEN'S BUSINESS ENTERPRISES**

[Filed April 1, 1998, 11:21 a.m.]

Subject of Possible Rule Making: Increase in size standard for Engineering Services (SIC 8711), Architectural Services (SIC 8712) and for Surveying and Mapping Services (SIC 8713 and part of SIC 7389).

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 39.19.030(7).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: A review of the existing size standards is needed because of changes in these industries since 1987. The federal government has recognized the need for change and proposed a new regulation setting higher ceilings for these firms to be eligible for federal small business assistance programs.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: United States Small Business Administration. The state historically has adopted the standards set by this federal agency.

Process for Developing New Rule: The Office of Minority and Women's Business Enterprises will establish ad hoc advisory committees comprised of representatives of the affected industry groups, state and local government agencies.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. Submit written comments to Juan Huey-Ray, Business and Policy Development Manager, Office of Minority and Women's Business Enterprises, P.O. Box 41160, Olympia, WA 98504-1160, or FAX (360) 586-7079. Persons may also call Mr. Huey-Ray at (360) 704-1188.

April 1, 1998
James A. Medina
Director

WSR 98-08-110**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
FISH AND WILDLIFE**

[Filed April 1, 1998, 11:35 a.m.]

Subject of Possible Rule Making: Designation of waters in which either a freshwater or saltwater license is valid.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Section 41, chapter 191, Laws of 1998.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The 1998 legislature created new recreational licensing, and provided that the department may identify, by rule, transition areas where either a saltwater or freshwater license may be used. Such rules will reduce angler confusion.

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

Process for Developing New Rule: Agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Bruce Crawford, Assistant Director, Fish Management Program, 600 Capitol Way North, Olympia, WA 98504-1091, (360) 902-2325. Contact by May 15, 1998. Expected proposal filing date May 20, 1998.

April 1, 1998
Evan Jacoby
Rules Coordinator

WSR 98-08-114**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF HEALTH**

[Filed April 1, 1998, 11:53 a.m.]

Subject of Possible Rule Making: Respiratory care practitioners, repeal in its entirety all rules under chapter 246-928 WAC. Create and establish entirely new sections of chapter 246-928 WAC.

Statutes Authorizing the Agency to Adopt Rules on this Subject: The law relating to respiratory care practitioners, RCW 18.89.050 and the Department of Health's general rule-making authority, chapter 34.05 RCW.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: 1997 legislation mandates changes to chapter 18.89 RCW. Under the new statute, licensure replaces the previous requirement of certification. The scope of practice is expanded and revised. Educational requirements for licensure are changed from one year to two years. Repealing chapter 246-928 WAC in its entirety and establishing new sections of chapter 246-928 WAC aids the Department of Health in determining the need for each rule, effectiveness and efficiency, clarity, intent and statutory authority, consultation and coordination with other governmental jurisdictions and state agencies with similar regulatory authority, cost, and fairness.

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

Process for Developing New Rule: Involve the public from the respiratory care practitioners program interested parties list, respiratory care professionals, and Respiratory Care Society of Washington, in the rules development, writing and process through workshop(s).

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Tracy A. Hansen, Program Manager, 1300 S. E. Quince Street, P.O. Box 47870, Olympia, WA 98504-7870, phone (360) 586-8437, FAX (360) 586-0745.

April 1, 1998
Bruce Miyahara
Secretary

WSR 98-08-115
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF HEALTH
(Podiatric Medical Board)
[Filed April 1, 1998, 11:54 a.m.]

Subject of Possible Rule Making: Review acts that may be delegated to an unlicensed person and define the various types of orthotics that may be dispensed.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 18.22.015.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Due to changes in practice the acts that may be delegated require updating. There has been an ongoing issue about the differences between prefabricated and custom orthotic devices. The lack of definition has resulted in consumers being charged excessive fees for prefabricated devices.

Process for Developing New Rule: Solicit input from professional association, licensees, vendors. Provide information to individuals on the mailing list.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Arlene Robertson, Program Manager, Podiatric Medical Board, P.O. Box 47870, Olympia, WA 98504-7870, phone (360) 664-3722, FAX (360) 586-0745. The public and licensees may submit written comments or attend regular board meetings that this issue is on the agenda for discussion.

March 2, 1998
Arlene Robertson
Program Manager



PROPOSED

WSR 98-07-029
PROPOSED RULES
SPOKANE COUNTY AIR
POLLUTION CONTROL AUTHORITY

[Filed March 11, 1998, 10:09 a.m.]

Original Notice.

RCW 70.94.141(1).

Title of Rule: Spokane County Air Pollution Control Authority (SCAPCA) Regulation I, Section 6.13 - General Surface Coating.

Purpose: To amend the existing regulation to address issues that made enforcement of the regulation difficult and to make the regulation more understandable.

Statutory Authority for Adoption: RCW 70.94.141 and 70.94.380.

Statute Being Implemented: Chapter 70.94 RCW and 42 U.S.C. 7401 et seq.

Summary: The amendments to this rule will make enforcement more achievable and they are still consistent with the original intent which is to reduce particulate emissions from coating overspray; reduce public exposure to toxic air pollutants as listed in chapter 173-460 WAC. An in-depth history of reasons for the proposed revisions is shown below.

Proposed Changes to SCAPCA's Surface Coating Regulation and Impact to Industry: Changes to SCAPCA's Surface Coating Regulation (SCR) are proposed to make it easier to understand and to remedy enforcement issues that have surfaced since the rule's inception. The following information is provided to familiarize the regulated community and public with the proposed changes. A copy of the regulation can be obtained from SCAPCA upon request.

Proposed Regulation Changes:

REGULATION RESTRUCTURING

Reason for Change: SCAPCA's compliance staff and the regulated community find it hard to locate information related to the source's operation in the original rule.

Solution: The regulation is restructured to make it easier to locate relevant information, and easier to read and understand.

DEFINITIONS CHANGES

Reason for Change: Certain surface coating operations are unique. They require unique or conventional application methods to be successful in realizing the primary intent of the SCR, which is reduction of VOC emissions. The definitions for these applications were not included in the original SCR.

Solution: Definitions for the following terms are proposed to be added to the regulation: Airless Spray, Air-Assisted Airless Spray, Automated, and Standard engineering practices.

Reason for Change: Some definitions included in the original SCR were unclear as to their meaning.

Solution: The definitions for the following terms are altered to clarify the intent of the definitions:

High Volume Low Pressure - it is important to specify where the pressure is measured.

Multi-Coat System - the resultant calculation of VOC™ is an average and the clear coat application is for two coats applied,

Topcoat - combinations of base coat and clear coat are to be considered topcoats,

Volatile Organic Compound - the definition needed to include the notion of the effect on atmospheric photochemical reactions and the compounds that have been excluded from the list by the EPA, and

Wash Solvent - water is a solvent; however, it should not be included here because it is not toxic.

Reason for Change: The definition for Touchup is no longer needed because the term is no longer used in the SCR.

Solution: The definition for Touchup is deleted.

PROHIBITIONS ON EMISSIONS

Reason for Change: Requirements mandated under chapter 173-460 WAC apply to new sources (Toxic Best Available Control Technology), not existing sources (Reasonably Available Control Technology (RACT)); therefore, the following section was not appropriate to be included in a RACT rule.

Solution: Deleted - "Sufficient quantities of VOC or exempt solvents to cause facility-wide light duty vehicle refinishing emissions to exceed the small quantity emission rates as defined in WAC 173-460-080 (2)(e)."

Reason for Change: VOC content for certain paint classifications is regulated under the EPA's National Volatile Organic Compound Emission Standards for Automobile Refinish Coatings (NVOCESARC). Some of the VOC content limits in the original SCR are inconsistent with the current limits established in the NVOCESARC.

Solution: The VOC limits that were less stringent than the NVOCESARC limits are adjusted to be consistent with the NVOCESARC limits. The following limits are changed:

Type of Coating or Agent	VOC Content	
	Lb/Gal	G/L
Metallic/Iridescent Topcoat	((6-0)) 5.0	((720)) 600
Multi-Coat System	5.2	((625)) 620
Primer	((5-0)) 4.8	((600)) 575
Primer Surfacer	((5-0)) 4.8	((600)) 575

REQUIREMENTS

Enclosure and Controls

Reason for Change: The original SCR did not set standards for the particulate control system. All kinds of filter materials and ventilation systems, many which were inadequate to meet the intent of the SCR were being used. Some surface coating facilities were using furnace filters placed over fans that exhausted horizontally at face height outside the building. In some cases, emissions left the surface coating facility and entered adjacent businesses. In addition, many surface coating facility stacks were equipped with china hat stack caps that deflected emissions back to the ground. The most desirable method of emission dispersion is vertical exhausting at an elevated height considerably above head height.

Solution: The following is added to this section:

The particulate control system, including filtration, ducting, and fan shall be installed and sized using standard engineering practices.

Acceptable filtration methods may include:

Filter banks supplied with filter media designed for spray booth applications.

Water baths where the inlet air flow to the water bath is submerged.

Water wall systems that form a continuous water curtain through which the particulate flow stream must pass.

Other filtration methods that have received the prior written approval of the Control Officer.

Added - "Emissions from the booth/area shall be vented to the atmosphere through a vertical stack. The top of the exhaust stack/vent shall be at least 6 feet above the penetration point of the roof, or if the exhaust stack/vent exits horizontally out the side of the building, then the exhaust stack/vent shall vent vertically at least 6 feet above the eave of the roof. A higher stack/vent may be required if the authority determines that it is necessary for compliance with Section 6.04 or 6.06 of this regulation. There shall be no flow obstructions (elbows, tees, or stack caps) inside of or at the top of the stack that will impede upward vertical flow of the exhausted air."

Added - "It shall be the owner/operator's responsibility to comply with other applicable federal, state, and local regulations for the stack/vent."

Reason for Change: Staff determined at some sites, the original SCR would require unreasonably high exhaust stacks because of the closeness of taller buildings. Exhaust stacks were required to be 1.2 times the height of the tallest building within 200 feet of the stack. This would increase the cost associated with stack installation and may or may not affect emission impacts at the property line. A Decision was made that the engineering staff could best handle these stack issues on a case by case basis. Case by case analysis of emission impacts would adequately address issues associated with building down drafts. In some cases, higher stacks may be required, but the stack height required could be based on emission impacts listed in chapter 173-460 WAC.

Solution: Deleted - "and vented to the atmosphere through a vertical stack which is at least 1.2 times the height (as measured from ground level) of the tallest building within 200 feet of the stack and which does not impede the upward vertical flow of the exhausted air. Visible emissions from the stack shall not exceed 10% opacity for an aggregate of more than three (3) minutes in any one hour period, as determined by EPA Method 9."

APPLICATION METHOD REQUIREMENTS

Reason for Change: Compliance and Technical Staff determined that the original SCR could be too restrictive by limiting the application method to HVLP and LVLP application methods. Spray technology is constantly evolving. The intent of the SCR was to allow application methods that were equivalent to HVLP and LVLP application methods. If the industry, develops an airless or air-assisted airless or any other type of application that has an equivalent transfer efficiency to HVLP or LVLP, then that application method should be equally acceptable. The lowest transfer efficiency

for HVLP and LVLP application methods is 65%; therefore, other application methods capable of meeting 65% transfer efficiency when tested using ASTM standards should be acceptable.

Solution: Added - A spraying technique that when tested, using the methodology presented in ASTM Standard D 5327-92, or when test documentation, provided to and approved by the authority, exhibits a transfer efficiency of at least 65%.

Reason for Change: Compliance and Technical Staff determined with the help of industry that certain situations did not fit the "one size fits all" approach. Under certain circumstances, the HVLP or LVLP application method was not well suited to a surface coating operation. For example, in some circumstances, the paint required excessive thinning in order for it to pass through an HVLP gun. In fact, after thinning the paint, the VOC emissions were greater than what they would have been if an airless or air-assisted airless gun had been used. Numerous exemptions to the SCR were written to allow the use of airless or air-assisted airless gun.

Also, in automated Airless and Air-Assisted Airless spray system painting the transfer efficiency was less subject to human variation and provided transfer efficiencies equivalent to HVLP.

Companies that coat large structural members do so with high pressure paint delivery systems that do not require the paint to be thinned in order for it to transport through the paint delivery lines. Unthinned paint can be used, thus lowering VOC emissions.

In some situations, it is not technologically, or economically feasible to use a surface coating technique with a transfer efficiency of 65%. Therefore, the Control Officer was given more flexibility in granting exemptions for the use of application methods with transfer efficiencies less than 65%.

Solution: Added - "Such alternate methods may be used, provided that the owner or operator makes a written request to use an alternate method and the Control Officer grants approval. These methods include but are not limited to the following application methods and circumstances:

Airless and Air-Assisted Airless Spray systems may be used under any of the following circumstances:

When the volatile organic compound (VOC) emissions are determined by the Control Officer to be no more than VOC emissions that would be generated by a spray application with a transfer efficiency of 65%;

When the spraying operation is automated;

When spray painting structural steel members where the coating, as formulated by the coating manufacturer, does not require addition of reducers to spray, and is delivered under high pressure (> 1,000 psig for airless, or > 300 psig for air-assisted airless) to the application system; or

Where the Control Officer has determined that the coating cannot be feasibly applied with a method that has a minimum transfer efficiency of 65%.

GENERAL CLEAN-UP

Reason for Change: Compliance staff found during inspections that partially used containers of coatings, wipe down agents, wash solvents, and reducers were being left

open at some sites. Also, some companies were trying to decrease solid waste handling by allowing solvents to evaporate to the air, resulting in increased VOC emissions.

Solution: Added - "unused or partially used" containers to be closed when not in use.

Reason for Change: Cleaning rags were being left out at some businesses so that solvents in the rags evaporated to the air.

The fire departments were contacted to determine what kind of containers they required for disposable materials. They require closed metal containers.

Solution: Added - "clean up materials and collected" waste shall be stored in closed "metal" containers.

Added - "All disposable materials which contain VOCs associated with wipe-down or application of coatings and other agents shall be stored in closed "metal" containers for disposal."

RECORDKEEPING REQUIREMENTS

Reason for Change: The light duty vehicle refinishing industry uses thousands of different color coatings. Requiring the industry to keep a record of every coating they use would be oppressive. Therefore, SCAPCA changed this section so that the industry could combine all of their primers, top coats, clear coats and gun cleaners into one number per each of the above categories of coating materials, thus simplifying industry reporting requirements.

Solution: Added - Light duty vehicle refinishing. Annual purchases and usage of total primers, total top coats, total clear coats, and total gun cleaner.

Reason for Change: A clarification of the term "as applied" was needed, because the term "as applied" was not included in the original SCR definition section. There was confusion in the regulated community as to how to report usage. Reporting "as applied" includes additional emissions resulting from the addition of thinners, catalyst, and other additives.

Solution: Added - Usage shall be reported "as applied," i.e. after reducing and catalyzing, if applicable."

Reason for Change: In general, the variety of coatings and related materials used at facilities that do not paint light duty vehicles is much less than facilities that paint light duty vehicles. Typically, coating and related coating materials, such as reducers, catalyst, etc. number less than 30 different compounds. Recordkeeping of these minor amount of compounds is manageable and should not require an inordinate amount of time.

Solution: Added - "Other surface coating facilities. Annual purchases and usage of individual coatings, coating additives, wipe-down agents, wash solvents, reducers, and other materials containing volatile organic compounds or volatile toxic air pollutants."

Reason for Change: This section was deleted because, keeping track of reducer usage for every coating used (thousands) is time consuming and is not very useful. Since total primers, total top coats, total clear coats, and total gun cleaner annual usage is tracked, information related to VOC emissions can be easily obtained without this section. VOC content in paints is regulated under the EPA's National Volatile Organic Compound Emission Standards for Automobile

Refinish Coatings (NVOCESARC). The VOC limits changed in Section 6.13.D.2 are those limits set in the NVOCESARC.

Solution: Deleted - "Records of the volume of reducers added to light duty vehicle refinishing coatings, with sufficient detail to determine whether the coatings, as applied, comply with Section 6.13.D."

EXCEPTIONS

Coating process exemptions.

Reason for Change: SCAPCA staff and industry both were uncertain which types of facilities were subject to the regulation and which were not. (e.g.: Are fiberglass facilities subject to the regulation?)

Architectural coatings were included in the original SCR.

The original intent of the SCR was not to include fiberglass and gel coat operations. The materials used in these operations are of an entirely different nature than paints. The materials are generally thicker, and are catalyzed. Historically, Air Pollution Control Authorities have written separate regulations for fiberglass and gel coat operations.

The materials used in asphaltic coatings or plastic spray on bed liners are extremely thick, requiring an airless gun with high pressure material delivery systems to apply. These guns do not atomize the spray, instead the process is more akin to watering a garden with no misting. In order for the materials to be sprayed by an HVLP gun, they must be thinned dramatically. VOC and toxic emissions would increase as a result of the thinning. The processes are significantly different enough from typical surface coating operations to warrant their own regulation if needed. Presently only three operations have been identified in Spokane County. Two of them are controlled by SCAPCA through the New Source Review process which requires best available control technology (BACT) which is at least as stringent and in most cases, more stringent than reasonably available control technology (RACT). The SCR is a RACT rule. The other facility does not use solvents that have VOCs or toxics and is not considered to be an air pollution source by SCAPCA.

Spray plasma plating operations use processes that apply a metal matrix over another different type of metal by heating the covering metal to a point where it becomes a plasma and spraying it on the base metal. Usually this process is used to enhance or alter the characteristics of the base material. (e.g. corrosion resistance, increased strength, abrasion resistance, etc.) There are no VOCs generated in these processes; however, some insignificant amounts of toxic particulate could be generated. The process is sufficiently different from normal surface coating operations to not be included in the SCR. Conditions placed on such a source would be substantially different from normal surface coating operations.

Solution: The following coating processes have been added to the surface coating regulation exemption list:

The application of architectural coatings to stationary structures and their appurtenances, to mobile homes, to pavements, or to curbs.

Fiberglass resin application operations.

Gel coating operations.

PROPOSED

The application of asphaltic or plastic liners. This includes undercoating, sound deadening coating, and spray on bed lining for trucks.

Spray plasma plating operations.

Touchup Exemption

Reason for Change: Compliance staff discovered a number of facilities that were misusing this exemption. Whole or major portions of cars were being painted by auto body under this exemption, which was not the intent of the exemption. Also, many collision repair shops frequently paint an area no larger than 9 ft². This exemption was not meant to exempt them from enclosure and control and application method requirements. It appeared that the touchup exemption could be sufficiently handled by the low usage exemption.

Solution: The touchup exemption is eliminated because the low usage exemption adequately addresses this situation.

Large Object Exemption

Reason for Change: The original rule would have allowed a facility to regularly paint large objects outside without control, which was not the intent of the rule. For example, a hypothetical facility might have a small paint booth to paint small parts. The facility could receive a contract to paint parts too large to fit in the existing paint booth. This contract could become a significant source of income to the facility and in fact more painting could be done outside of the paint booth than inside. The intent of the rule was to allow the rare painting of parts outside of the paint booth. If the facility decides that painting the large parts is to be a significant portion of their business, then a paint booth must be built or purchased to house the operation. In order to further define the intent of the rule, the term infrequent was added.

The term infrequent is defined later in the section.

Solution: Added the term "infrequent" to "infrequent outdoor surface coating."

Reason for Change: In order to determine whether a facility is infrequently painting outdoors, SCAPCA needs to know the frequency of outdoor painting; therefore, a section was included to allow SCAPCA to track facility outdoor painting by requiring a request for exemption to be made in writing to the Control Officer.

Solution: Added - "The request for this exemption must be made in writing to the Control Officer and the approval must be in writing. Infrequent means outdoor spray surface coating that amounts to 10% or less of the total annual gallons of paint applied at the facility in the previous 12 months. Annual records must be kept of the number of gallons of paint that are sprayed outdoors."

WASH SOLVENT EXEMPTION

Reason for Change: Wash solvents can contain numerous toxic compounds that need to be controlled at the same level as coatings.

Solution: The wash solvent exemption limit changes from 120 gallons per year to 10 gallons per year.

NON-SPRAY AND ((★)) AEROSOL CAN APPLICATION EXEMPTION

Reason for Change: Operations such as flow, dip, brush, and roll coating have no particulate emissions; therefore, par-

ticulate filtration and enclosure requirements for these operations are not needed.

Solution: Added - "flow coat, dip coat, brush coat, or roll coat applications" to list.

Reason for Change: Section 6.13.D.2 was eliminated from the regulation; therefore, since Section 6.13.D now covers only Lead or Hexavalent Chromium, then it is logical to rename the section.

Solution: Toxic air pollutant exemption changed to Lead or Hexavalent Chromium exemption.

ENCLOSURE AND/OR PARTICULATE CONTROL EXEMPTION (NEW)

Reason for Addition: Some surface coating is performed inside of very large buildings. In these buildings, particulate settles out before it reaches doors, windows, or any other possible exit point including HVAC ventilation exhausts. Air-flow requirements, based on the Uniform Fire Code (UFC) and American Conference of Governmental Industrial Hygienists (ACGIH) recommendations, would be prohibitive and requirements for filtration would be impossible, since particulate would never reach the filters. In order to give the Control Officer more flexibility in unusual situations, this exemption was added to the rule.

Solution: The enclosure and/or particulate control requirements shall not apply to a surface coating operation where the Control Officer determines that such requirements would be ineffective, inadequate, or unreasonable in capturing or controlling particulate or volatile organic compounds emissions from the facility.

INSIDE EXHAUST EXEMPTION (NEW)

Reason for Addition: In some operations, the internal building levels of VOCs and toxics do not exceed the Department of Labor and Industries' (L&I) thresholds and an exhaust system is not required. Generally L&I standards are more stringent than outside air quality standards. In operations where L&I and the fire department do not require an exhaust system, then SCAPCA can be reasonably certain that fugitive emissions will be insignificant. This exemption gives the Control Officer the ability to exempt these facilities from the enclosure and control requirements of Section 6.13.E.1. It is important to note that the facility may not be exempt from the other requirements of the SCR.

Solution: Added: "If the Department of Labor and Industries determines that the emissions from a surface coating operation to an inside work area are below the threshold where an exhaust system is required and the applicable Fire Department has no objection, then the Control Officer may grant an exemption to Subsection 6.13.E.1 (Enclosure and Controls)."

COMPLIANCE SCHEDULE

Reason for Deletion: The compliance schedule given in the original SCR was complicated. The changes made to this section simplify the compliance schedule.

Solution: Deleted - "on the date of adoption shall comply with the following schedule:

No later than 6 months prior to the effective date, apply for a Notice of Construction and Order of Approval, pursuant

to Article V of this Regulation, to install the required equipment; and

No later than 30 days after the date of the Order of Approval, order the required equipment; and

No later than 1 month prior to the effective date, commence installation of the required equipment; and

No later than the effective date, be in full compliance with Section 6.13.G.

Added - "shall be in full compliance with Section 6.13 by (Insert compliance date), unless an extension is applied for by the owner or operator and is granted in writing by the Authority."

Summary of Surface Coating Regulation Impacts on Industry:

- The Surface Coating Regulation is more understandable.
- It is better organized.
- It is more flexible.
- More spraying techniques are available under prescribed circumstances.
- Stack requirements are less stringent.
- Required stack height is 6 feet above penetration of roof or eave if stack exits building horizontally through outside wall.
- Stack could be higher if a nuisance or public health risk exists.

Reasons Supporting Proposal: Issues arising from the lack of cohesive structure of the initial rule posed difficulties in rule interpretation for enforcement staff and confused the regulated industry. In addition, some portions of the rule were counterproductive to the overall intent of the rule, which is to decrease toxic air pollutant emissions.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Spokane County Air Pollution Control Authority, 1101 West College, #403, Spokane, WA 99201, (509) 456-4727.

Name of Proponent: Spokane County Air Pollution Control Authority, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Certain sections of the original regulation were unclear in their intent. In addition, enforcement staff were having some difficulty in enforcing the original regulation. The historical document shown below addresses these difficulties.

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

Explanation of Rule, its Purpose, and Anticipated Effects: (1) Reduce particulate emissions from coating overspray; (2) reduce public exposure to toxic air pollutants as listed in chapter 173-460 WAC; (3) reduce emissions of precursors to the formation of tropospheric ozone and other photochemical oxidants; and (4) encourage pollution prevention.

Proposal Changes the Following Existing Rules: The Surface Coating Regulation is more understandable and better organized; the Surface Coating Regulation is more flexible; definitions for Airless Spray, Air-Assisted Airless Spray, Automated, and Standard Engineering Practices were added; definitions for High Volume Low Pressure, Multi-Coat System, Topcoat, Volatile Organic Compound, and Wash Solvent were clarified and the definition for Touchup is deleted;

types of acceptable filtration is defined, stack requirements are better defined; applications techniques are further defined. Techniques with less than 65% transfer efficiency are approved under prescribed conditions; General Clean-up and Recordkeeping requirements are further defined; exception list is expanded, touchup exemption is eliminated, large object exemption is further defined, Wash solvent exemption decreased to ten gallons per year, Nonspray application exemption list expanded; expanded Control Officer's ability to approve exemptions where the requirements would be ineffective, inadequate, or unreasonable; inside exhaust is acceptable if, the Department of Labor and Industries and the fire department have no objection; and compliance schedule extended.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This is a local agency rule and RCW 34.05.328 has not been made voluntarily applicable to this rule.

RCW 34.05.328 does not apply to this rule adoption. Pursuant to RCW 70.94.141(1), RCW 34.05.328 does not apply to this rule amendment.

Hearing Location: Spokane County Public Works Building, 1206 West Broadway, Hearing Room Lower Level, Spokane, WA 99201, on May 7, 1998 at 9:00 a.m.

Submit Written Comments to: Charles E. Studer, Spokane County Air Pollution Control Authority, 1101 West College, Suite #403, Spokane, WA 99201, FAX (509) 459-6828, by May 4, 1998.

Date of Intended Adoption: May 7, 1998.

March 9, 1998

Charles E. Studer

Environmental Engineer

AMENDATORY SECTION

REGULATION I SECTION 6.13 GENERAL SURFACE COATING

SECTION 6.13 GENERAL SURFACE COATING

ADOPTED: November 3, 1994

EFFECTIVE: ~~June 7, 1998~~ ((~~December 18, 1994~~ (Sections 6.13.A., B., C., G.3, G.4, G.5, H., I., and J.))

EFFECTIVE: ~~November 3, 1995~~ (Sections ~~6.13.D., E., F., G.1, and G.2~~))

REVISED: May 7, 1998

A. Purpose. This Section establishes controls on surface coating operations in Spokane County in order to:

1. Reduce particulate emissions from coating overspray;
2. Reduce public exposure to Toxic Air Pollutants as listed in Chapter 173-460 WAC;
3. Reduce emissions of precursors to the formation of tropospheric ozone and other photochemical oxidants; and
4. Encourage pollution prevention.

B. Applicability. This Section applies to all surface preparation, surface coating, cleanup, and disposal associated with general surface coating in Spokane County, unless specifically exempted. ((~~Sections 6.13.A., B., C., G.3, G.4, G.5, H., I., and J. become effective 45 days after the date of adop-~~

PROPOSED

tion. Sections 6.13.D., E., F., G.1, and G.2 become effective 12 months after the date of adoption.)

C. Definitions. Unless a different meaning is clearly required by context, words and phrases used in this Section shall have the following meaning:

1. Airless Spray means a spraying system that uses hydraulic atomization instead of air atomization. The coating is supplied to the gun under high fluid pressure between 1000 and 3000 psig and the coating is forced through a small orifice.

2. Air-Assisted Airless Spray means a spraying system that combines air and airless features. An airless type fluid tip atomizes the paint and shapes the fan pattern at fluid pressures between 300 and 1000 psig. Lower pressure air from 10 to 30 psig combines at the spray cap to adjust the fan shape to eliminate heavy edges (tails).

3. Automated means the technique, method, or system of operating or controlling a process by mechanical, electrical, hydraulic, or electronic means independent of human intervention.

4. Brush Coat Application means manual application of coatings by use of a paint brush.

5. Coating means a material or formulation of materials that is applied to or impregnated into a surface in order to beautify, protect, enhance the function, or otherwise cover the surface.

6. Dip Coat Application means application of coatings in which the surface to be coated is immersed in a solution (or dispersion) containing the coating material and withdrawn

7. Electrostatic Application means application of coatings where an electrostatic potential is created between the part to be coated and the paint particles.

8. Exempt Solvent means a solvent, or solvent component, which is not a volatile organic compound (VOC).

9. Flow Coat Application means application of coatings by flowing the coating over the surface to be coated and draining the excess coating to a collection system.

10. High Volume, Low Pressure (HVLP) or Low Volume, Low Pressure (LVLP) coating system means equipment used to apply coatings by means of a spray gun which operates between 0.1 and 10.0 pounds per square inch gauge air pressure measured at the nozzle.

11. Light Duty Vehicle means a passenger car, truck, van, or other motor vehicle which has a gross vehicle weight of 8500 pounds or less, or components thereof.

12. Metallic/Iridescent Topcoat means any coating that contains more than 5 grams per liter (0.042 lb/gal) of metal or iridescent particles, as applied to the surface, where such particles are visible in dried film.

13. Multi-Coat System means a coating system where more than one product or coat is sequentially applied to the same surface and generally consists of a pigmented base coat, one or more semi-transparent mid-coats, and a transparent clear coat. The VOC content for a multi-coat system shall be calculated as follows:

$$VOC_{TM} = \frac{VOC_{BC} + VOC_{X1} + VOC_{X2} + \dots + VOC_{Xn} + 2VOC_{CC}}{n+3}$$

where: VOC_{TM} is the average sum of the VOC content, as applied to the surface, in a multi-coat system; and

VOC_{BC} is the VOC content, as applied to the surface, of the base coat; and

VOC_X is the VOC content, as applied to the surface, of each sequentially applied mid-coat; and

VOC_{CC} is the VOC content, as applied to the surface, of the clear coat (Two coats are applied); and

n is the total number of coats applied to the primer coat(s) surface.

14. Precoat means any coating that is applied to bare metal, primarily to deactivate the metal surface for corrosion resistance to a subsequently applied water-based primer.

15. Pre-packaged Aerosol Can Application means application of coatings from cans which are sold by the coating supplier as nonreusable, hand-held pressurized containers. The coating is expelled as a finely divided spray when a valve on the container is depressed.

16. Pretreatment Wash Primer means any coating which contains a minimum of 0.5% acid by weight that is applied directly to bare metal to etch the metal surface to enhance corrosion resistance and adhesion of subsequently applied coatings.

17. Primer means any coating that is applied to a surface to enhance corrosion resistance, protection from the environment, functional fluid resistance, and adhesion of subsequently applied coatings.

18. Primer Sealer means any coating that is applied prior to the application of a topcoat to enhance corrosion resistance, adhesion of the topcoat, color uniformity, and the ability of an undercoat to resist penetration by the topcoat.

19. Primer Surfacer means any coating that is applied prior to the application of a topcoat to enhance corrosion resistance, adhesion of the topcoat, and a uniform surface by filling in surface imperfections.

20. Reducer means any solvent added to a coating which has the effect of reducing the viscosity of the coating or shortening the drying time.

21. Refinishing means reapplying coating to a surface to repair, restore, or alter the finish.

22. Roll Coat Application means manual application of coatings by the use of a paint roller.

23. Solvent Consumption means the volume of solvent purchased or otherwise procured, less the volume recycled or disposed. In the absence of records which document the transfer of solvent to an authorized recycler or waste hauler, solvent consumption means the volume of solvent purchased or otherwise procured.

24. Specialty Coating means any coating that is necessary due to unusual job performance requirements, including but not limited to uniform finish blenders, elastomeric materials for coating of flexible plastic parts, coatings for non-metallic parts, (~~jamming clear coatings~~) gloss flat-teners, and anti-glare/safety coatings.

25. Standard engineering practices means that accepted, peer reviewed sets of criteria are used in designing equipment

(i.e. Uniform Building, Electrical, and Fire Codes, recommendations of the American Conference of Governmental Industrial Hygienists, guidelines of the Department of Labor and Industry, etc.).

26. ~~((22:))~~ Surface Coating means the application of coating to a surface.

27. ~~((23:))~~ Topcoat means any coating that is applied over a primer or directly to a surface, primarily to enhance appearance. For the purposes of this rule, either a base coat/clear coat shall be considered jointly and individually as a topcoat.

~~((24. Touchup means that portion of the coating operation, involving nine square feet (9 ft²) or less or 10% or less, which ever is smaller, of total surface, which is incidental to the main coating process but necessary to cover minor imperfections:))~~

28. ~~((25:))~~ Volatile Organic Compound (VOC) ~~((has the same meaning as the definition in 40 CFR 51.100(s)))~~ means any compound of carbon which participates in atmospheric photochemical reactions as defined in 40 CFR part 51, § 51.100(s), other than those organic compounds that the Administrator has excluded in 40 CFR part 51, § 51.100 from this definition.

29. ~~((26:))~~ VOC Content means pounds of VOC per gallon of coating (Lb/Gal) or grams of VOC per liter of coating (G/L), minus water and exempt solvents. The VOC content is calculated as follows:

$$VOC_{CT} = \frac{W_v}{V_M - V_w - V_{ES}}$$

where: VOC_{CT} is the VOC content of the coating, as applied to the surface; and

W_v is the weight of VOC per unit volume of coating, as applied to the surface; and

V_M is the unit volume of coating, as applied to the surface; and

V_w is the volume of water per unit volume of coating, as applied to the surface; and

V_{ES} is the volume of exempt solvents per unit volume of coating, as applied to the surface.

30. ~~((27:))~~ Wash Solvent means any solution, solvent, suspension, compound, or other material, excluding water, that is used to clean spray equipment, spray equipment lines, containers, and any other equipment associated with the application of coatings.

31. ~~((28:))~~ Wipe-Down Agent means any solution, solvent, suspension, compound, or other material that is applied to a surface exclusively for cleaning the surface or preparing the surface for coating.

~~D. Light duty vehicle refinishing - prohibitions on VOC content. Except as provided in Section 6.13.I., no person shall cause or allow the application of any coating or other agent to any light duty vehicle or light duty vehicle component, with a VOC content in excess of the following limits:~~

Type of Coating or Agent	Lb/Gal	G/L
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Metallic/Iridescent Topcoat	6.0	720
Multi-Coat System	5.2	620
Plastic Parts Cleaner	7.0	840
Precoat	5.5	660
Pretreatment Wash Primer	6.5	780
Primer	5.0	600
Primer Sealer	6.0	720
Primer Surfacer	5.0	600
Specialty Coating	7.0	840
Top Coat (General)	5.0	600
Wipe-Down Agent	1.4	170

~~D. ((E:)) Prohibitions on emissions ((of certain toxic air pollutants. No person shall cause or allow the application of any coating which contains:))~~

1. No person shall cause or allow the application of any coating which contains ((G))greater than 0.1% by weight of one or more compounds of lead or hexavalent chromium.((; or))

~~((2. Sufficient quantities of VOC or exempt solvents to cause facility-wide light duty vehicle refinishing emissions to exceed the small quantity emission rates as defined in Chapter 173-460-080 (2)(e) WAC:))~~

2. Light duty vehicle refinishing - prohibitions on VOC content. Except as provided in Section 6.13.F, no person shall cause or allow the application of any coating or other agent to any light duty vehicle or light duty vehicle component, with a VOC content in excess of the following limits:

Type of Coating or Agent	VOC Content	
	Lb/Gal	G/L
Metallic/Iridescent Topcoat	((6.0)) <u>5.0</u>	((720)) <u>600</u>
Multi-Coat System	<u>5.2</u>	((625)) <u>620</u>
Plastic Parts Cleaner	<u>7.0</u>	<u>840</u>
Precoat	<u>5.5</u>	<u>660</u>
Pretreatment Wash Primer	<u>6.5</u>	<u>780</u>
Primer	((5.0)) <u>4.8</u>	((600)) <u>575</u>
Primer Sealer	<u>6.0</u>	<u>720</u>
Primer Surfacer	((5.0)) <u>4.8</u>	((600)) <u>575</u>
Specialty Coating	<u>7.0</u>	<u>840</u>
Topcoat (General)	<u>5.0</u>	<u>600</u>
Wipe-Down Agent	<u>1.4</u>	<u>170</u>

(*VOC Content is consistent with EPA National Volatile Organic Compound Emission Standards for Automobile Refinish Coatings)

~~((F. Application methods. Except as provided in Section 6.13.I., no person shall cause or allow the application of any coating or other agent containing VOC unless the coating or agent is applied by the use of one of the following methods:~~

1. High Volume, Low Pressure coating system; or
2. Low Volume, Low Pressure coating system; or
3. Electrostatic application; or
4. Flow coat application; or
5. Dip coat application; or

6. Brush coat application; or
 7. Pre-packaged aerosol can application; or
 8. Roll coat application; or
 9. Other application methods that have received the prior written approval of the Control Officer;))

E ((G)). ((Enclosure and control r)) Requirements. ((Except as provided in Section 6.13.I., a)) All persons subject to the requirements of Section 6.13 shall comply with all of the following, ((enclosure and control requirements)) unless exempted under Section 6.13.F:

1. Enclosure and Controls - Spray application shall be ((is)) conducted in a booth or area which is vented to an operating particulate control system. The particulate control system, including filtration, ducting, and fan shall be installed and sized according to standard engineering practices. Acceptable filtration methods may include:

- a. Filter banks supplied with filter media designed for spray booth applications.
 b. Water baths where the inlet air flow to the water bath is submerged.
 c. Water wall systems that form a continuous water curtain through which the particulate flow stream must pass.
 d. Other filtration methods that have received the prior written approval of the Control Officer.

The control system shall be equipped with a fan which is capable of capturing all visible overspray, ((and vented to the atmosphere through a vertical stack which is at least 1.2 times the height (as measured from ground level) of the tallest building within 200 feet of the stack and which does not impede the upward vertical flow of the exhausted air. Visible emissions from the stack shall not exceed 10% opacity for an aggregate of more than three (3) minutes in any one hour period, as determined by EPA Method 9.)) Emissions from the booth/area shall be vented to the atmosphere through a vertical stack. The top of the exhaust stack/vent shall be at least 6 feet above the penetration point of the roof, or if the exhaust stack/vent exits horizontally out the side of the building, then the exhaust stack/vent shall vent vertically at least 6 feet above the eave of the roof. A higher stack/vent may be required if the authority determines that it is necessary for compliance with Section 6.04 or 6.06 of this regulation. There shall be no flow obstructions (elbows, tees, or stack caps) inside of or at the top of the stack that will impede upward vertical flow of the exhausted air.

It shall be the owner/operator's responsibility to comply with other applicable federal, state, and local regulations for the stack/vent.

2. Visible Emissions - Visible emissions from the stack shall not exceed 10% opacity averaged over any six minute period, as determined by EPA Method 9.

3. Application methods - Except as provided in Section 6.13.F., no person shall cause or allow the application of any coating or other agent containing VOC unless the coating or agent is applied by one of the following methods:

- a. High Volume, Low Pressure coating system;
 b. Low Volume, Low Pressure coating system;
 c. Wet or Dry electrostatic application;
 d. Flow coat application;
 e. Dip coat application;
 f. Brush coat application;

g. Pre-packaged aerosol can application;

h. Roll coat application;

i. A spraying technique that when tested, using the methodology presented in ASTM Standard D 5327-92, or when test documentation, provided to and approved by the authority, exhibits a transfer efficiency of at least 65%;

j. Alternate application methods that have received the written approval of the Control Officer. Such alternate methods may be used, provided that the owner or operator makes a written request to use an alternate method and the control officer grants approval. These methods include but are not limited to the following application methods and circumstances:

(1) Airless and Air-Assisted Airless Spray systems may be used under any of the following circumstances:

(a) when the volatile organic compound (VOC) emissions are determined by the Control Officer to be no more than VOC emissions that would be generated by a spray application with a transfer efficiency of 65%;

(b) when the spraying operation is automated;

(c) when spray painting structural steel members where the coating, as formulated by the coating manufacturer, does not require addition of reducers to spray, and is delivered under high pressure (< 1,000 psig for airless, or > 300 psig for air-assisted airless) to the application system; or

(d) where the Control Officer has determined that the coating cannot be feasibly applied with a method that has a minimum transfer efficiency of 65%.

4. ((2)) Equipment Cleanup - Equipment cleanup and any other use of wash solvent shall be ((is)) totally enclosed during washing, rinsing, and draining; or wash solvent, after making contact with the equipment being cleaned, shall be ((is)) immediately drained to a closed sump which is an integral part of the cleaning system.

5. General Clean-up

a. ((3)) All unused or partially used containers of coatings, wipe-down agents, wash solvents, reducers, and waste materials containing VOC shall be ((are)) closed, except when in use, ((er)) when being filled or emptied.

b. ((4)) Spills ((of coatings, wipe-down agents, wash solvents, reducers, and waste materials containing VOC are)) must be cleaned up upon discovery and the clean up materials and collected waste ((is)) shall be stored in closed metal containers.

c. ((5)) All disposable materials which contain VOCs associated with wipe-down or ((with)) application of coatings and other agents ((are)) shall be stored in closed metal containers for disposal.

6. ((H)) Recordkeeping ((requirements)). ((Except as provided in Section 6.13.I., a)) All persons subject to Section 6.13 shall maintain the following records for ((all coatings, coating additives, wipe-down agents, wash solvents, and reducers for)) the previous 24-month period at the place of business where surface coating is performed:

a. ((I)) The most current material safety data sheets (MSDS) or other data sheets which clearly indicate the VOC content of the product and of any multi-coat system.

b. ((2)) Records of purchases and usage, including unused materials returned to the supplier.

(1) Light duty vehicle refinishing. Annual purchases and usage of total primers, total top coats, total clear coats, and total gun cleaner. Usage shall be reported "as applied", i.e. after reducing and catalyzing, if applicable.

(2) Other surface coating facilities. Annual purchases and usage of individual coatings, coating additives, wipe-down agents, wash solvents, reducers, and other materials containing volatile organic compounds or volatile toxic air pollutants.

c. ~~((Records of disposal of w))~~ Waste materials disposal records, including volumes of waste solvents and coatings transferred in sealed containers to authorized waste haulers.

~~((4. Records of the volume of reducers added to light duty vehicle refinishing coatings, with sufficient detail to determine whether the coatings, as applied, comply with Section 6.13.D.))~~

E. ((F.)) Exceptions. Exceptions to Section 6.13 shall be made as follows:

1. Noncommercial exemption. Nothing in Section 6.13 shall apply to surface coating operations conducted solely for personal, noncommercial purposes if, on a facility-wide basis, less than 5 gallons of surface coatings are applied per year.

2. ~~((Architectural—e))~~ Coating process exemptions. Nothing in Section 6.13 shall apply to the ~~((application of architectural coatings to stationary structures and their appurtenances, to mobile homes, to pavements, or to curbs:))~~ following coating processes:

a. The application of architectural coatings to stationary structures and their appurtenances, to mobile homes, to pavements, or to curbs:

b. Fiberglass resin application operations:

c. Gel coating operations:

d. The application of asphaltic or plastic liners. This includes undercoating, sound deadening coating, and spray on bed lining for trucks; or

e. Spray plasma plating operations.

3. Low usage exemption. Nothing in Sections 6.13.E.3 & 4 ~~((F. or 6.13G.1&2))~~ shall apply to surface coating operations which, on a facility-wide basis, apply less than 10 gallons per year of surface coatings.

~~((4. Exemption for touchup. Nothing in Section 6.13.F or Subsection 6.13.G.1. shall apply to touchup operations:))~~

4. ~~((5:))~~ Exemption for large objects. Nothing in Subsection 6.13.E((G)).1. shall apply to the infrequent outdoor surface coating of large objects where the ~~((e))~~ Control Officer determines that it is impractical to totally enclose the object inside a booth or vented area. The request for this exemption must be made in writing to the Control Officer and the approval must be in writing. Infrequent means outdoor spray surface coating that amounts to 10% or less of the total annual gallons of paint applied at the facility in the previous 12 months. Annual records must be kept of the number of gallons of paint that are sprayed outdoors. In such case, a temporary enclosure (tarps) shall be maintained around the object during the surface coating operation, sufficient at all times to prevent overspray from remaining airborne beyond the property line of the facility.

5. ~~((6:))~~ Wash solvent exemption. Nothing in Subsection 6.13.E.4~~((G.2))~~. shall apply to:

a. The use of wash solvents with composite vapor pressure of organic compounds less than 45 mm Hg at 20°C as determined by ASTM Method D-2306-81; or

b. Wash solvent operations if total wash solvent consumption does not exceed ~~((20))~~ 10 gallons per year.

6. ~~((7:))~~ Stack ~~((height))~~ exemption. The stack/~~((height))~~ requirements in Subsection 6.13.E~~((G)).1.~~ shall not apply to surface coating operations where the owner or operator can demonstrate to the satisfaction of the ~~((e))~~ Control Officer that emissions of toxic air pollutants will not exceed the Acceptable Source Impact Levels as defined in WAC 173-460-150 & 160 and emissions will not create a nuisance.

7. ~~((8:))~~ Non-spray and ~~((A))~~ aerosol can application exemption. Nothing in Subsection 6.13.E~~((G)).1~~ shall apply to the application of any coating or other agent from pre-packaged aerosol cans, flow coat, dip coat, brush coat, or roll coat applications.

8. ~~((9:))~~ Low VOC content exemption. Nothing in Subsection 6.13.E.3~~((F))~~ shall apply to the application of coatings where the VOC content does not exceed 2.1 Lb/Gal or 250 G/L.

9. ~~((10. Toxic air pollutant))~~ Lead or Hexavalent Chrome exemption. The prohibition in Subsection 6.13.D~~((E)).1~~ shall not apply to a surface coating operation where the control officer determines that no practical alternative coating is available.

10. Enclosure and/or particulate control exemption. The enclosure and/or particulate control requirements of Subsection 6.13.E.1. shall not apply to a surface coating operation where the control officer determines that such requirements would be ineffective, or unreasonable in capturing or controlling particulate or volatile organic compounds emissions from the facility.

11. Inside exhaust exemption. If the Department of Labor & Industries or another agency of jurisdiction determines that the emissions from a surface coating operation to an inside work area are below the threshold where an exhaust system is required and the Fire Department or District of jurisdiction has no objection, then the Control Officer may grant an exemption to Subsection 6.13.E.1.

G. ((F)) Compliance with other laws and regulations. Compliance with Section 6.13 or qualifying for an exemption in Section 6.13.F~~((I))~~. does not necessarily mean that the surface coating operation complies with fire protection, waste disposal, or other federal, state, or local applicable laws or regulations.

H. ((K)) Compliance schedule. All persons subject to the requirements of Section 6.13~~((G.1))~~ and not already in compliance ~~((on the date of adoption shall comply with the following schedule:~~

1. No later than 6 months prior to the effective date, apply for a Notice of Construction and Order of Approval, pursuant to Article V of this Regulation, to install the required equipment; and

2. No later than 30 days after the date of the Order of Approval, order the required equipment; and

3. No later than 1 month prior to the effective date, commence installation of the required equipment; and

4. No later than the effective date, be in full compliance with Section 6.13.G.)

shall be in full compliance with Section 6.13 by October 7, 1998, unless an extension is applied for by the owner or operator and is granted in writing by the Authority.

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

WSR 98-08-028

PROPOSED RULES

STATE BOARD FOR

COMMUNITY AND TECHNICAL COLLEGES

[Filed March 23, 1998, 8:35 a.m.]

Continuance of WSR 98-06-075.

Title of Rule: Emergency rules RE: TIAA/CREF expire April 17, 1998. The board plans to readopt emergency rules at its April 10, 1998, meeting, until rules are permanently adopted in June.

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

Statute Being Implemented: Extending emergency rules on April 10, 1998, until June, when permanent rules will be adopted.

Summary: Emergency rules will be extended by our board on April 10, 1998, until June 18, 1998. This was discussed with our Senior Assistant, Attorney General, Education Division (Howard Fischer) and he is comfortable.

Name of Proponent: State Board for Community and Technical Colleges, governmental.

Hearing Location: Yakima Valley College, 16 and Nob Hill Boulevard, Yakima, Washington, on June 18, 1998, at 10 a.m.

Assistance for Persons with Disabilities: Contact Claire Krueger by June 1, 1998, FAX (360) 586-6440.

Submit Written Comments to: Claire Krueger, State Board for Community and Technical Colleges, P.O. Box 42495, Olympia, WA 98504-2495, FAX (360) 586-6440, by June 1, 1998.

Date of Intended Adoption: June 18, 1998.

March 20, 1998

Claire C. Krueger

Executive Assistant and

Agency Rules Coordinator

WSR 98-08-030

PROPOSED RULES

DEPARTMENT OF TRANSPORTATION

[Filed March 23, 1998, 9:28 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-04-044.

Title of Rule: Chapter 468-510 WAC, Lane use restrictions.

Purpose: Establishes new sections WAC 468-510-010 High occupancy vehicles and 468-510-020 Left lane restrictions.

Statutory Authority for Adoption: Chapters 34.05 and 34.08 RCW.

Summary: Response to new state law, RCW 46.61.100(3), enacted by the 1997 legislature in SSB 5177.

Reasons Supporting Proposal: The WAC rule is the best appropriate means to address the issue relating to lane use restrictions.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: David K. Peach, P.O. Box 47344, Olympia, WA 98504-7344, (360) 705-7282.

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: Chapter 468-510 WAC adds a new section WAC 468-510-010, that specifies which motor vehicles may use high occupancy vehicle (HOV) lanes. It also specifies the required number of occupants on signs for public transportation and private vehicles. Also, new section WAC 468-510-020, identifies those vehicles restricted from using the left lane of limited access highways having three or more lanes in one direction, and identifies those highway portions exempt from the law due to the operational characteristics of those highways.

Proposal does not change existing rules.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Does not apply.

RCW 34.05.328 does not apply to this rule adoption. Does not apply.

Hearing Location: Department of Transportation, Commission Board Room 1D2, Transportation Building, Olympia, WA 98504, on May 29, 1998, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact TDD (360) 705-6980.

Submit Written Comments to: David K. Peach, Washington State Department of Transportation, P.O. Box 47344, Olympia, WA 98504-7344, FAX (360) 705-6826, by May 22, 1998.

Date of Intended Adoption: May 29, 1998.

March 19, 1998

Gerald E. Smith

Deputy Secretary

for Operations

Chapter 468-510 WAC

LANE USE RESTRICTIONS

PROPOSED

NEW SECTION

WAC 468-510-010 High occupancy vehicles (HOVs). Pursuant to RCW 46.61.165 and 47.52.025, the department has reserved portions of interstate highways, state highways, and ramps, as HOV lanes for the exclusive use of public transportation vehicles or private motor vehicles with the number of occupants specified on signs. Motor vehicles authorized to use HOV lanes are:

- (1) Rubber tired municipal transit vehicles conforming to RCW 46.04.355.
- (2) Buses with a carrying capacity of sixteen or more persons, including the operator.
- (3) Motorcycles conforming to RCW 46.04.330.
- (4) Recreational vehicles with the number of occupants specified on signs.
- (5) All other vehicles with the number of occupants specified on signs, except that trucks in excess of 10,000 lb. G.V.W. are prohibited from the use of HOV lanes regardless of the number of occupants. Tow trucks that would be otherwise prohibited because of weight or number of occupants may use HOV lanes when en route to an emergency on a specific roadway or roadside.

NEW SECTION

WAC 468-510-020 Left lane restrictions. (1) RCW 46.61.100(3) mandates that no vehicle towing a trailer or no vehicle or combination over 10,000 lb. may use the left lane of limited access roadways having three or more lanes in one direction, and that a high occupancy vehicle (HOV) lane is not considered the left hand lane of a roadway. Within this section, 10,000 lb. means 10,000 lb. gross vehicle weight (G.V.W.).

(2) RCW 46.61.100(3) further mandates that the department, in consultation with the Washington state patrol, shall adopt rules specifying those circumstances where it is permissible for other vehicles to use the left lane in case of emergency or to facilitate the orderly flow of traffic, and those segments of limited access highways exempt from the subsection due to the operational characteristics of the roadway.

(a) For the types of vehicles specified, and under the circumstances enumerated in (a)(i) through (vii) of this subsection, the left lane prohibition described in subsection (1) of this section does not apply to:

- (i) Motorcycles towing trailers.
- (ii) Class B motor homes without a motor vehicle or trailer in tow.
- (iii) Tow trucks weighing over 10,000 lb. G.V.W. when en route to an emergency on a specific roadway or roadside.
- (iv) Fire trucks or emergency care vehicles weighing over 10,000 lb. G.V.W. when en route to an emergency.
- (v) Any vehicle towing a trailer or vehicle or combination weighing over 10,000 lb. G.V.W. when one or more of the lanes are blocked because of an accident, other incident, or highway maintenance or construction activities.
- (vi) Any vehicle authorized to use a HOV lane that would otherwise be prohibited from the left lane within two miles approaching the beginning of a HOV lane or following the terminus of a HOV lane.

(vii) Any department of transportation vehicle towing a trailer or weighing over 10,000 lb. G.V.W. when conducting official business within the left lane.

(b) On the roadway portions enumerated in (b)(i) through (viii) of this subsection, the left lane prohibition described in subsection (1) of this section does not apply:

(i) On northbound and southbound Interstate 5 in the Vancouver vicinity, from the Washington/Oregon state line to exit 3 at Main Street.

(ii) On northbound Interstate 5 in the Vancouver vicinity, from the confluence of Interstate 205 to exit 9 at 179th Street.

(iii) On southbound Interstate 5 in the Vancouver vicinity, from exit 9 at 179th Street to exit 7 at Interstate 205.

(iv) On northbound Interstate 5 in the Seattle/Everett vicinity, from exit 154A at I-405 to exit 194 at SR 529.

(v) On southbound Interstate 5 in the Seattle/Everett vicinity, from exit 189 at SR 526 to exit 154A at I-405.

(vi) On eastbound and westbound Interstate 90 in the Seattle vicinity, from exit 2A and 2B respectively at Interstate 5 to exit 10A at Interstate 405.

(vii) On eastbound and westbound Interstate 182 in the Tri-cities vicinity, from exit 4 to exit 12A.

(viii) On northbound and southbound Interstate 205 in the Vancouver vicinity, from the Washington/Oregon state line to the termini of the three lane sections about one-half mile south of exit 32.

(c) On the roadway portions enumerated in (c)(i) and (ii) of this subsection, the left lane prohibition described in subsection (1) of this section does not apply to any vehicle, except trucks over 10,000 lb. G.V.W., when using the left lane for passing to facilitate the orderly flow of traffic:

(i) On southbound Interstate 5 in the Southcenter vicinity, from exit 154A at I-405 to exit 151 at South 200th Street.

(ii) On southbound Interstate 5 in the Tacoma vicinity, from exit 135 at SR 167 to exit 130 at South 56th Street.

WSR 98-08-049**PROPOSED RULES****DEPARTMENT OF LICENSING**

[Filed March 26, 1998, 11:18 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-03-024.

Title of Rule: Chapter 308-56A WAC, Certificate of title—Motor vehicles.

Purpose: To clarify the requirements for application for vehicle ownership; and to meet the criteria set forth in Governor Locke's Executive Order 97-02.

Statutory Authority for Adoption: RCW 46.01.110, 46.12.101.

Summary: Repeal WAC 308-56A-005 Title required, 308-56A-080 Refusal by department to release title, and 308-56A-085 Error in title issued by department; and clarify WAC 308-56A-010 Title purpose only, 308-56A-015 No title issued, 308-56A-020 Application for title required, 308-56A-021 Assessment of penalty fee for late application for

title, 308-56A-022 Conditions under which penalty fees are not assessed, 308-56A-023 Conditions under which penalty fees may be waived, and 308-56A-090 Disclosure of individual vehicle owner names and addresses.

Reasons Supporting Proposal: Meet criteria supporting Governor Locke's Executive Order 97-02.

Name of Agency Personnel Responsible for Drafting: Patrick Zlateff, 1125 Washington Street South East, Olympia, (360) 902-3718; Implementation: Nancy Kelly, 1125 Washington Street South East, Olympia, (360) 902-3754; and Enforcement: Eric Anderson, 1125 Washington Street South East, Olympia, (360) 902-4045.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Chapter 308-56A WAC sections provide the requirements to obtain a certificate of ownership, when a certificate of ownership is not required, penalty dates, and disclosure of names and addresses.

The anticipated effects will be a clarification and a better understanding by the public of the above mentioned requirements.

Proposal Changes the Following Existing Rules: Clarify sections needed and repeal those no longer required.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement is not required pursuant to RCW 19.85.030 (1)(a). The proposed rule making does not impose more than a minor cost on businesses in an industry.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The content of the proposed rules are explicitly and specifically dictated by statute.

Hearing Location: Highways-Licenses Building, Conference Room 301, 1125 Washington Street South East, Olympia, WA 98507, on May 7, 1998, at 10:00.

Assistance for Persons with Disabilities: Contact Pat Zlateff by May 5, 1998, TDD (360) 664-8885, or (360) 902-3718.

Submit Written Comments to: Patrick Zlateff, Rules Coordinator, Title and Registration Services, P.O. Box 2957, Olympia, WA 98507-2957, FAX (360) 664-0831, by May 5, 1998.

Date of Intended Adoption: May 21, 1998.

March 26, 1998

Nancy S. Kelly, Administrator
Title and Registration Services

AMENDATORY SECTION (Amending WSR 92-15-024, filed 7/6/92, effective 8/6/92)

WAC 308-56A-010 Title purpose only. ~~((Certificates of title may be issued without certificates of registration including but not limited to the following vehicles:))~~ The department may issue a certificate of ownership for a vehicle without a certificate of registration for:

(1) Vehicles required to display valid vehicle number license plates prior to operating on the public highway pursuant to chapter 46.16 RCW;

(2) Farm tractors or farm equipment;

(3) Off-road vehicles (ORV) whether or not required to obtain an ORV use permit;

(4) Golf carts and dune buggies whether or not equipped for legal highway use;

(5) Off highway equipment that may be moved upon public highways by special permits.

AMENDATORY SECTION (Amending Order MV 208, filed 7/31/74)

WAC 308-56A-015 No title issued. ~~((Vehicles may be registered without issuing a Washington certificate of title. Such registration will be accepted when:~~

~~(1) An out-of-state secured party will not release an out-of-state title;~~

~~(2) A nonresident is required to register his/her vehicle in this state but is also required to maintain his/her home state title and registration.))~~ The department may register vehicles without issuing Washington certificates of ownership when:

(1) A secured party will not surrender an out-of-state certificate of ownership; or

(2) Registration is required in Washington state and title and registration are required by another state.

AMENDATORY SECTION (Amending Order MV 208, filed 7/31/74)

WAC 308-56A-020 Application for title required. ~~((An application for certificate of title is required:~~

~~(1) Whenever the ownership of a vehicle changes;~~

~~(2) When there is a legal change of name of the registered or legal owner of a vehicle;~~

~~(3) When there is a change of name of a business entity owning a vehicle; provided that, an application is not required for each vehicle when a financial institution which is the legal owner of a number of vehicles merges with or is sold to another institution and continues to do business in the name of the surviving institution, if the department is notified in writing of the merger or sale;~~

~~(4) When a proprietorship or partnership forms a corporation whether or not a business name is changed;~~

~~(5) When a proprietorship or partnership purchases a corporation which will no longer be operated as a corporation whether or not the business name is changed;~~

~~(6) Whenever there is no outstanding secured obligation and no commitment to make advances and incur obligations or otherwise give value;~~

~~(7) Whenever a vehicle has been reported destroyed by an insurance company and the owner wishes to operate it on the public highways;~~

~~(8) Whenever a vehicle has been assembled;~~

~~(9) Whenever a glider kit has been installed;~~

~~(10) Whenever a replacement engine has been installed in a motorcycle;~~

~~(11) Whenever there has been a structural change in the vehicle;~~

~~(12) Whenever the vehicle identification number has changed;~~

~~(13) Whenever a former nonresident owner of a vehicle requiring a certificate of title becomes a Washington resident~~

as defined in chapter 308-92 WAC as now or hereafter amended;

(14) Whenever a second legal owner is to be added to the certificate of title. The application shall show the address of only the first named legal owner;

(15) Whenever the engine of a vehicle has been changed or modified to accept a fuel other than that shown on the outstanding title: An application for certificate of ownership is required when:

(1) A person purchases a new vehicle;

(2) There is a change of ownership due to:

(a) Sale;

(b) Gift;

(c) Inheritance;

(d) Trade;

(e) Addition or deletion of a registered owner;

(f) Proprietorship or partnership forming a corporation, whether or not the business name is changing; or

(g) Proprietorship or partnership purchasing a corporation which will no longer be operated as a corporation, whether or not the business name is changed.

(3) There is a name change of:

(a) The registered owner;

(b) The lienholder; or

(c) A business entity as shown on the current certificate of ownership.

(4) There is no change in the registered owner of the vehicle but the title needs to be reissued because:

(a) A lien has been satisfied and the lienholder's name needs to be removed;

(b) A lienholder's name needs to be added. If a secondary lienholder is being added, the address of only the primary lienholder will be recorded;

(c) There is a change in lienholders;

(d) The vehicle is assembled or has had a glider kit installed;

(e) The vehicle is a motorcycle and the engine has been replaced;

(f) There has been a structural change in the vehicle, other than changing the bed of a truck; or

(g) The vehicle identification number needs to be corrected.

(5) The vehicle has been reported destroyed by an insurance company. Title procedures are in chapter 308-58 WAC.

(6) The vehicle has been reported destroyed by the owner, or a wrecker and is subsequently sold and licensed.

AMENDATORY SECTION (Amending Order TL/RG/36, filed 10/9/87)

WAC 308-56A-021 Assessment ((of)) criteria for penalty fee ((for late application for title)). ((When ownership of a Washington titled vehicle changes, the purchaser or transferee must complete and submit to the department or to a vehicle licensing agent an application for certificate of title and license registration within fifteen days after the date of delivery of the vehicle. Penalty fees will be assessed for late application under the following circumstances:

(1) Documents submitted for application for new title indicate more than 15 days have elapsed since date of delivery of the vehicle;

(2) Someone other than the first purchaser shown is making application (unless verification is provided that he/she acquired the vehicle less than 16 days prior to application for title;

(3) The date of delivery is declared to be 15 days prior to date of application. An affidavit of delivery is required when:

(a) Conflicting dates appear on supporting documents;

(b) Dates on title or supporting documents have been altered;

(c) No evidence of the date of delivery is present; or,

(d) An undated title is presented;

(4) Partial ownership has changed more than fifteen days previously.

When a divorcee settlement or other legal action affecting ownership of the vehicle takes place after the date that the title is signed off, the date of the final legal action may be used as the date from which penalty fees are computed.)) Penalty fees are assessed beginning on the 16th day from the date of sale as shown on the certificate of ownership, except when:

(1) There is a court order awarding ownership in the vehicle, the department uses the effective date of the court order;

(2) The vehicle was delivered after the date indicated on the supporting documents;

(3) There are conflicting dates on supporting documents;

(4) There is no date on the certificate of ownership or other supporting documents; or

(5) The date on the certificate of ownership has been altered.

Subsection (2) through (5) of this section require the applicant to sign an affidavit attesting to the actual date of delivery.

AMENDATORY SECTION (Amending Order TL/RG/36, filed 10/9/87)

WAC 308-56A-022 Conditions under which penalty fees are not assessed. Penalty fees are not assessed for late application for title under the following conditions:

(1) The vehicle is not motorized;

(2) The vehicle is sold by a Washington dealer (dealer report of sale box on the application is completed);

((2)) (3) A ((prior)) Washington record cannot be found;

((3)) (4) Department of licensing records indicate the vehicle ((was totaled by an insurance company or reported)) has been destroyed ((by a wrecking yard));

((4)) (5) The vehicle is being titled as home made or assembled for the first time;

((5)) (6) The vehicle is acquired ((by inheritance or community property from the owner of record)) as a result of:

(a) Inheritance or community property;

(b) Divorce settlement;

(c) Other legal action affecting ownership of the vehicle;

or

(d) Partial ownership change.

AMENDATORY SECTION (Amending Order TL/RG/36, filed 10/9/87)

WAC 308-56A-023 ~~Conditions under which penalty fees may be waived.~~ ~~((Penalty fees for late application for certificate of title and license registration may be waived when the department is presented with proof satisfactory to the department that the delay in submitting the application was due to reasons beyond the control of the purchaser, including one or more of the following circumstances:~~

- ~~(1) A request by the department of licensing for additional required supporting documents;~~
- ~~(2) Extended hospitalization or illness of the purchaser;~~
- ~~(3) Failure of a legal owner to release his/her/their interest;~~
- ~~(4) Department, auditor, agent, or subagent error;~~
- ~~(5) Incarceration of the purchaser by a judiciary system;~~
- ~~(6) A seller's report of sale filed by purchaser thinking it transferred title;~~
- ~~(7) Other reasons which the director may determine are valid.))~~ (1) In addition to penalty waivers identified in RCW 46.12.101, the department may waive the penalty fee for late application for certificate of ownership when:
 - (a) The purchaser is incarcerated by a judiciary system;
 - (b) The purchaser files a seller's report of sale thinking they have filed an application to transfer certificate of ownership;
 - (c) The director determines other reasons are valid; or
 - (d) A purchaser fails to transfer ownership prior to selling it and the applicant can prove he/she has purchased the vehicle within fifteen days of making application.
- (2) If the date of sale does not represent the date of delivery, and the customer declares that the date of delivery is within fifteen days prior to date of application for one of the following reasons, the department may waive the penalty fee with a signed affidavit:
 - (a) Conflicting dates appear on supporting documents;
 - (b) Dates on title or supporting documents have been altered;
 - (c) No evidence of the date of delivery is present; or
 - (d) An undated title is presented.

AMENDATORY SECTION (Amending WSR 96-03-047, filed 1/11/96, effective 2/11/96)

WAC 308-56A-090 Disclosure of individual vehicle owner names and addresses. ~~((+))~~ Any business entity requesting the name or address of a vehicle owner pursuant to RCW 46.12.380 shall ~~((complete))~~ submit a completed form provided by the department and furnish verification of its identity as a business entity. For purposes of this section, acceptable verification includes:

- ~~((a) A copy of the requesting entity's unexpired Washington master business license; or~~
- ~~(b) For businesses not authorized to do business in this state, a copy of its unexpired business license issued by the out of state jurisdiction where the business entity is authorized to do business.~~
- (2) A business entity requesting names or addresses of individual vehicle owners on a continuing basis may execute

~~an agreement with the department giving their full business name and the purpose for requesting the information. If the purpose for the information is not contrary to RCW 46.12.380, the information may be provided without separate written requests for disclosure of owner's name or address on each vehicle of interest.))~~ (1) Licensed Washington businesses shall provide a copy of their current Washington master business license; or

(2) Businesses not required to be licensed in this state shall provide their Federal Employer Identification Number on their official letterhead with a notarized signature of the owner or their authorized representative; or

(3) Out-of-state businesses not licensed in Washington shall provide:

(a) A copy of their current business license issued by the out-of-state jurisdiction where the business entity is authorized to do business; or

(b) Their Federal Employer Identification Number on their official letterhead with a notarized signature of the owner or their authorized representative.

(4) In addition to the requirements in subsections (1), (2) and (3) of this section:

(a) An attorney shall also provide a copy of their bar card; and

(b) A private investigator shall also provide a copy of their private investigator's license.

(5) A business entity which has entered into a written agreement with the department need not provide a separate written request for each inquiry.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 308-56A-005	Title required.
WAC 308-56A-080	Refusal by department to release title.
WAC 308-56A-085	Error in title issued by department.

WSR 98-08-055
PROPOSED RULES
DEPARTMENT OF
FINANCIAL INSTITUTIONS
 [Filed March 30, 1998, 11:06 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 97-08-057.

Title of Rule: Conforming WAC 460-44A-506 and related provisions to the National Securities Markets Improvement Act of 1996 (NSMIA).

Purpose: NSMIA preempted state laws pertaining to registration or qualification of certain securities transactions, including securities issued pursuant to SEC Rule 506 and its Washington counterpart, WAC 460-44A-506. NSMIA pre-

PROPOSED

served the ability of the states to collect notice filing and notice fees for such transactions. The proposed amendments are intended to revise WAC 460-44A-506 and related provisions consistent with NSMIA and to accommodate notice filings and fees.

Other Identifying Information: WAC 460-44A-500 through 460-44A-504, 460-44A-506, and 460-44A-508.

Statutory Authority for Adoption: RCW 21.20.450, [21.20.] 320 (1) and (9).

Statute Being Implemented: Chapter 21.20 RCW.

Summary: See Purpose above.

Reasons Supporting Proposal: Without the proposed amendments, the rules cited above will be inconsistent with federal law. In addition, the changes will eliminate confusion concerning the Washington requirements for these offerings in light of NSMIA.

Name of Agency Personnel Responsible for Drafting: William M. Beatty, 210 11th Avenue S.W., Suite 300, Olympia, WA 98504, (360) 902-8760; Implementation: John L. Bley, 210 11th Avenue S.W., Suite 300, Olympia, WA 98504, (360) 902-8760; and Enforcement: Deborah R. Bortner, 210 11th Avenue S.W., Suite 300, Olympia, WA 98504, (360) 902-8760.

Name of Proponent: Department of Financial Institutions, Securities Division, governmental.

Rule is necessary because of federal law, Section 18, Securities Act of 1933.

Explanation of Rule, its Purpose, and Anticipated Effects: NSMIA preempted state laws pertaining to registration or qualification of certain securities transactions, including securities issued pursuant to SEC Rule 506 and its Washington counterpart, WAC 460-44A-506. NSMIA preserved the ability of the states to collect notice filing and notice fees for such transactions. The proposed amendments are intended to revise WAC 460-44A-506 and related provisions consistent with NSMIA and to accommodate notice filings and fees. Without the proposed amendments, these rules will be inconsistent with federal law. In addition, the changes will eliminate confusion concerning the Washington requirements for these offerings in light of NSMIA.

Proposal Changes the Following Existing Rules: WAC 460-44A-500 is changed to delete reference to WAC 460-44A-506 as an "exemption" since such offerings are now preempted; WAC 460-44A-501(5) is amended to delete reference to WAC 460-44A-506 in connection with the calculation of the number of purchasers since state law in this regard has been preempted; WAC 460-44A-502 is amended concerning WAC 460-44A-506 since the subject of this rule is now controlled exclusively by federal law; WAC 460-44A-503 is changed to proscribe notice filing requirements for offerings made in Washington pursuant to federal rule 506; WAC 460-44A-504 is changed in Note 2 to recognize that the current name for "Form ULOR-C" is the "SCOR Form"; WAC 460-44A-506 is amended, as proscribed by NSMIA, to eliminate substantive regulation concerning offerings made pursuant to federal rule 506; and WAC 460-44A-508 is amended to eliminate reference to WAC 460-44A-506.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposal does not impose additional costs on business.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The Department of Financial Institutions is not one of the agencies listed in section 201.

Hearing Location: Department of Financial Institutions, Securities Division, Executive Conference Room, 210 11th Avenue S.W., Suite 300, Olympia, WA 98504 on May 11, 1998, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Darlene Christianson by May 4, 1998, TDD (360) 664-8126, or (360) 902-8760.

Submit Written Comments to: William M. Beatty, Securities Division, P.O. Box 9033, Olympia, WA 98507-9033, FAX (360) 586-5068, e-mail bbeatty@dfi.wa.gov, by May 8, 1998.

Date of Intended Adoption: May 12, 1998.

March 27, 1998

John L. Bley

Director

AMENDATORY SECTION (Amending WSR 94-03-061, filed 1/14/94, effective 2/14/94)

WAC 460-44A-500 Preliminary notes. (1) The rules of WAC 460-44A-501 through 460-44A-508 relate to transactions exempted or preempted from the registration requirements of the Federal Securities Act of 1933 and RCW 21.20.140. WAC 460-44A-504 is an exemption from registration for offerings exempted under Securities and Exchange Commission Rule 504 or Rule 147. WAC 460-44A-505 is an exemption from registration for offerings exempted under Securities and Exchange Commission Rule 505. WAC 460-44A-506 (~~is an exemption from registration~~) establishes certain conditions for offerings exempted under Securities and Exchange Commission Rule 506. Such transactions are not exempt from ~~(the)~~ anti-fraud, civil liability, or other provisions of the federal and state securities laws. Issuers are reminded of their obligation to provide such further material information, if any, as may be necessary to make the information required under these rules, in light of the circumstances under which it is furnished, not misleading.

(2) Attempted compliance with the exemption of WAC 460-44A-504, 460-44A-505, or 460-44A-506 does not act as an exclusive election; the issuer can also claim the availability of any other applicable exemption.

(3) These rules are available only to the issuer of the securities and not to any affiliate of that issuer or to any other person for resale of the issuer's securities. The rules provide an exemption only for the transactions in which the securities are offered or sold by the issuer, not for the securities themselves.

(4) In any proceeding involving the rules in WAC 460-44A-501 through 460-44A-508, the burden of proving the exemption ~~((or))~~, an exception from a definition or condition, or preemption, is upon the person claiming it.

~~(5) ((The effective date of the adoption of rules WAC 460-44A-501, 460-44A-502, 460-44A-503, and 460-44A-506 is May 25, 1998. Existing rules WAC 460-44A-010 through 460-44A-045 will be repealed on the adoption and effectiveness of the permanent rules WAC 460-44A-501,~~

~~460-44A-502, 460-44A-503, and 460-44A-506; no filings for exemption under rules WAC 460-44A-010 through 460-44A-045 will be accepted after repeal. For those offerings made in compliance with WAC 460-44A-010 through 460-44A-045 which commence or commenced prior to the date of repeal and which continue past the date of repeal, no registration is required if the offering terminates before June 30, 1983.~~

(6)) For offerings commenced but not completed prior to the amendment of WAC 460-44A-501 through 460-44A-508, issuers may opt to follow the rules in effect at the date of filing notice of the offering.

((7)) (6) Securities offered and sold outside the United States in accordance with Securities and Exchange Commission Regulation S need not be registered under chapter 21.20 RCW. Regulation S may be relied upon for such offers and sales even if coincident offers and sales are made in accordance with Regulation D and WAC 460-44A-501 through 460-44A-508 inside the United States. Thus, for example, persons who are offered and sold securities in accordance with Regulation S would not be counted in the calculation of the number of purchasers under Regulation D and WAC 460-44A-501 through 460-44A-508. Similarly proceeds from such sales would not be included in the aggregate offering price. The provisions of this subsection, however, do not apply if the issuer elects to rely solely on Regulation D for offers or sales to persons made outside the United States.

AMENDATORY SECTION (Amending WSR 94-03-061, filed 1/14/94, effective 2/14/94)

WAC 460-44A-501 Definitions and terms. As used in rules WAC 460-44A-501 through 460-44A-508, the following terms shall have the meaning indicated:

(1) "Accredited investor" shall mean any person who comes within any of the following categories, or who the issuer reasonably believes comes within any of the following categories, at the time of the sale of the securities to that person:

(a) Any bank as defined in section 3 (a)(2) of the Securities Act of 1933, or any savings and loan association or other institution as defined in section 3 (a)(5)(A) of the Securities Act of 1933 whether acting in its individual or fiduciary capacity; any broker or dealer registered pursuant to section 15 of the Securities Exchange Act of 1934; any insurance company as defined in section 2(13) of the Securities Act of 1933; any investment company registered under the Investment Company Act of 1940 or a business development company as defined in section 2 (a)(48) of that act; any small business investment company licensed by the U.S. Small Business Administration under section 301 (c) or (d) of the Small Business Investment Act of 1958; any plan established and maintained by a state, its political subdivisions, or any agency or instrumentality of a state or its political subdivisions, for the benefit of its employees, if such plan has total assets in excess of \$5,000,000; any employee benefit plan within the meaning of the Employee Retirement Income Security Act of 1974 if the investment decision is made by a plan fiduciary, as defined in section 3(21) of such act, which is either a bank, savings and loan association, insurance com-

pany, or registered investment adviser, or if the employee benefit plan has total assets in excess of \$5,000,000 or, if a self-directed plan, with investment decisions made solely by persons that are accredited investors;

(b) Any private business development company as defined in section 202 (a)(22) of the Investment Advisers Act of 1940;

(c) Any organization described in section 501 (c)(3) of the Internal Revenue Code, corporation, Massachusetts or similar business trust, or partnership, not formed for the specific purpose of acquiring the securities offered, with total assets in excess of \$5,000,000;

(d) Any director, executive officer, or general partner of the issuer of the securities being offered or sold, or any director, executive officer, or general partner of a general partner of that issuer;

(e) Any natural person whose individual net worth, or joint net worth with that person's spouse, at the time of his purchase exceeds \$1,000,000;

(f) Any natural person who had an individual income in excess of \$200,000 in each of the two most recent years or joint income with that person's spouse in excess of \$300,000 in each of those years and has a reasonable expectation of reaching the same income level in the current year;

(g) Any trust, with total assets in excess of \$5,000,000, not formed for the specific purpose of acquiring the securities offered, whose purchase is directed by a sophisticated person as described in 17 CFR Sec. 230.506 (b)(2)(ii); and

(h) Any entity in which all of the equity owners are accredited investors.

(2) "Affiliate" an "affiliate" of, or person "affiliated" with, a specified person shall mean a person that directly, or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, the person specified;

(3) "Aggregate offering price" shall mean the sum of all cash, services, property, notes, cancellation of debt, or other consideration to be received by an issuer for issuance of its securities. Where securities are being offered for both cash and noncash consideration, the aggregate offering price shall be based on the price at which the securities are offered for cash. Any portion of the aggregate offering price attributable to cash received in a foreign currency shall be translated into United States currency at the currency exchange rate in effect at a reasonable time prior to or on the date of the sale of the securities. If securities are not offered for cash, the aggregate offering price shall be based on the value of the consideration as established by bona fide sales of that consideration made within a reasonable time, or, in the absence of sales, on the fair value as determined by an accepted standard. Such valuations of noncash consideration must be reasonable at the time made;

(4) "Business combination" shall mean any transaction of the type specified in paragraph (a) of Rule 145 under the Securities Act of 1933 and any transaction involving the acquisition by one issuer, in exchange for all or a part of its own or its parent's stock, of stock of another issuer if, immediately after the acquisition, the acquiring issuer has control of the other issuer (whether or not it had control before the acquisition);

(5) "Calculation of number of purchasers." For purposes of calculating the number of purchasers under WAC 460-44A-504(~~(:)~~) and 460-44A-505(~~(, and 460-44A-506)~~) the following shall apply:

(a) The following purchasers shall be excluded:

(i) Any relative, spouse or relative of the spouse of a purchaser who has the same principal residence as the purchaser;

(ii) Any trust or estate in which a purchaser and any of the persons related to him as specified in WAC 460-44A-501 (5)(a)(i) or (iii) collectively have more than 50 percent of the beneficial interest (excluding contingent interests);

(iii) Any corporation or other organization of which a purchaser and any of the persons related to him as specified in WAC 460-44A-501 (5)(a)(i) or (ii) collectively are beneficial owners of more than 50 percent of the equity securities (excluding directors' qualifying shares) or equity interests; and

(iv) Any accredited investor.

(b) A corporation, partnership or other entity shall be counted as one purchaser. If, however, that entity is organized for the specific purpose of acquiring the securities offered and is not an accredited investor under WAC 460-44A-501 (1)(h), then each beneficial owner of equity securities or equity interests in the entity shall count as a separate purchaser for all provisions of WAC 460-44A-501 through 460-44A-508, except to the extent provided in (a) of this subsection.

(c) A noncontributory employee benefit plan within the meaning of Title I of the Employee Retirement Income Security Act of 1974 shall be counted as one purchaser where the trustee makes all investment decisions for the plan.

Note: The issuer must satisfy all the other provisions of WAC 460-44A-501 through (~~460-44A-506~~) 460-44A-505 for all purchasers whether or not they are included in calculating the number of purchasers. Clients of an investment adviser or customers of a broker-dealer shall be considered the "purchasers" under WAC 460-44A-501 through (~~460-44A-506~~) 460-44A-505 regardless of the amount of discretion given to the investment adviser or broker-dealer to act on behalf of the client or customer.

(6) "Executive officer" shall mean the president, any vice president in charge of a principal business unit, division or function (such as sales, administration or finance), or any other officer who performs a policy making function, or any other person who performs similar policy making functions for the issuer. Executive officers of subsidiaries may be deemed executive officers of the issuer if they perform such policy making functions for the issuer.

(7) "Issuer" as defined in Section 2(4) of the Securities Act of 1933 or RCW 21.20.005(7) shall apply, except that in the case of a proceeding under the Federal Bankruptcy Code (11 U.S.C. 101 et seq.), the trustee or debtor in possession shall be considered the issuer in an offering under a plan or reorganization, if the securities are to be issued under the plan.

(8) "Purchaser representative" shall mean any person who satisfies all of the following conditions or who the issuer reasonably believes satisfies all of the following conditions:

(a) Is not an affiliate, director, officer or other employee of the issuer, or beneficial owner of 10 percent or more of any

class of the equity securities or 10 percent or more of the equity interest in the issuer, except where the purchaser is:

(i) A relative of the purchaser representative by blood, marriage or adoption and not more remote than a first cousin;

(ii) A trust or estate in which the purchaser representative and any person related to him as specified in WAC 460-44A-501 (8)(a)(i) or (iii) collectively have more than 50 percent of the beneficial interest (excluding contingent interest) or of which the purchaser representative serves as trustee, executor, or in any similar capacity; or

(iii) A corporation or other organization of which the purchaser representative and any persons related to him as specified in WAC 460-44A-501 (8)(a)(i) or (ii) collectively are the beneficial owners of more than 50 percent of the equity securities (excluding directors' qualifying shares) or equity interests;

(b) Has such knowledge and experience in financial and business matters that he is capable of evaluating, alone, or together with other purchaser representatives of the purchaser, or together with the purchaser, the merits and risks of the prospective investment;

(c) Is acknowledged by the purchaser in writing, during the course of the transaction, to be his purchaser representative in connection with evaluating the merits and risks of the prospective investment; and

(d) Discloses to the purchaser in writing a reasonable time prior to the sale of securities to that purchaser any material relationship between himself or his affiliates and the issuer or its affiliates that then exists, that is mutually understood to be contemplated, or that has existed at any time during the previous two years, and any compensation received or to be received as a result of such relationship.

Note 1: A person acting as a purchaser representative should consider the applicability of the registration and anti-fraud provisions relating to broker-dealers under chapter 21.20 RCW and the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq., as amended) and relating to investment advisers under chapter 21.20 RCW and the Investment Advisers Act of 1940.

Note 2: The acknowledgment required by paragraph (8)(c) and the disclosure required by paragraph (8)(d) of this WAC 460-44A-501 must be made with specific reference to each prospective investment. Advance blanket acknowledgment, such as for "all securities transactions" or "all private placements," is not sufficient.

Note 3: Disclosure of any material relationships between the purchaser representative or his affiliates and the issuer or its affiliates does not relieve the purchaser representative of his obligation to act in the best interest of the purchaser.

AMENDATORY SECTION (Amending WSR 94-03-061, filed 1/14/94, effective 2/14/94)

WAC 460-44A-502 General conditions to be met. The following conditions shall be applicable to offers and sales made under WAC 460-44A-504(~~(:)~~) or 460-44A-505(~~(, or 460-44A-506)~~):

(1) "Integration." All sales that are part of the same offering under these rules must meet all of the terms and conditions of these rules. Offers and sales that are made more than six months before the start of an offering or are made more than six months after completion of an offering, will not

be considered part of that offering, so long as during those six month periods there are no offers or sales of securities by or for the issuer that are of the same or a similar class as those offered or sold under these rules, other than those offers or sales of securities under an employee benefit plan.

Note: The term "offering" is not defined in the securities acts. If the issuer offers or sells securities for which the safe harbor rule in WAC 460-44A-502(1) is unavailable, the determination as to whether separate sales of securities are part of the same offering (i.e. are considered "integrated") depends on the particular facts and circumstances. Generally, transactions otherwise meeting the requirements of an exemption will not be integrated with simultaneous offerings being made outside the United States in compliance with Securities and Exchange Commission Regulation S.

The following factors should be considered in determining whether offers and sales should be integrated for purposes of the exemptions under these rules:

- (a) Whether the sales are part of a single plan of financing;
- (b) Whether the sales involve issuance of the same class of securities;
- (c) Whether the sales have been made at or about the same time;
- (d) Whether the same type of consideration is received; and
- (e) Whether the sales are made for the same general purpose.

See Securities and Exchange Commission Release No. 33-4552 (November 6, 1962).

(2) Information requirements.

(a) When information must be furnished.

If the issuer sells securities under WAC 460-44A-505 (~~or 460-44A-506~~) to any purchaser that is not an accredited investor, the issuer shall furnish the information specified in WAC 460-44A-502 (2)(b) to such purchaser a reasonable time prior to sale. The issuer is not required to furnish the specified information when it sells securities under WAC 460-44A-504, or to any accredited investor.

Note: When an issuer provides information to investors pursuant to WAC 460-44A-502 (2)(a), it should consider providing such information to accredited investors as well, in view of the anti-fraud provisions of the federal and state securities laws.

(b) Type of information to be furnished.

(i) If the issuer is not subject to the reporting requirements of section 13 or 15(d) of the Securities Exchange Act of 1934, at a reasonable time prior to the sale of securities the issuer shall furnish to the purchaser the following information, to the extent material to an understanding of the issuer, its business, and the securities being offered:

(A) Nonfinancial statement information. If the issuer is eligible to use Regulation A, the same kind of information as would be required in Part II of Form 1-A, 17 CFR Sec. 239.90. If the issuer is not eligible to use Regulation A, the same kind of information as required in Part I of a registration statement filed under the Securities Act on the form that the issuer would be entitled to use.

(B) Financial statement information.

(I) Offerings up to \$2,000,000. The information required in Item 310 of Regulation S-B, 17 CFR Sec. 228.310, except that only the issuer's balance sheet, which shall be dated within 120 days of the start of the offering, must be audited.

(II) Offerings up to ~~(\$7,500,000)~~ \$5,000,000. The financial statement information required in Form SB-2, 17 CFR Sec. 239.10. If an issuer, other than a limited partnership, cannot obtain audited financial statements without unreasonable effort or expense, then only the issuer's balance sheet, which shall be dated within 120 days of the start of the offering, must be audited. If the issuer is a limited partnership and cannot obtain the required financial statements without unreasonable effort or expense, it may furnish financial statements that have been prepared on the basis of federal income tax requirements and examined and reported on in accordance with generally accepted auditing standards by an independent public or certified accountant.

~~((III) Offerings over \$7,500,000. The financial statement as would be required in a registration statement filed under the act on the form that the issuer would be entitled to use. If an issuer, other than a limited partnership, cannot obtain audited financial statements without unreasonable effort or expense, then only the issuer's balance sheet, which shall be dated within 120 days of the start of the offering, must be audited. If the issuer is a limited partnership and cannot obtain the required financial statements without unreasonable effort or expense, it may furnish financial statements that have been prepared on the basis of federal income tax requirements and examined and reported on in accordance with generally accepted auditing standards by an independent public or certified accountant.))~~

(C) If the issuer is a foreign private issuer eligible to use Form 20-F, the issuer shall disclose the same kind of information required to be included in a registration statement filed under the Securities Act of 1933 on the form that the issuer would be entitled to use. The financial statements need be certified only to the extent required by (2)(b)(i)(B)(I)(-)) or (II) (~~or (III)~~) of this subsection, as appropriate.

(ii) If the issuer is subject to the reporting requirements of section 13 or 15(d) of the Securities Exchange Act of 1934, at a reasonable time prior to the sale of securities the issuer shall furnish to the purchaser the information required by Securities and Exchange Commission Regulation D, Rule 502 (b)(2)(ii) as appropriate.

(iii) Exhibits required to be filed with the administrator of securities or the securities and exchange commission as part of a registration statement or report, other than an annual report to shareholders or parts of that report incorporated by reference in a Form 10-K and Form 10-KSB report, need not be furnished to each purchaser that is not an accredited investor if the contents of material exhibits are identified and such exhibits are made available to a purchaser, upon his written request, a reasonable time prior to his purchase.

(iv) At a reasonable time prior to the sale of securities to any purchaser that is not an accredited investor in a transaction under WAC 460-44A-505 (~~or 460-44A-506~~), the issuer shall furnish to the purchaser a brief description in writing of any material written information concerning the offering that has been provided by the issuer to any accredited investor but not previously delivered to such unaccredited purchaser. The

issuer shall furnish any portion or all of this information to the purchaser, upon his written request a reasonable time prior to his purchase.

(v) The issuer shall also make available to each purchaser at a reasonable time prior to his purchase of securities in a transaction under WAC 460-44A-505 (~~(or 460-44A-506)~~) the opportunity to ask questions and receive answers concerning the terms and conditions of the offering and to obtain any additional information which the issuer possesses or can acquire without unreasonable effort or expense that is necessary to verify the accuracy of information furnished under WAC 460-44A-502 (2)(b)(i) or (ii).

(vi) For business combinations or exchange offers, in addition to information required by Form S-4, 17 CFR Sec. 239.25, the issuer shall provide to each purchaser at the time the plan is submitted to security holders, or, with an exchange, during the course of the transaction and prior to sale, written information about any terms or arrangements of the proposed transactions that are materially different from those for all other security holders. For purposes of this subsection, an issuer which is not subject to the reporting requirements of section 13 or 15(d) of the Securities Exchange Act of 1934 may satisfy the requirements of Part I.B. or C. of Form S-4 by compliance with (b)(i) of this subsection.

(vii) At a reasonable time prior to the sale of securities to any purchaser that is not an accredited investor in a transaction under WAC 460-44A-505 (~~(or 460-44A-506)~~), the issuer shall advise the purchaser of the limitations on resale in the manner contained in subsection (4)(b) of this section. Such disclosure may be contained in other materials required to be provided by this paragraph.

(3) Limitation on manner of offering. Neither the issuer nor any person acting on its behalf shall offer or sell the securities by any form of general solicitation or general advertising, including, but not limited to, the following:

(a) Any advertisement, article, notice or other communication published in any newspaper, magazine, or similar media or broadcast over television or radio; and

(b) Any seminar or meeting whose attendees have been invited by any general solicitation or general advertising.

(4) Limitations on resale. Securities acquired in a transaction under WAC 460-44A-501 through (~~460-44A-508~~) 460-44A-505 shall have the status of restricted securities acquired in a nonpublic offering transaction under section 4(2) of the Securities Act of 1933 and RCW 21.20.320(1) and cannot be resold without registration under the Securities Act of Washington or an exemption therefrom. The issuer shall exercise reasonable care to assure that the securities are not restricted and that the purchasers of the securities are not underwriters within the meaning of section 2(11) of the Securities Act of 1933, which reasonable care may be demonstrated by the following:

(a) Reasonable inquiry to determine if the purchaser is acquiring the securities for himself or for other persons;

(b) Written disclosure to each purchaser prior to sale that the securities have not been registered under the Securities Act of 1933, and the Washington administrator of securities has not reviewed or recommended the offering or offering circular and the securities have not been registered under the

Securities Act of Washington, chapter 21.20 RCW, and, therefore, cannot be resold unless they are registered under the Securities Act of 1933 and the Securities Act of Washington chapter 21.20 RCW or unless an exemption from registration is available; and

(c) Placement of a legend on the certificate or other document that evidences the securities stating that the securities have not been registered under the Securities Act of 1933 and the Securities Act of Washington chapter 21.20 RCW and setting forth or referring to the restrictions on transferability and sale of the securities.

(d) A written disclosure or legend will be deemed to comply with the provisions of WAC 460-44A-502 (4)(b) or (c) if it complies with the North American Securities Administrators Association Uniform Disclosure Guidelines on Legends, NASAA Reports CCH Para. 1352 (1989).

While taking these actions will establish the requisite reasonable care, it is not the exclusive method to demonstrate such care. Other actions by the issuer may satisfy this provision. In addition, WAC 460-44A-502 (2)(b)(vii) requires the delivery of written disclosure of the limitations on resale to investors in certain instances.

AMENDATORY SECTION (Amending WSR 96-15-063, filed 7/17/96, effective 8/17/96)

WAC 460-44A-503 Filing of notice and payment of fee. (1) An issuer offering or selling securities in reliance on WAC 460-44A-504, 460-44A-505, or 460-44A-506 shall file with the administrator of securities of the department of financial institutions a notice and pay a filing fee as follows:

(a)(i)(A) For an offering of a security in reliance upon the Securities Act of 1933, Regulation D, Rule 230.506, the issuer shall file a notice on Securities and Exchange Commission Form D checking box 506 and pay a filing fee of three hundred dollars no later than fifteen days after the first sale of such securities in the state of Washington.

(B) For an offering in reliance on Securities and Exchange Commission Rule 505 (~~(or Rule 506, under)~~) and WAC 460-44A-505 (~~(or 460-44A-506, respectively)~~), the issuer shall file the initial notice on Securities and Exchange Commission Form D checking box 505 (and box ULOE) (~~(or box 506, as applicable)~~) and pay a filing fee of three hundred dollars no later than fifteen days after the first sale of securities in the state of Washington which results from an offer being made in reliance (~~(on the exemption of)~~) upon WAC 460-44A-505 (~~(or 460-44A-506)~~);

(~~(B)~~) (C) For an offering in reliance on Securities and Exchange Commission Rule 504(~~(, under)~~) and WAC 460-44A-504, the issuer shall file the initial notice on Securities and Exchange Commission Form D checking box 504 and pay a filing fee of fifty dollars no later than ten business days (or such lesser period as the administrator may allow) prior to receipt of consideration or the delivery of a signed subscription agreement by an investor in the state of Washington which results from an offer being made in reliance (~~(on the exemption of)~~) upon WAC 460-44A-504;

(~~(C)~~) (D) For an offering in reliance on Securities and Exchange Commission Rule 147(~~(, under)~~) and WAC 460-44A-504, the issuer shall file the initial notice on Washington

Securities Division Form WAC 460-44A-504/Rule 147 and pay a filing fee of fifty dollars no later than ten business days (or such lesser period as the administrator may allow) prior to receipt of consideration or the delivery of a signed subscription agreement by an investor in the state of Washington which results from an offer being made in reliance on the exemption of WAC 460-44A-504;

(ii) Unless previously filed, the issuer shall include with the initial notice an executed uniform consent to service of process on Form U-2.

(b) The issuer shall file with the administrator such other notices on Form D as are required to be filed with the Securities and Exchange Commission. For purposes of this section, "Form D" is defined as the document, as adopted by the Securities and Exchange Commission and in effect on September 1, 1996, entitled Form D; Notice of Sale of Securities Pursuant to Regulation D, Section 4(6), and/or Uniform Limited Offering Exemption, including Part E and the Appendix.

(c) Section E of the initial notice shall either be manually signed by a person duly authorized by the issuer or a photocopy of a manually signed copy.

(2) By filing for the exemption of WAC 460-44A-504(~~(:)~~) or 460-44A-505 (~~(or 460-44A-506)~~), the issuer undertakes to furnish to the administrator, upon request, the information to be furnished or furnished by the issuer under WAC 460-44A-502 (2)(b) or otherwise to any purchaser that is not an accredited investor. Failure to submit the information in a timely manner will be a ground for denial or revocation of the exemption of WAC 460-44A-504(~~(:)~~) or 460-44A-505 (~~(or 460-44A-506)~~).

AMENDATORY SECTION (Amending WSR 94-03-061, filed 1/14/94, effective 2/14/94)

WAC 460-44A-504 Exemption for limited offers and sales of securities not exceeding \$500,000 to not more than twenty purchasers. (1) Exemption. Offers and sales of securities by an issuer in compliance with the Securities Act of 1933, Regulation D, Rules 230.501 through 230.504 and 230.508 as made effective in Release No. 33-6389, and as amended in Release Nos. 33-6437, 33-6663, 33-6758, 33-6825, 33-6863, 33-6949, and 33-6996 or in compliance with the Securities Act of 1933, Rule 230.147 as made effective in Release No. 33-5450 that satisfy the conditions in subsections (2) and (3) of this section shall be exempt under RCW 21.20.320(9).

(2) General conditions to be met. To qualify for exemption under this section, offers and sales must satisfy all the terms and conditions of WAC 460-44A-501 through 460-44A-503 and 460-44A-508.

(3) Specific conditions to be met.

(a) Limitation on aggregate offering price. The aggregate offering price for an offering of securities under this section, as defined in WAC 460-44A-501(3), shall not exceed \$500,000, within or without this state, less the aggregate offering price for all securities sold within the twelve months before the start of and during the offering of securities under this section in reliance on any exemption under RCW 21.20.320(9) or sections 3(a) (11) or 3(b) of the Securities

Act of 1933 or in violation of RCW 21.20.140 or section 5(a) of the Securities Act of 1933.

(b) No commissions. No commission, fee, or other remuneration shall be paid or given, directly or indirectly, to any person for soliciting any prospective purchaser in the state of Washington.

(c) Limitation on number of purchasers. There are no more than or the issuer reasonably believes that there are no more than twenty purchasers of securities in this state from the issuer in any offering in reliance on this section.

(d) In all sales to nonaccredited investors in this state under this section the issuer and any person acting on its behalf shall have reasonable grounds to believe and after making reasonable inquiry shall believe that, as to each purchaser, one of the following conditions, (i) or (ii) of this subsection, is satisfied:

(i) The investment is suitable for the purchaser upon the basis of the facts, if any, disclosed by the purchaser as to his other security holdings and as to his financial situation and needs. For the purpose of this condition only, it may be presumed that if the investment does not exceed ten percent of the purchaser's net worth, it is suitable. This presumption is rebuttable; or

(ii) The purchaser either alone or with his purchaser representative(s) has such knowledge and experience in financial and business matters that he is or they are capable of evaluating the merits and risks of the prospective investment.

(e) Disqualifications. No exemption under this section shall be available for the securities of any issuer if any of the parties described in the Securities Act of 1933, Regulation A, Rule 230.262 is disqualified for any of the reasons listed in WAC 460-44A-505 (2)(d) unless inapplicable or waived as set forth in WAC 460-44A-505 (2)(d)(vi) and (vii).

(f) Notice filing. The issuer shall file a notice, with a consent to service of process, and pay a filing fee as set forth in WAC 460-44A-503.

(g) Advice about the limitations on resale.

The issuer, at a reasonable time prior to the sale of securities, shall advise each purchaser of the limitations on resale in the manner contained in WAC 460-44A-502 (4)(b).

(4) Transactions which are exempt under this section may not be combined with offers and sales exempt under any other rule or section of the Securities Act of Washington, however, nothing in this limitation shall act as an election. Should for any reason the offer and sale fail to comply with all of the conditions for the exemption of this section, the issuer may claim the availability of any other applicable exemption.

Note 1: WAC 460-44A-504 is not the exclusive method by which issuers may make offerings under Securities and Exchange Commission Rules 504 and 147. For example, offers and sales of an issuer in compliance with Securities and Exchange Commission Rule 504 or Rule 147 may also be registered by qualification under chapter 21.20 RCW. An issuer that qualifies may elect to register an offering pursuant to the Uniform Limited Offering Registration as set out in chapter 460-17A WAC. An issuer may also elect to claim the corporate limited offering exemption as set out in chapter 460-46A WAC.

Note 2: Issuers are reminded that nothing in these rules alters their obligation under RCW 21.20.010. RCW 21.20.010(2) renders it unlawful "to make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the state-

ments made, in the light of the circumstances under which they are made, not misleading . . ." In addition, issuers must otherwise comply with the anti-fraud provisions of the federal and state securities laws. No format for disclosure is prescribed. However, issuers may wish to consider the question and answer disclosure format of the SCOR Form (~~(ULOR-C)~~) of chapter 460-17A WAC, or the corporate limited offering exemption of chapter 460-46A WAC, in determining the disclosure they make. If either form is used, the issuer should indicate that the disclosure form is being used for an exempt offering under this section rather than in an offering under the chapters under which the form was adopted.

AMENDATORY SECTION (Amending WSR 94-03-061, filed 1/14/94, effective 2/14/94)

WAC 460-44A-506 (~~(Exemption for nonpublic offers and sales without regard to dollar amount of offering.)~~) **Conditions pertaining to the offer and sale of securities pursuant to Rule 506 of the Securities Act of 1933.** (1) (~~Exemption:~~) Offers and sales of securities by an issuer in compliance with the Securities Act of 1933, Regulation D, Rules 230.501 through 230.503; 230.506; and 230.508 as made effective in Release No. 33-6389, and as amended in Release Nos. 33-6437, 33-6663, 33-6758, 33-6825, 33-6863, 33-6949, and 33-6996 (~~that~~) shall satisfy the conditions in subsections (2) and (3) of this section (~~shall be deemed to be exempt transactions within the meaning of RCW 21.20.320(1)~~).

(2) (~~Conditions to be met.~~)

(a) (~~General conditions:~~) To qualify for (~~exemption~~) **preemption** under this section, offers and sales must satisfy all the terms and conditions of WAC (~~460-44A-501 through~~) 460-44A-503.

Note: In order to comply with this section the issuer must comply with the provisions of Rule 506 (17 CFR Sec. 230.506) of the Federal Securities and Exchange Commission.

(~~(b) Specific conditions:~~)

(i) (~~No selling commission unless registered as a broker-dealer or salesperson:~~)

(A) (~~No commission, fee, or other remuneration shall be paid or given directly or indirectly, to any person for soliciting any prospective purchaser that is not an accredited investor in the state of Washington unless such person is registered in this state as a broker-dealer or salesperson:~~)

(B) (~~It is a defense to a violation of (b)(i)(A) of this subsection if the issuer sustains the burden of proof to establish that he did not know and in the exercise of reasonable care could not have known that the person who received a commission, fee or other remuneration was not appropriately registered in this state:~~)

(ii) (~~Limitation on selling expenses:~~)

(A) (~~Selling expenses in any offering under this section shall not exceed fifteen percent of the aggregate offering price. For the purposes of this section, "selling expenses" means the total underwriting and brokerage discounts and commissions (including fees of the underwriters' attorneys paid by the issuer) paid in connection with the offering plus all other expenses actually incurred by the issuer relating to printing, engraving, mailing, salaries of employees while engaged in sales activity, charges of transfer agents, registrars, trustees, escrow holders, depositaries, and engineers~~)

~~and other experts, expenses of qualification of the sale of the securities under federal and state laws, including taxes and fees, and any other expenses actually incurred by the issuer and directly related to the offering and sale of the securities, but excluding accountants' and the issuer's attorneys' fees and options to underwriters.~~

(B) (~~The number of shares or units called for by options issuable to underwriters or other persons as compensation, in whole or in part, for the offer or sale of securities in reliance on this section shall not exceed ten percent of the number of shares or units actually sold in the offering.~~)

(3) Offers or sales which are exempted under this section may not be combined in the same offering with offers or sales exempted under any other rule or section of chapter 21.20 RCW; however, nothing in this limitation shall act as an election. Should for any reason an offering fail to comply with all of the conditions for this section, the issuer may claim the availability of any other applicable exemption.

(~~(4) The issuer shall file a notice, with a consent to service of process, and pay a filing fee as set forth in WAC 460-44A-503.~~)

AMENDATORY SECTION (Amending WSR 90-09-059, filed 4/17/90, effective 5/18/90)

WAC 460-44A-508 **Insignificant deviations from a term, condition, or requirement of WAC 460-44A-501 through** (~~460-44A-506~~) **460-44A-505.** (1) A failure to comply with a term, condition, or requirement of WAC 460-44A-504(;) or 460-44A-505(, or ~~460-44A-506~~) will not result in the loss of the exemption from the registration requirements of RCW 21.20.140 for any offer or sale to a particular individual or entity, if the person relying on the exemption shows:

(a) The failure to comply did not pertain to a term, condition, or requirement directly intended to protect that particular individual or entity; and

(b) The failure to comply was insignificant with respect to the offering as a whole: *Provided*, That any failure to comply with WAC 460-44A-502(3), 460-44A-503, 460-44A-504(3)(a), (c), and (e), 460-44A-505(2)(d) and (e) and (3), (~~460-44A-506(3) and (4);~~) paragraph (c) of Securities and Exchange Commission Rule 502, **and** paragraphs (b)(2)(i) and (ii) of Securities and Exchange Commission Rule 505 (~~and paragraph (b)(2)(i) of Securities and Exchange Commission Rule 506~~) shall be deemed to be significant to the offering as a whole; and

(c) A good faith and reasonable attempt was made to comply with all applicable terms, conditions, and requirements of WAC 460-44A-504(;) or 460-44A-505(, or ~~460-44A-506~~).

(2) A transaction made in reliance on WAC 460-44A-504(;) or 460-44A-505(, or ~~460-44A-506~~) shall comply with all applicable terms, conditions, and requirements of WAC 460-44A-501 through (~~460-44A-506~~) **460-44A-505.** Where an exemption is established only through reliance upon subsection (1) of this section, the failure to comply shall nonetheless be actionable by the securities administrator under chapter 21.20 RCW.

WSR 98-08-064**PROPOSED RULES****LOTTERY COMMISSION**

[Filed March 30, 1998, 3:31 p.m.]

Continuance of WSR 98-04-073.

Preproposal statement of inquiry was filed as WSR 97-24-077.

Title of Rule: New sections WAC 315-36-010 What is Lucky 21 and how do I play? WAC 315-36-020 How much does a ticket cost? WAC 315-36-030 What are the prizes for Lucky 21? WAC 315-36-040 Can I win more than once on one ticket? WAC 315-36-050 How is the winning set of numbers selected? WAC 315-36-060 How often is the winning set of numbers chosen? WAC 315-36-070 Where can I buy or redeem Lucky 21 tickets? WAC 315-36-080 What information is included on a Lucky 21 ticket and playslip? WAC 315-36-090 What are the odds of winning Lucky 21? WAC 315-36-100 If more than one person per drawing wins the grand prize, does each person receive the entire prize of \$1,000 for life or is the prize split among the winners? WAC 315-36-110 How is the "win for life" type grand prize paid? WAC 315-36-120 How are prizes, other than the "win for life" type grand prize, paid? WAC 315-36-130 What happens to unclaimed Lucky 21 prizes? WAC 315-36-140 Definitions for Lucky 21. WAC 315-36-150 Suspension or termination of Lucky 21.

Purpose: Continues the hearing date for chapter 315-36 WAC, listed in WSR 98-04-073.

Statutory Authority for Adoption: RCW 67.70.040.

Statute Being Implemented: RCW 67.70.040.

Summary: See Purpose above.

Reasons Supporting Proposal: See Explanation of Rule below.

Name of Agency Personnel Responsible for Drafting: Mary Jane Ferguson, Rules Coordinator, Olympia, (360) 753-1947; Implementation and Enforcement: Merritt D. Long, Director, Olympia, (360) 753-3330.

Name of Proponent: Washington State Lottery Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: See previous CR-102 filed as WSR 98-04-073.

Proposal does not change existing rules.

No small business economic impact statement has been prepared under chapter 19.85 RCW. See previous CR-102 filed as WSR 98-04-073.

RCW 34.05.328 does not apply to this rule adoption. See previous CR-102 filed as WSR 98-04-073.

Hearing Location: Washington State Lottery, 5936 Corson Avenue South, Suite 106, Seattle, WA 98108, on May 15, 1998, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Mary Jane Ferguson by May 6, 1998, (360) 753-1947.

Submit Written Comments to: Mary Jane Ferguson, Lottery, FAX (360) 586-6586, by May 14, 1998.

Date of Intended Adoption: May 15, 1998.

March 27, 1998

Mary Jane Ferguson

Rules Coordinator

WSR 98-08-065**PROPOSED RULES****LOTTERY COMMISSION**

[Filed March 30, 1998, 3:34 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 97-24-077.

Title of Rule: WAC 315-04-180 Obligations of lottery retailers.

Purpose: Amends WAC 315-04-180 (2)(b) to make the \$25 fee for lost or stolen tickets optional.

Statutory Authority for Adoption: RCW 67.70.040.

Statute Being Implemented: RCW 67.70.040.

Summary: See Purpose above.

Reasons Supporting Proposal: See Explanation of Rule below.

Name of Agency Personnel Responsible for Drafting: Mary Jane Ferguson, Rules Coordinator, Olympia, (360) 753-1947; Implementation and Enforcement: Merritt D. Long, Director, Olympia, (360) 753-3330.

Name of Proponent: Washington State Lottery Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 315-04-180(2) describes the retailer's responsibilities upon accepting a pack of instant tickets.

Proposal Changes the Following Existing Rules: Makes the fee charged to retailers when they report lost or stolen tickets optional.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The lottery has considered whether these rules are subject to the Regulatory Fairness Act, chapter 19.85 RCW, and has determined that they are not for the following reasons: (1) The rules have no economic impact on business' cost of equipment, supplies, labor or administrative costs. The rules are designed to establish rules and procedures for the playing of instant lottery games; and (2) the rules will have a negligible impact, if any, on business because they are interpretive. They have been promulgated for the purpose of stating policy, procedure and practice and do not include requirements for forms, fees, appearances or other actions by business.

RCW 34.05.328 does not apply to this rule adoption. Said section does not apply to these proposed rules because they are not proposed by one of the listed agencies. As the rules are merely interpretive, the lottery does not voluntarily apply this section.

Hearing Location: Washington State Lottery, 5936 Corson Avenue South, Suite 106, Seattle, WA 98108, on May 15, 1998, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Mary Jane Ferguson by May 6, 1998, (360) 753-1947.

Submit Written Comments to: Mary Jane Ferguson, Lottery, FAX (360) 586-6586, by May 14, 1998.

Date of Intended Adoption: May 15, 1998.

March 30, 1998
Mary Jane Ferguson
Rules Coordinator

AMENDATORY SECTION (Amending WSR 94-11-027, filed 5/6/94, effective 6/6/94)

WAC 315-04-180 Obligations of lottery retailers.

(1)(a) The method of accounting for a retailer's payment to the director for instant ticket packs received prior to the lottery's instant ticket accounting system (ITAS) being fully operational shall be governed by Title 315 WAC and other applicable law as it was in effect prior to March 2, 1994.

(b) The method of accounting for a retailer's payment to the director for instant ticket packs received on or after the day ITAS becomes fully operational shall be governed by Title 315 WAC and other applicable law as it was in effect on the day of ITAS' becoming fully operational.

(c) It is the intent of the Washington state lottery commission that those repeals and amendments filed with the state of Washington office of the code reviser to take effect no earlier than February 9, 1994, shall take effect when ITAS is fully operational.

(d) The instant ticket accounting system referred to above became fully operational on March 2, 1994.

(2)(a) Upon acceptance of a pack of instant tickets from the director, the retailer shall be responsible for the condition and security of the pack. The retailer shall hold the pack in its own safekeeping until it is ready to begin sale of the pack. Immediately prior to beginning sale, the retailer shall place the pack in "activated" status in the lottery's instant ticket accounting system (ITAS). Placement in activated status designates that the tickets in the pack may be sold, and prizes in the pack may be paid.

(b) In the event that instant tickets accepted by the retailer are lost, stolen or in any way unaccounted for prior to their being placed in activated status on ITAS, the retailer shall, upon discovery of their disappearance, immediately notify the director of each pack or portion of a pack so unaccounted for, lost or stolen. The retailer may be required to provide the director a police report or other evidence of the pack's disappearance. The retailer ~~((shall))~~ may be charged twenty-five dollars for each pack or portion of a pack unaccounted for, lost or stolen.

(c) A retailer may return an unopened pack, at no charge, to the director at any time prior to the pack having been placed in activated status. Within thirty days of the official end of an instant game, a retailer shall return to the director all packs never activated in that game. Retailers shall be charged twenty-five dollars for each pack or portion thereof which was not returned to the director and not activated in accordance with this section.

(d) Upon placement of a pack in activated status, the retailer shall be liable to the director for payment for the pack,

in the amount calculated under WAC 315-06-035. Payment for a pack shall be due to the director no later than twenty calendar days after the pack has been placed in activated status. The director shall not reimburse the retailer for any ticket losses which occur after activation of the pack from which the tickets came, except as allowed by WAC 315-04-210(2) or 315-06-190.

(e) Each lottery retailer and lottery license applicant shall sign and comply with a lottery instant retailer agreement. Failure to sign or to comply shall result in revocation or denial of a retailer's lottery license.

(3) Each lottery retailer shall abide by the law, these rules and all other directives or instructions issued by the director.

(4) Each lottery retailer grants to the director an irrevocable license to enter upon the premises of the lottery retailer in which tickets may be sold or any other location under the control of the lottery retailer where the director may have good cause to believe lottery materials and/or tickets are stored or kept in order to inspect said lottery materials and/or tickets and the licensed premises.

(5) All property given, except tickets, to a lottery retailer remains the property of the director, and, upon demand, the lottery retailer agrees to deliver forthwith the same to the director.

(6) All books and records pertaining to the lottery retailer's lottery activities shall be made available for inspection and copying, during the normal business hours of the lottery retailer and between 8:00 a.m. and 5:00 p.m., Monday through Friday, upon demand by the director.

(7) All books and records pertaining to the lottery retailer's lottery activities shall be subject to seizure by the director without prior notice.

(8) No lottery retailer shall advertise or otherwise display advertising in any part of the lottery retailer's premises as a licensed location which may be considered derogatory or adverse to the operations or dignity of the lottery and the lottery retailer shall remove any advertising forthwith if requested by the director.

WSR 98-08-071

PROPOSED RULES

BOARD OF

PILOTAGE COMMISSIONERS

[Filed March 31, 1998, 9:18 a.m.]

Original Notice.

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

Title of Rule: Pilotage rates for the Puget Sound pilotage district.

Purpose: To establish a Puget Sound pilotage district annual tariff.

Other Identifying Information: WAC 363-116-300.

Statutory Authority for Adoption: RCW 88.16.035.

Statute Being Implemented: RCW 88.16.035.

Summary: The proposed rule reflects a 2.61% decrease in all categories except transportation to be charged for pilot-

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age services in the Puget Sound pilotage district for the 1998-99 tariff year.

Reasons Supporting Proposal: RCW 88.16.035 requires that a tariff be set annually.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Pilotage Commission, 2911 2nd Avenue, Seattle, WA, (206) 515-3904.

Name of Proponent: Puget Sound pilots, private.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Current rates for the Puget Sound pilotage district expire on June 30, 1998. New rates must be set annually.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The rule as proposed by the Puget Sound pilots would decrease the tariff for pilotage services in the Puget Sound pilotage district by 2.61% under the present tariff in all categories except transportation.

In the Waterway and Bridge Charges category, the proposed rule will no longer refer to the "Spokane Street Bridge" and the "Eleventh Street Bridge" but rather "Spokane Street" and "Eleventh Street."

Proposal Changes the Following Existing Rules: The proposed rule is a 2.61% decrease to the existing tariff in all categories except transportation.

The word "Bridge" is stricken where it describes "Spokane Street" and "Eleventh Street" under the Waterway and Bridge Charges category.

The board may adopt a rule that varies from the proposed rule upon consideration of oral and written testimony from other interested parties and the public.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rule reflects a decrease in the tariff.

RCW 34.05.328 does not apply to this rule adoption.

Hearing Location: 2911 2nd Avenue, Suite 100, Seattle, WA 98121, on May 14, 1998, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Peggy Larson by May 11, 1998.

Submit Written Comments to: Mr. Larry Vognild, Chairman, FAX (206) 515-3969, by May 7, 1998.

Date of Intended Adoption: May 14, 1998.

March 30, 1998

Peggy Larson
Administrator

AMENDATORY SECTION (Amending WSR 97-12-017, filed 5/28/97, effective 7/1/97)

WAC 363-116-300 Pilotage rates for the Puget Sound pilotage district. Effective 0001 hours July 1, ~~((1997))~~ 1998, through 2400 hours June 30, ~~((1998))~~ 1999.

CLASSIFICATION	RATE
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Ship length overall (LOA)	
Charges:	per LOA rate schedule in this section

CLASSIFICATION	RATE
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Boarding fee:	((\$36.00)) \$35.00
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Per each boarding/deboarding at the Port Angeles pilot station.

Harbor shift - Live ship (Seattle Port)	LOA Zone I
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Harbor shift - Live ship (other than Seattle Port)	LOA Zone I
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Harbor shift - Dead ship	Double LOA Zone I
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Dead ship towing charge:	Double LOA
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LOA of tug + LOA of tow + beam of tow	Zone
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Any tow exceeding seven hours, two pilots are mandatory. Harbor shifts shall constitute and be limited to those services in moving vessels from dock to dock, from anchorage to dock, from dock to anchorage, or from anchorage to anchorage in the same port after all other applicable tariff charges for pilotage services have been recognized as payable.

Waterway and bridge charges:

Ships up to 90' beam:

A charge of ~~((**\$191.00**))~~ **\$186.00** shall be in addition to bridge fees for any vessel movements both inbound and outbound required to transit south of Spokane Street (~~(**Bridge**)~~) in Seattle, south of Eleventh Street (~~(**Bridge**)~~) in any of the Tacoma waterways, in Port Gamble, or in the Snohomish River. Any vessel movements required to transit through bridges shall have an additional charge of ~~((**\$91.00**))~~ **\$89.00** per bridge.

Ships 90' beam and/or over:

A charge of ~~((**\$256.00**))~~ **\$249.00** shall be in addition to bridge fees for any vessel movements both inbound and outbound required to transit south of Spokane Street (~~(**Bridge**)~~) in Seattle and south of Eleventh Street (~~(**Bridge**)~~) in any of the Tacoma waterways. Any vessel movements required to transit through bridges shall have an additional charge of ~~((**\$179.00**))~~ **\$174.00** per bridge.

(The above charges shall not apply to transit of vessels from Shilshole Bay to the limits of Lake Washington.)

Two or three pilots required:

In a case where two or three pilots are employed for a single vessel waterway or bridge transit, the second and/or third pilot charge shall include the bridge and waterway charge in addition to the harbor shift rate.

Compass adjustment	((\$255.00)) \$248.00
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Radio direction finder calibration	((\$255.00)) \$248.00
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Launching vessels	((\$384.00)) \$374.00
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Trial trips, 6 hours or less (Minimum ~~(\$720.00)~~ \$702.00) ~~(\$120.00)~~ \$117.00 per hr.

Trial trips, over 6 hours (two pilots) ~~(\$240.00)~~ \$234.00 per hr.

Shilshole Bay — Salmon Bay ~~(\$150.00)~~ \$146.00

Salmon Bay — Lake Union ~~(\$117.00)~~ \$114.00

Lake Union — Lake Washington (plus LOA zone from Webster Point) ~~(\$150.00)~~ \$146.00

Cancellation charge LOA Zone I

Cancellation charge — Port Angeles (when a pilot is ordered and vessel proceeds to a port outside the Puget Sound pilotage district without stopping for pilot or when a pilot order is canceled less than twelve hours prior to the original ETA.) LOA Zone II

Docking delay after anchoring: ~~(\$120.00)~~ \$117.00 per hr.

Applicable harbor shift rate to apply, plus ~~(\$120.00)~~ \$117.00 per hour standby. No charge if delay is 60 minutes or less. If the delay is more than 60 minutes, charge is ~~(\$120.00)~~ \$117.00 for every hour or fraction thereof.

Sailing delay: ~~(\$120.00)~~ \$117.00 per hour

No charge if delay is 60 minutes or less. If the delay is more than 60 minutes, charge is ~~(\$120.00)~~ \$117.00 for every hour or fraction thereof.

Slowdown: ~~(\$120.00)~~ \$117.00 per hour

When a vessel chooses not to maintain its normal speed capabilities for reasons determined by the vessel and not the pilot, and when the difference in arrival time is one hour, or greater, from the predicted arrival time had the vessel maintained its normal speed capabilities, a charge of ~~(\$120.00)~~ \$117.00 per hour, and each fraction thereof, will be assessed for the resultant difference in arrival time.

Tonnage charges:

0 to 20,000 gross tons:
Additional charge to LOA zone mileage of ~~(\$0.0064)~~ \$0.0059 a gross ton for all gross tonnage up to 20,000 gross tons.

20,000 to 50,000 gross tons:
Additional charge to LOA zone mileage of ~~(\$0.0620)~~ \$0.0604 a gross ton for all gross tonnage in excess of 20,000 gross tons up to 50,000 gross tons.

50,000 gross tons and up:
In excess of 50,000 gross tons, the charge shall be ~~(\$0.0744)~~ \$0.0722 per gross ton.

For vessels where a certificate of international gross tonnage is required, the appropriate international gross tonnage shall apply.

Delayed arrival-Port Angeles: ~~(\$120.00)~~ \$117.00 per hour

When a pilot is ordered for an arriving inbound vessel at Port Angeles and the vessel does not arrive within two hours of its ETA, or its ETA is amended less than six hours prior to the original ETA, a charge of ~~(\$120.00)~~ \$117.00 for each hour delay, or fraction thereof, shall be assessed in addition to all other appropriate charges.

When a pilot is ordered for an arriving inbound vessel at Port Angeles and the ETA is delayed to six hours or more beyond the original ETA, a cancellation charge shall be assessed, in addition to all other appropriate charges, if the ETA was not amended at least twelve hours prior to the original ETA.

Transportation to vessels on Puget Sound:

March Point or Anacortes	\$ 144.00
Bangor	84.00
Bellingham	158.00
Bremerton	44.00
Cherry Point	175.00
Dupont	85.00
Edmonds	27.00
Everett	52.00
Ferndale	173.00
Manchester	66.00
Mukilteo	52.00
Olympia	108.00
Point Wells	27.00
Port Gamble	77.00
Port Townsend (Indian Island)	109.00
Seattle	15.00
Semiahmoo (Blaine)	196.00
Tacoma	56.00
Tacoma Smelter	66.00
Winslow	42.00

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- (a) Intraharbor transportation for the Port Angeles port area - transportation between Port Angeles pilot station and Port Angeles harbor docks - \$15.00.
- (b) Interport shifts: Transportation paid to and from both points.
- (c) Intraharbor shifts: Transportation to be paid both ways. If intraharbor shift is canceled on or before scheduled reporting time, transportation paid one way only.
- (d) Cancellation: Transportation both ways unless notice of cancellation is received prior to scheduled reporting time in which case transportation need only be paid one way.
- (e) Any new facilities or other seldom used terminals, not covered above, shall be based on mileage x \$1.80 per mile.

Delinquent payment charge: 1 1/2% per month after 45 days from first billing.

Nonuse of pilots: Ships taking and discharging pilots without using their services through all Puget Sound and adjacent inland waters shall pay full pilotage fees on the LOA zone mileage basis from Port Angeles to destination, from place of departure to Port Angeles, or for entire distance between two ports on Puget Sound and adjacent inland waters.

LOA rate schedule

The following rate schedule is based upon distances furnished by National Oceanic and Atmospheric Administration, computed to the nearest half-mile and includes retirement fund contributions.

LOA	ZONE I Intra Harbor	ZONE II 0-30 Miles	ZONE III 31-50 Miles	ZONE IV 51-75 Miles	ZONE V 76-100 Miles	ZONE VI 101 Miles & Over
449	179	280	487	729	985	1280
450-459	186	287	490	740	1000	1286
460-469	190	291	497	752	1015	1291
470-479	195	299	504	768	1018	1294
480-489	200	305	506	783	1024	1300
490-499	203	308	512	796	1036	1306
500-509	213	313	521	806	1044	1315
510-519	216	320	526	818	1055	1319
520-529	219	331	534	822	1064	1331
530-539	227	336	541	831	1082	1345
540-549	230	341	553	840	1099	1357
550-559	234	352	557	853	1106	1370
560-569	243	366	567	860	1118	1384
570-579	249	370	571	863	1129	1393

LOA	ZONE I Intra Harbor	ZONE II 0-30 Miles	ZONE III 31-50 Miles	ZONE IV 51-75 Miles	ZONE V 76-100 Miles	ZONE VI 101 Miles & Over
580-589	260	377	584	871	1137	1408
590-599	271	384	587	875	1153	1423
600-609	280	396	595	878	1166	1430
610-619	298	400	606	882	1179	1443
620-629	309	405	613	892	1192	1460
630-639	325	413	620	894	1201	1473
640-649	338	422	626	897	1214	1484
650-659	362	430	637	904	1228	1499
660-669	369	434	642	908	1241	1511
670-679	382	445	649	924	1255	1519
680-689	388	455	658	935	1266	1535
690-699	400	462	667	951	1280	1566
700-719	418	476	680	960	1304	1584
720-739	443	490	697	975	1331	1612
740-759	462	512	712	985	1357	1640
760-779	480	531	727	1000	1384	1662
780-799	504	554	740	1015	1408	1691
800-819	524	571	755	1020	1430	1716
820-839	541	590	773	1036	1460	1737
840-859	565	616	787	1048	1484	1768
860-879	585	637	802	1076	1511	1791
880-899	606	656	818	1101	1535	1818
900-919	624	676	832	1127	1566	1845
920-939	643	697	853	1153	1584	1868
940-959	667	716	864	1179	1612	1892
960-979	683	737	880	1201	1640	1920
980-999	707	755	895	1228	1662	1944
1000 & over	727	781	910	1255	1691	1971
Up to 449	174	273	474	710	959	1247
450 - 459	181	280	477	721	974	1252
460 - 469	185	283	484	732	989	1257
470 - 479	190	291	491	748	991	1260
480 - 489	195	297	493	763	997	1266
490 - 499	198	300	500	775	1009	1272
500 - 509	207	305	507	785	1017	1281
510 - 519	210	312	512	797	1027	1286
520 - 529	213	322	520	801	1036	1296
530 - 539	221	327	527	809	1054	1310
540 - 549	224	332	539	818	1070	1322
550 - 559	228	343	542	831	1077	1334

LOA	ZONE I Intra Harbor	ZONE II 0-30 Miles	ZONE III 31-50 Miles	ZONE IV 51-75 Miles	ZONE V 76-100 Miles	ZONE VI 101 Miles & Over
<u>560 - 569</u>	<u>237</u>	<u>356</u>	<u>552</u>	<u>838</u>	<u>1089</u>	<u>1348</u>
<u>570 - 579</u>	<u>243</u>	<u>360</u>	<u>556</u>	<u>840</u>	<u>1100</u>	<u>1357</u>
<u>580 - 589</u>	<u>253</u>	<u>367</u>	<u>569</u>	<u>848</u>	<u>1107</u>	<u>1371</u>
<u>590 - 599</u>	<u>264</u>	<u>374</u>	<u>572</u>	<u>852</u>	<u>1123</u>	<u>1386</u>
<u>600 - 609</u>	<u>273</u>	<u>386</u>	<u>579</u>	<u>855</u>	<u>1135</u>	<u>1393</u>
<u>610 - 619</u>	<u>290</u>	<u>390</u>	<u>590</u>	<u>859</u>	<u>1148</u>	<u>1405</u>
<u>620 - 629</u>	<u>301</u>	<u>394</u>	<u>597</u>	<u>869</u>	<u>1161</u>	<u>1422</u>
<u>630 - 639</u>	<u>317</u>	<u>402</u>	<u>604</u>	<u>871</u>	<u>1170</u>	<u>1435</u>
<u>640 - 649</u>	<u>329</u>	<u>411</u>	<u>610</u>	<u>874</u>	<u>1182</u>	<u>1445</u>
<u>650 - 659</u>	<u>353</u>	<u>419</u>	<u>620</u>	<u>880</u>	<u>1196</u>	<u>1460</u>
<u>660 - 669</u>	<u>359</u>	<u>423</u>	<u>625</u>	<u>884</u>	<u>1209</u>	<u>1472</u>
<u>670 - 679</u>	<u>372</u>	<u>433</u>	<u>632</u>	<u>900</u>	<u>1222</u>	<u>1479</u>
<u>680 - 689</u>	<u>378</u>	<u>443</u>	<u>641</u>	<u>911</u>	<u>1233</u>	<u>1495</u>
<u>690 - 699</u>	<u>390</u>	<u>450</u>	<u>650</u>	<u>926</u>	<u>1247</u>	<u>1525</u>
<u>700 - 719</u>	<u>407</u>	<u>464</u>	<u>662</u>	<u>935</u>	<u>1270</u>	<u>1543</u>
<u>720 - 739</u>	<u>431</u>	<u>477</u>	<u>679</u>	<u>950</u>	<u>1296</u>	<u>1570</u>
<u>740 - 759</u>	<u>450</u>	<u>499</u>	<u>693</u>	<u>959</u>	<u>1322</u>	<u>1597</u>
<u>760 - 779</u>	<u>467</u>	<u>517</u>	<u>708</u>	<u>974</u>	<u>1348</u>	<u>1619</u>
<u>780 - 799</u>	<u>491</u>	<u>540</u>	<u>721</u>	<u>989</u>	<u>1371</u>	<u>1647</u>
<u>800 - 819</u>	<u>510</u>	<u>556</u>	<u>735</u>	<u>993</u>	<u>1393</u>	<u>1671</u>
<u>820 - 839</u>	<u>527</u>	<u>575</u>	<u>753</u>	<u>1009</u>	<u>1422</u>	<u>1692</u>
<u>840 - 859</u>	<u>550</u>	<u>600</u>	<u>766</u>	<u>1021</u>	<u>1445</u>	<u>1722</u>
<u>860 - 879</u>	<u>570</u>	<u>620</u>	<u>781</u>	<u>1048</u>	<u>1472</u>	<u>1744</u>
<u>880 - 899</u>	<u>590</u>	<u>639</u>	<u>797</u>	<u>1072</u>	<u>1495</u>	<u>1771</u>
<u>900 - 919</u>	<u>608</u>	<u>658</u>	<u>810</u>	<u>1098</u>	<u>1525</u>	<u>1797</u>
<u>920 - 939</u>	<u>626</u>	<u>679</u>	<u>831</u>	<u>1123</u>	<u>1543</u>	<u>1819</u>
<u>940 - 959</u>	<u>650</u>	<u>697</u>	<u>841</u>	<u>1148</u>	<u>1570</u>	<u>1843</u>
<u>960 - 979</u>	<u>665</u>	<u>718</u>	<u>857</u>	<u>1170</u>	<u>1597</u>	<u>1870</u>
<u>980 - 999</u>	<u>689</u>	<u>735</u>	<u>872</u>	<u>1196</u>	<u>1619</u>	<u>1893</u>
<u>1000 & over</u>	<u>708</u>	<u>761</u>	<u>886</u>	<u>1222</u>	<u>1647</u>	<u>1920</u>

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 98-08-076
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Management Services Administration)
 [Filed March 31, 1998, 3:47 p.m.]

Original Notice.

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

Title of Rule: WAC 388-320-340 Delegation of authority by secretary.

Purpose: The WAC is not required by the Administrative Procedure Act, the Public Disclosure Act, or by chapter 43.20A RCW (Department of Social and Health Services). It is duplicative of RCW 43.20A.110.

Statutory Authority for Adoption: RCW 34.05.220 and 74.08.090.

Statute Being Implemented: Section 209, chapter 409, Laws of 1997 (E2SHB 1032).

Summary: To repeal a WAC that is not required.

Reasons Supporting Proposal: The WAC is not required and is duplicative of RCW 43.20A.110.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Carol Webster, P.O. Box 45850, Olympia, WA 98504-5850, (360) 902-0230, TTY (360) 902-8324.

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: The WAC is being repealed because it is not required by the Administrative Procedure Act, the Public Disclosure Act, or by chapter 43.20A RCW, Department of Social and Health Services.

Proposal Changes the Following Existing Rules: Repeals WAC 388-320-340.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This WAC does not impact small business.

RCW 34.05.328 does not apply to this rule adoption. This repeal action is exempt under RCW 34.05.328 because it will not change the way the Department of Social and Health Services does business or impact the public.

Hearing Location: Lacey Government Center (behind Tokyo Bento Restaurant), 1009 College Street S.E., Room 102, Lacey, WA 98503, on May 5, 1998, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Paige Wall by April 21, 1998, phone (360) 902-7540, e-mail pwall@dshs.wa.gov.

Submit Written Comments to: Identify WAC Numbers, Paige Wall, Rules Coordinator, Rules and Policies Assistance Unit, P.O. Box 45850, Olympia, WA 98504-5850, FAX (360) 902-8292, by May 5, 1998.

Date of Intended Adoption: No sooner than May 6, 1998.

March 30, 1998
 Edith M. Rice, Chief
 Office of Legal Affairs

PROPOSED

REPEALER

The following sections of the Washington Administrative Code are repealed:

388-320-340 Delegation of authority by secretary.

WSR 98-08-078**PROPOSED RULES****DEPARTMENT OF LICENSING**

(Board of Registration for Professional Engineers and Land Surveyors)

[Filed March 31, 1998, 3:57 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 97-19-038.

Title of Rule: Practice and procedure.

Purpose: Repeal of administrative procedure rules currently codified in chapter 196-08 WAC. Said rules would be replaced with new rules in a new proposed chapter 196-09 WAC. Said new rules would correspond to the procedures set forth in the Administrative Procedures Act, chapter 34.05 RCW and chapter 10-08 WAC as well as applicable court rules.

Other Identifying Information: These rules result from the rule review requirements set forth in Executive Order 97-02.

Statutory Authority for Adoption: RCW 18.43.035.

Reasons Supporting Proposal: These rule amendments are made following the rule review requirement of Executive Order 97-02. These amendments also eliminate many rules already covered by the Administrative Procedure Act, chapter 34.05 RCW and the rules in chapter 10-08 WAC.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: George A. Twiss, 405 Black Lake Boulevard, Olympia, 586-3361.

Name of Proponent: Board of Registration for Professional Engineers and Land Surveyors, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: These amendments affect the administrative procedures of the board under its authority in chapter 18.43 RCW. These amendments make reference to and adopt procedures already codified in chapter 10-08 WAC. This amendment eliminates fifty-six rules that were originally adopted in 1960.

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

Explanation of Rule, its Purpose, and Anticipated Effects: In conducting a review of chapter 196-08 WAC it was discovered that the subject matter (practice and procedures) contained in the entire chapter were now covered by more contemporary law and rules in the Administrative Procedure Act (chapter 43.05 [34.05] RCW) and administrative rule in chapter 10-08 WAC. By repealing the entire chapter of 196-08 WAC and subsequently adopting new rules in chapter 196-09 WAC, this change brings the boards adminis-

trative processes in line with the prevailing statute as well as eliminate the redundant provisions adopted in 1960.

This greatly simplifies the body of rules pertaining to the administrative processes of the board and make them consistent with current state law.

Proposal Changes the Following Existing Rules: Existing chapter 196-08 WAC is repealed in total. It is replaced with a new chapter 196-09 WAC which makes reference to existing law chapter 34.05 RCW and chapter 10-08 WAC.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This is a procedural rule affecting only the board and the support services offered by the attorney general. There is not determinable impact to anyone other than the agencies involved.

RCW 34.05.328 does not apply to this rule adoption. This is a procedural rule affecting only the board and the support services offered by the attorney general. It is made to bring current rules in line with existing law.

Hearing Location: Sea-Tac Hilton Hotel, 17620 Pacific Highway South, SeaTac, WA 98188, on May 7, 1998, at 3:00 p.m.

Assistance for Persons with Disabilities: Contact Shan Gillespie, (360) 586-7568, by April 22, 1998, TDD (360) 586-2788.

Submit Written Comments to: George A. Twiss, Executive Director, Board of Registration for Professional Engineers and Land Surveyors, P.O. Box 9649, Olympia, WA 98507-9649.

Date of Intended Adoption: May 7, 1998.

March 31, 1998

George A. Twiss

Executive Director

Chapter 196-09 WAC**PRACTICE AND PROCEDURE****NEW SECTION**

WAC 196-09-010 Declaration of purpose. This chapter contains rules and procedures for all adjudicative proceedings held by the board in executing its responsibilities under chapter 18.43 RCW. This chapter replaces all rules previously codified in chapter 196-08 WAC.

NEW SECTION

WAC 196-09-020 Adjudicative proceedings. Chapters 34.05 RCW and 10-08 WAC apply to all adjudicative proceedings. The procedures described in Washington superior court civil rules 26 through 32, 34, 36 and 37 also apply.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 196-08-010	Appearance and practice before agency—Who may appear.	WAC 196-08-290	Depositions and interrogatories in contested cases—Recordation.
WAC 196-08-040	Appearance and practice before agency—Standards of ethical conduct.	WAC 196-08-300	Depositions and interrogatories in contested cases—Signing attestation and return.
WAC 196-08-050	Appearance and practice before agency—Appearance by former employee of agency or former member of attorney general's staff.	WAC 196-08-310	Depositions and interrogatories in contested cases—Use and effect.
WAC 196-08-060	Appearance and practice before agency—Former employee as expert witness.	WAC 196-08-320	Depositions and interrogatories in contested cases—Fees of officers and deponents.
WAC 196-08-070	Computation of time.	WAC 196-08-330	Depositions and interrogatories in contested cases—Submission of interrogatories.
WAC 196-08-080	Notice and opportunity for hearing in contested cases.	WAC 196-08-340	Depositions and interrogatories in contested cases—Interrogation.
WAC 196-08-090	Service of process—By whom served.	WAC 196-08-350	Depositions and interrogatories in contested cases—Attestation and return.
WAC 196-08-100	Service of process—Upon whom served.	WAC 196-08-360	Depositions and interrogatories in contested cases—Provisions of deposition rule.
WAC 196-08-110	Service of process—Service upon parties.	WAC 196-08-370	Official notice—Matters of law.
WAC 196-08-120	Service of process—Method of service.	WAC 196-08-380	Official notice—Material facts.
WAC 196-08-130	Service of process—When service complete.	WAC 196-08-390	Presumptions.
WAC 196-08-140	Service of process—Filing with agency.	WAC 196-08-400	Stipulations and admissions of record.
WAC 196-08-150	Subpoenas—Form.	WAC 196-08-410	Form and content of decisions in contested cases.
WAC 196-08-160	Subpoenas—Issuance to parties.	WAC 196-08-420	Definition of issues before hearing.
WAC 196-08-170	Subpoenas—Service.	WAC 196-08-430	Prehearing conference rule—Authorized.
WAC 196-08-180	Subpoenas—Fees.	WAC 196-08-440	Prehearing conference rule—Record of conference action.
WAC 196-08-190	Subpoenas—Proof of service.	WAC 196-08-450	Submission of documentary evidence in advance.
WAC 196-08-200	Subpoenas—Quashing.	WAC 196-08-460	Excerpts from documentary evidence.
WAC 196-08-210	Subpoenas—Enforcement.	WAC 196-08-470	Expert or opinion testimony and testimony based on economic and statistical data—Number and qualifications of witnesses.
WAC 196-08-220	Subpoenas—Geographical scope.	WAC 196-08-480	Expert or opinion testimony and testimony based on economic and statistical data—Written sworn statements.
WAC 196-08-230	Depositions and interrogatories in contested cases—Right to take.	WAC 196-08-490	Expert or opinion testimony and testimony based on economic and statistical data—Supporting data.
WAC 196-08-240	Depositions and interrogatories in contested cases—Scope.	WAC 196-08-500	Expert or opinion testimony and testimony based on economic and statistical data—Effect of noncompliance with
WAC 196-08-250	Depositions and interrogatories in contested cases—Officer before whom taken.		
WAC 196-08-260	Depositions and interrogatories in contested cases—Authorization.		
WAC 196-08-270	Depositions and interrogatories in contested cases—Protection of parties and deponents.		
WAC 196-08-280	Depositions and interrogatories in contested cases—Oral examination and cross-examination.		

PROPOSED

- WAC 196-08-470 or 196-08-480.
- WAC 196-08-510 Continuanes.
- WAC 196-08-520 Rules of evidence—Admissibility criteria.
- WAC 196-08-530 Rules of evidence—Tentative admission—Exclusion—Discontinuance—Objections.
- WAC 196-08-540 Petitions for rule making, amendment or repeal—Who may petition.
- WAC 196-08-550 Petitions for rule making, amendment or repeal—Requisites.
- WAC 196-08-560 Petitions for rule making, amendment or repeal—Agency must consider.
- WAC 196-08-570 Petitions for rule making, amendment or repeal—Notice of disposition.
- WAC 196-08-580 Declaratory rulings.
- WAC 196-08-590 Forms.

such certification, the amount of field burning will be reduced and health effects will be minimized.

Name of Agency Personnel Responsible for Drafting: Melissa McEachron, Olympia, Washington, (360) 407-6860; Implementation and Enforcement: Grant Pfeifer, Spokane, Washington, (509) 456-3284.

Name of Proponent: Department of Ecology, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: By certifying mechanical residue management as an alternate practice to burning grass fields, this rule carries out the provisions of RCW 70.94.656 that prohibit grass field burning after such certification. The prohibition is for those grass fields where a baler or similar equipment can be operated. The rule allows ecology or local air authority to grant waivers to the prohibition on portions of fields that are too steep or other specified circumstances. In addition, ecology has determined that there is a moderate disproportionate impact on small businesses. The rule will allow farmers with less than \$300,000 in total gross farm revenues from all farming operations to burn a portion of their acreage for an additional year. All grass farmers will be impacted by these rules.

The purpose of the rule is to certify alternatives to burning in order to reduce smoke from grass field burning. Particulate matter from smoke causes serious health effects including a predisposition to respiratory illness, acute asthma attacks, and premature mortality from chronic lung and heart diseases. Citizens downwind from grass growing areas will benefit from these rules.

Proposal Changes the Following Existing Rules: Farmers were previously permitted to burn one-third of their 1996 grass acreage in production. This rule will mean that burning will no longer be permitted on fields where mechanical residue management can be done. A farmer may be allowed to burn the steep portions of fields or fields that meet other specified conditions. This burning cannot exceed one third of the farmer's grass seed in production on May 1, 1996. The rule also limits permit trading that was previously allowed because any waivers issued under this rule will be for farm-specific conditions.

A small business economic impact statement has been prepared under chapter 19.85 RCW.

Small Business Economic Impact Statement

Executive Summary: RCW 70.94.656 states the intent of the legislature is to minimize the effects of grass field burning by allowing ecology to reduce the acreage allowed to be burned until such time as alternatives to grass field burning are practical and reasonably available. Ecology has adopted two previous rules that reduce grass seed acreage allowed to be burned. By the summer of 1997, grass field burning was reduced to one-third of the May 1996 acreage in production. The proposed rule will certify that various mechanical residue management practices are practical and reasonably available on fields where baling or similar residue removal methods can be used. This certification means that

WSR 98-08-079

PROPOSED RULES

DEPARTMENT OF ECOLOGY

[Order 97-45—Filed March 31, 1998, 4:19 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-01-182.

Title of Rule: Chapter 173-430 WAC, Agricultural burning, amendments are on grass field burning.

Purpose: This rule will certify the availability of practical alternatives to open burning of field and turf grasses grown for seed. The result will be a reduction in burning which will minimize adverse health and air quality effects of smoke from grass field burning.

Other Identifying Information: In this amendment ecology certifies that alternatives to the burning of grass fields are practical and reasonably available.

Statutory Authority for Adoption: RCW 70.94.656.

Statute Being Implemented: RCW 70.94.656.

Summary: This proposed rule certifies that mechanical residue management is a practical alternate practice to grass field burning and that balers or similar equipment are reasonably available through purchase or contracted operators. By statute, this certification means that burning is prohibited on grass fields where this type of equipment can be operated. The rule allows ecology or local air authority to grant waivers to this prohibition on portions of fields that are too steep or in other circumstances.

Reasons Supporting Proposal: When alternatives to burning become available, the statute directs the department to certify the availability of such alternatives. As a result of

burning of grass seed fields cannot be permitted on such acreage. Burning is still allowed on steeper fields up to one-third of the May 1996 acreage, provided other conditions are also met.

Ecology has determined that this certification will cause a disproportionate impact on small businesses and is proposing legal and feasible mitigation for that impact in the rule. Ecology has defined a small farm to be one with less than \$300,000 of total revenue from all farming operations. For purposes of this analysis, this category is estimated to be 55% to 60% of the grass seed growers in Washington in 1997. The acreage in this category is estimated to be approximately 25,000 acres.

Ecology bases its analysis primarily on a survey of Washington grass seed farmers conducted in early 1998. The survey asked for extensive information on the impacts of the previous acreage reductions. Information was obtained on changes in costs, yields, residue removal methods and acreage devoted to grass. A significant finding was that smaller farms reduced grass acreage by 12% while larger farms increased grass acreage by 19% in response to the earlier amendment limiting grass seed field burning. This suggests a disproportionate impact on small farms.

The analysis examines four possible response scenarios to the prohibition of field burning. It analyzes effects on revenues and costs when grass acreage is changed, when it is not changed, when residue removal costs vary by farm size, and when acreage remained constant by farm and residue removal costs varied by farm size. For all scenarios, the compliance multiplier indicates a slight to moderate disproportionate impact ranging from 14% to 33% for small farm relative to increases in costs for large farms. For all scenarios, the analysis shows that allowing smaller farms to burn a portion of their acreage can reduce these disproportionate costs. The proposed rule amendment incorporates this mitigation by allowing smaller farms to continue to burn up to 25% of their 1997 permitted acreage for one additional year. This provides farmers additional time to plan operations, finance equipment or secure contract operators to remove residue in future years.

A copy of the statement may be obtained by writing to Melissa McEachron, P.O. Box 47600, Olympia, WA 98504, phone (360) 407-6800, or FAX (360) 407-6802.

Section 201, chapter 403, Laws of 1995, applies to this rule adoption. This rule includes substantive provisions which subject the violator to a penalty if violated. It also substantively changes the requirements under which a permit to burn grass fields can be issued.

Hearing Location: Spokane Ag Trade Center, 334 West Spokane Falls Boulevard, Spokane, WA 99201, on May 5, 1998, at 2:00 p.m. to 10:00 p.m.

Assistance for Persons with Disabilities: Contact Karen Wood by April 21, 1998, TDD (509) 458-2055 or (509) 456-5010.

Submit Written Comments to: Melissa McEachron, P.O. Box 47600, Olympia, WA 98504, FAX (360) 407-6802, by May 8, 1998.

Date of Intended Adoption: May 19, 1998.

March 31, 1998

Daniel J. Silver

Deputy Director

AMENDATORY SECTION (Amending Order 94-17, filed 1/17/95)

WAC 173-430-030 Definition of terms. The definitions of terms contained in chapter 173-400 WAC are incorporated into this chapter by reference. Unless a different meaning is clearly required by context, the meanings of the following words and phrases used in this chapter are listed below.

(1) Agricultural burning: Means the burning of vegetative debris from an agricultural operation necessary for disease or pest control, necessary for crop propagation and/or crop rotation, or where identified as a best management practice by the agricultural burning practices and research task force established in RCW 70.94.650 or other authoritative source on agricultural practices.

(2) Agricultural operation: Means a farmer who can substantiate that the operation is commercial agriculture by showing the most recent year's IRS schedule F form or proof that the land is designated in a classification for agricultural use. It also includes burning conducted by irrigation district or drainage district personnel as part of water system management.

(3) Ag task force: Means the agricultural burning practices and research task force.

(4) Best management practice: Means the criteria established by the agricultural burning practices and research task force (Ag task force).

(5) Certify: Means to declare in writing, based on belief after reasonable inquiry, that the statements and information provided are true, accurate, and complete.

(5) (6) Department: Means the department of ecology.

(6) (7) Farmer: Means any person engaged in the business of growing or producing for sale upon their own lands, or upon the land in which they have a present right of possession, any agricultural product. Farmer does not mean persons using such products as ingredients in a manufacturing process, or persons growing or producing such products primarily for their own consumption.

(7) (8) Open burning: Means all forms of burning except those listed as exempt in WAC 173-425-020.

(8) (9) Permitting authority: Means a local air authority (and the department where no local air authority exists) or their delegate. Conservation districts, counties, fire districts, or fire protection agencies may receive delegation for all or portions of the agricultural burning permit program as identified in a delegation agreement. The permitting authority will issue agricultural burning permits for a given locale.

(9) (10) Silvicultural burning: Means burning on any land the department of natural resources protects per RCW 70.94.030(13), 70.94.660, 70.94.690, and pursuant to chapter 76.04 RCW.

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

AMENDATORY SECTION (Amending Order 96-05, filed 1/7/97)

WAC 173-430-040 Agricultural burning requirements. (1) Agricultural burning is allowed when it is reasonably necessary to carry out the enterprise. A farmer can show it is reasonably necessary when it meets the criteria of the best management practices and no practical alternative is reasonably available.

(2) All agricultural burning requires a permit.

(a) To qualify for an agricultural burning permit the farmer must be an agricultural operation or government entity with specific agricultural burning needs, such as irrigation districts, drainage districts, and weed control boards.

(b) A farmer must fill out the information requested on a permit application (or the permit) and return it to the permitting authority.

(i) The permitting authority may require the farmer to fill out an application prior to issuing a permit.

(ii) The application must describe the reason for burning and include at least the following information: Name and address of the person or corporation responsible for the burn, the specific location (county; legal description: Range, section, township, block and unit number), the crop type, the type or size of the burn, directions to the burn, specific reason for the burn, the target date for burning, and any additional information required by the permitting authority. Each permitting authority may require additional information on the application.

(iii) All applications must comply with other state or local regulations.

(c) The permitting authority must evaluate the application, if there is one, and approve the permit prior to burning.

(d) Local air agencies (and the department where no local air agency exists) may issue permits for appropriate agricultural burning activities in nonattainment and urban growth areas.

(3) All agricultural burning permits require a fee. After January 1, 1995, the fee is the greater of:

(a) A minimum fee of twenty-five dollars per year per farm based on burning up to ten acres or equivalent which will be used as follows: Twelve dollars and fifty cents of which goes to the agricultural burning research fund and the remainder will be kept by the permitting authority to cover the costs of administering and enforcing this regulation; or

(b) A variable fee based on the acreage or equivalent of agricultural burning which will be used as follows: Up to one dollar per acre for applied research, twenty-five cents per acre for ecology administration and up to one dollar and twenty-five cents per acre for local permit program administration.

(i) Local permitting program administration. One portion of the fee shall cover the permitting authority's costs of administering and enforcing the program. The permitting authority may set the fee as an amount per farm per year, a set amount per fire, or a set rate no greater than one dollar and twenty-five cents per acre burned. The permitting authority must establish this portion of the fee by an appropriate, public process such as a local rule, ordinance, or resolution. In areas of the state where the department is the permitting authority

this portion of the fee shall be one dollar and twenty-five cents per acre burned.

(ii) Ecology administration. Another portion of the fee shall be twenty-five cents per acre burned and cover the state-wide administrative, education, and oversight costs of the department. The amount (if any) by which the annual total, of this portion of the fee, exceeds the annual state-wide administrative, education, and oversight costs shall be deposited in the agricultural burning research fund of the air pollution control account.

(iii) Research fund. A final portion, the agricultural burning applied research portion, of the fee shall be no greater than one dollar per acre burned. The amount assessed may be less than one dollar per acre burned as periodically determined by the Ag task force based on applied research needs, regional needs and the research fund budget. The research portion of the fee assessed shall be fifty cents per acre burned starting in calendar year 1995. The Ag task force may also establish discounted assessment rates based on the use of best management practices.

(c) A farmer must pay the fee prior to receiving a permit. Refunds are allowed for portions not burned provided the adjusted fee after subtracting refunds is no less than twenty-five dollars.

(d) The agricultural burning practices and research task force may set acreage equivalents, for nonfield style agricultural burning practices, based on the amount of emissions relative to typical field burning emissions. Any acreage equivalents, established by rule, shall be used in determining fees. For agricultural burning conducted by irrigation or drainage districts, each mile of ditch (including banks) burned is calculated on an equivalent acreage basis.

(4) All agricultural burning permits must be conditioned to minimize air pollution.

(a) A farmer must comply with the conditions on the agricultural burning permit.

(b) For purposes of protecting public health (not eliminating agricultural burning), if an area exceeds or threatens to exceed unhealthy air pollution levels, the permitting authority may limit the number of acres, on a pro rata basis, or as provided by RCW 70.94.656.

(c) Permits must be conditioned to minimize emissions insofar as practical, including denial of permission to burn during periods of adverse meteorological conditions. Additional requirements for burning of field and turf grasses grown for seed. The department of ecology will proceed with the process to certify alternatives to burning as identified in RCW 70.94.656(3). In addition to the certification process, ecology is also limiting the number of acres allowed to be burned as specified in RCW 70.94.656(4). Without regard to any previous burn permit history, in 1996, each farmer shall be limited to burning the greater of:

(i) Two-thirds of the number of acres the farmer burned under a valid permit issued in 1995; or

(ii) Two-thirds of the number of acres in grass seed production on May 1, 1996. "In production" means planted, growing and under the control of the farmer.

(d) Additional requirements for burning of field and turf grasses grown for seed. Beginning in 1997 and until approved alternatives become available, each farmer shall be

limited to burning no more than one-third of the number of acres in grass seed production on May 1, 1996. "In production" means planted, growing and under the control of the farmer.

(e) Exemptions to additional requirements for burning of field and turf grasses grown for seed ((d) of this subsection). A farmer may request an exemption for extraordinary circumstances, such as property where a portion(s) of the field is oddly shaped or where the slope is extremely steep. Under this subsection, relief from the acreage/emissions reduction requirements of (d) of this subsection shall be limited to no more than five percent of the acreage in production on May 1, 1996, and is also subject to the following provisions: This provision does not apply to section 045-Alternatives to burning field and or turf grasses grown for seed.

(i) The exemption request must be certified by an agronomic professional;

(ii) The farmer must be able to show full compliance with the emissions reductions in (d) of this subsection for the acreage not exempted; and

(iii) The farmer must be in full compliance with permit requirements for other crops under WAC 173-430-040.

(f) The department of ecology or local air authority may provide for trading of permits using the method described in (f)(i), (ii), (iii), (iv), (v), and (vi) of this subsection. This trading system uses a straight transfer of acres, a transfer requiring mandatory compensation, or a combination of both. If ecology or the local air authority finds that emissions resulting from trading are creating a health impact, as defined by ecology or the local air authority, the trading system, once created, may be dissolved. This provision does not apply to section 045-Alternatives to burning field and or turf grasses grown for seed.

(i) Ecology or the local air authority may develop a system that allows the trading of permits by:

(A) Adding a signed transfer line to the written permit that provides for a signature for the current holder of the permit;

(B) Providing a tracking system that identifies the current holder of the permit, that identifies when the permit was last used to allow burning of acreage, and that allows the name of the holder to be changed if the transfer line is signed by the current holder;

(C) Requiring that the new holder of the permit must turn in the permit with the signed transfer line at least sixty days before the new holder plans to burn; and

(D) Assuring that the permits are used only once in a calendar year.

(ii) By signing the transfer line on the permit the permit holder must indicate that he or she understands that the acres transferred may no longer be burned, that a permit for the acres transferred will not be issued to the signing permit holder in future years, and that the acres being transferred were not already burned during the calendar year during which the transfer takes place.

(iii) Ecology and the local air authorities may add restrictions to the transfer of permits closer to areas with higher population densities.

(iv) Only permits for acreage which has not yet been burned may be transferred or traded. The seller of the permit

is responsible for permanently reducing the acreage burned by the amount of acreage transferred from January 1 of the year during which the transaction takes place.

(v) Acreage that is exempted under (e) of this subsection is not eligible for the trading system.

(vi) The authorities are encouraged to work together to use the same system and to allow trading between authority jurisdictions so as to allow the grass seed growers to adjust to the two-thirds overall reduction in acres permitted for burning as easily as possible.

(g) Measurement for emission reduction for grass seed field and turf grass. Ecology will use acres as the basis for determining emission reductions as provided by RCW 70.94.656, until another method(s) is shown to be better and meets with the intent of RCW 70.94.656(4). Ecology will investigate alternate methods, as they become available. If ecology finds that an alternate method is appropriate and meets the criteria, it may certify this method using an administrative order.

(h) Alternate open burning practices for field and turf grass grown for seed. Ecology acknowledges that there may be practices that involve some burning, but which produce emissions quantifiably below those of open field burning. If ecology finds that a practice involves open burning and still substantially reduces emissions below open field burning, ecology may certify the alternate burning practice(s) by administrative order. Any certified practice may be used to satisfy the acreage/emissions reduction requirements of (d) of this subsection provided:

(i) The acreage application of the practice is adjusted to reflect effectiveness in reducing emissions so as to meet or exceed the emissions reduction required by (d) of this subsection; and

(ii) In no case shall the emission reduction requirement for the field and turf grass grown for seed be less than that required in (d) of this subsection.

(5) Other laws. A farmer must obtain any local permits, licenses, or other approvals required by any other laws, regulations, or ordinances. The farmer must also honor other agreements entered into with any federal, state, or local agency.

NEW SECTION

WAC 173-430-045 Alternatives to burning field and/or turf grasses grown for seed (1) When is open burning of field and turf grasses grown for seed prohibited?

The Washington Clean Air Act prohibits open burning of field and turf grasses grown for seed whenever ecology has concluded, through a process spelled out in the Act, that any procedure, program, technique, or device constitutes a practical alternate agricultural practice to open burning, and that alternate is reasonably available.

(2) Has ecology certified practical alternatives to open burning of field or turf grasses grown for seed?

Yes. Ecology concludes that mechanical residue management constitutes a practical alternate agricultural practice to the open burning of field and/or turf grasses grown for seed. Mechanical residue management means removing, including arranging for removal of, the residue using non-

thermal, mechanical techniques including, but not limited to: tilling, swathing, chopping, baling, flailing, mowing, raking, and other substantially similar non-thermal, mechanical techniques. Ecology further concludes that mechanical residue management is practical throughout all phases of seed production including: 1) when the field is planted (establishment); 2) when the field is producing seed (harvest years); 3) when the field is prepared for replanting (tear-out).

(3) Are the alternatives to open burning that have been certified by ecology reasonably available?

Ecology concludes that mechanical residue management is reasonably available throughout the state wherever baling can be used. Baling is the process of gathering the residue and moving it off the field. Typically, a machine known as a "baler" is used to gather and bundle residue that is already cut.

Based on this conclusion, the open burning of field and/or turf grasses grown for seed is prohibited. Open burning of field and/or turf grasses grown for seed may be allowed under circumstances as described in Section (4) below. This rule does not require the use of any particular practice or technique. A farmer may use any alternate practice that does not involve field burning.

(4) Under what circumstances may open burning of field or turf grasses grown for seed be allowed?

a. Where a farmer establishes that mechanical residue management is not reasonably available on specific portions of a field under specific production conditions due to slope. In a request for a waiver, a farmer must certify in writing to ecology or local air authority the following:

(i) Baling is not reasonably available due to slope. A farmer must explain why baling is not reasonably available, referring to specific facts supporting this belief. A farmer may use statements from three separate businesses providing baling services as part of their commercial operation to support the belief that baling is not reasonably available due to slope. In the statements, the businesses must certify that they are independent from the farmer and have no financial interest in the farmer's operation;

(ii) Current harvest practices have not diminished the ability to use mechanical residue management;

(iii) Field production is after the first harvest season and prior to the fourth harvest season;

(iv) The ground or portions of the field have not been burned three years in a row in the three years preceding the request for a waiver;

(v) The field will remain, without replanting, in grass production at least through the next harvest season following burning;

(vi) All residue from any neighboring fields or portions of fields will be removed prior to burning and that reasonable precautions will be taken to prevent fire from spreading to areas where burning is not allowed;

(vii) Adjustments in field rotations and locations cannot be made at any time during the rotational cycle and could not have been made when planted to allow the use of mechanical residue management techniques.

b. Where a farmer establishes that extreme field conditions exist. Ecology or a local air authority, at their discre-

tion, may grant a request for a waiver for extreme field conditions. The farmer must certify in writing the following:

(i) Why mechanical residue management is not reasonably available, referring to specific facts supporting this belief;

(ii) He/she did not cause or create the field condition to purposefully avoid using mechanical residue management techniques;

(iii) Field production is after the first harvest season and prior to the fourth harvest season;

(iv) The ground or portions of the field have not been burned three years in a row in the three years preceding the request for a waiver;

(v) The field will remain, without replanting, in grass production at least through the next harvest season following burning;

(vi) All residue from any neighboring fields or portions of fields will be removed prior to burning and that reasonable precautions will be taken to prevent fire from spreading to areas where burning is not allowed;

(vii) Adjustments in field rotations and locations cannot be made at any time during the rotational cycle, and could not have been made when planted to allow the use of mechanical residue management techniques.

c. Where a farmer demonstrates to ecology or local air authority that his/her small farm is eligible for mitigation.

For 1998 only, ecology or a local air authority may allow burning on a small farm. A small farm owner has a gross 1997 revenue from all farm operations of less than \$300,000. A small farm owner may burn current acreage up to 25% of 1997 acreage burned under a valid permit. Fields taken out of production in 1998 are not eligible.

d. Where a request for a waiver is approved under a, b, and c., the following additional limitations also apply:

Total acreage granted must not exceed 1/3 of a farmer's acreage in production on May 1, 1996. Permits issued pursuant to (a), (b), or (c) are not eligible for the permit trading program identified in section 040 of this regulation.

(5) What is the process for a farmer to request a waiver for circumstances described in Section (4) above?

a. A farmer submits a request for a waiver.

Sixty days prior to the planned burn date, a farmer must submit in writing a request to ecology or a local air authority. In the request, the farmer must identify the circumstances and meet the specific requirements of (4)(a), (b), and/or (c).

b. Ecology or local air authority evaluates the request for a waiver.

Upon receiving a request for a waiver, ecology or local air authority will determine if the necessary documents and information provided is complete enough to evaluate the request. If incomplete, Ecology or local air authority will advise the farmer and suspend further evaluation until the request for a waiver is complete. Once a request for a waiver is deemed complete, ecology or local air authority will evaluate the request and decide whether or not a burning permit is appropriate. As part of the evaluation, ecology or local air will conduct an on-site inspection.

If ecology or local air authority denies a request for a waiver, the reasons will be provided to the farmer in writing. If approved, ecology or the local air authority will notify the

farmer by convenient means. Ecology will also notify the appropriate delegated authority.

c. The farmer applies for an agricultural burning permit.

If ecology or local air authority approves a request for a waiver, the farmer must complete a permit application and pay the fee as described in Section 040 of this regulation. A delegated authority must receive written authorization from ecology that a waiver has been approved prior to processing a permit application.

WSR 98-08-081
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Medical Assistance Administration)
[Filed April 1, 1998, 9:20 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 97-10-034, 97-11-075, and 98-03-079.

Title of Rule: WAC 388-500-0005, 388-503-0310, 388-505-0520, 388-507-0740, 388-510-1005, 388-510-1020, and 388-523-2305.

Purpose: These amendments implement portions of state and federal legislation concerning welfare and immigration reform that impact eligibility for medical programs.

Statutory Authority for Adoption: RCW 74.08.090, 74.04.050, 74.04.057, 74.09.530.

Statute Being Implemented: RCW 74.04.005, 74.08.331, 74.08A.010, [74.08A.]100, [74.08A.]210, [74.08A.]230, 74.09.510, 74.12.255, Public Law 104-193 (1997), Section 401, and the Federal Balanced Budget Act of 1997.

Summary: These amendments implement state and federal legislation concerning welfare and immigration reform as it applies to eligibility for medical programs.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Joanie Scotson, P.O. Box 45530, Olympia, WA, (360) 753-7462.

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

Rule is necessary because of federal law, Public Law 104-193 (1997), Section 401, Federal Balanced Budget Act of 1997.

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

Proposal Changes the Following Existing Rules: Clarifies and updates eligibility requirements to comply with recently enacted state and federal legislation. Amends WAC 388-500-0005, 388-503-0310, 388-505-0520, 388-507-0740, 388-510-1020, and 388-523-2305.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Does not economically impact small businesses.

RCW 34.05.328 does not apply to this rule adoption. RCW 34.05.328 (5)(b)(vii) exempts the Department of Social and Health Services rules that only [apply] to client medical or financial eligibility.

Hearing Location: Lacey Government Center (behind Tokyo Bento Restaurant), 1009 College Street S.E., Room 104-B, Lacey, WA 98503, on June 9, 1998, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Paige Wall by May 29, 1998, phone (360) 902-7540, TTY (360) 902-8324, e-mail pwall@dshs.wa.gov.

Submit Written Comments to: Identify WAC Numbers, Paige Wall, Rules Coordinator, Rules and Policies Assistance Unit, P.O. Box 45850, Olympia, WA 98504-5850, FAX (360) 902-8292, by June 9, 1998.

Date of Intended Adoption: No sooner than June 10, 1998.

March 31, 1998
Edith M. Rice, Chief
Office of Legal Affairs

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 98-09 issue of the Register.

WSR 98-08-082
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Medical Assistance Administration)
[Filed April 1, 1998, 9:21 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-01-068.

Title of Rule: WAC 388-507-0710 TANF-related medical program income standards and 388-513-1350 Institutional—Available resources.

Purpose: To adopt federal standards regarding medical assistance eligibility and benefits (the one-person medically needy income level and community spouse resource maximum), and the resource standard for an institutionalized person's spouse (who is not institutionalized).

Statutory Authority for Adoption: RCW 74.08.090, 74.04.050, 74.04.057, 74.09.575.

Statute Being Implemented: Section 1924 (42 U.S.C. 1396r-5).

Summary: These amendments implement an annual increase for the one-person medically needy income level and community spouse resource maximum and the resource standard for an institutionalized person's spouse (who is not institutionalized), as required by federal legislation.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Joanie Scotson, P.O. Box 45530, Olympia, WA, (360) 753-7462.

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

Rule is necessary because of federal law, Section 1924 (42 U.S.C. 1396r-5).

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

Proposal Changes the Following Existing Rules: These sections, WAC 388-507-0710 and 388-513-1350, are rewritten for clarity. The amendments reflect the annual increase

of the one-person income standard for the medically needy program, and the resource standard for an institutionalized person's spouse (who is not institutionalized), as required by federal legislation.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Does not economically impact small businesses.

RCW 34.05.328 does not apply to this rule adoption. RCW 34.05.328 (5)(b)(vii) exempts the Department of Social and Health Services rules that only [apply] to client medical or financial eligibility.

Hearing Location: Lacey Government Center (behind Tokyo Bento Restaurant), 1009 College Street S.E., Room 104-B, Lacey, WA 98503, on May 5, 1998, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Paige Wall by April 21, 1998, phone (360) 902-7540, TTY (360) 902-8324, e-mail pwall@dshs.wa.gov.

Submit Written Comments to: Identify WAC Numbers, Paige Wall, Rules Coordinator, Rules and Policies Assistance Unit, P.O. Box 45850, Olympia, WA 98504-5850, FAX (360) 902-8292, by May 5, 1998.

Date of Intended Adoption: No sooner than May 6, 1998.

March 31, 1998
Edith M. Rice, Chief
Office of Legal Affairs

AMENDATORY SECTION (Amending WSR 97-09-112, filed 4/23/97, effective 5/24/97)

WAC 388-507-0710 ((AFDC)) TANF-related medical program income standards. (1) ~~((The department shall determine income standards for AFDC-related clients as described under))~~ A TANF-related client's countable income is determined according to the provisions in WAC 388-505-0590 ((2) and (4)).

(2) Effective January 1, ~~((1997, the department shall set))~~ 1998, the medically needy income level (MNIL) ~~((at))~~ is:

(a) One person	\$ ((512)) <u>521</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 WSR 97-09-112, filed 4/23/97, effective 5/24/97)

WAC 388-513-1350 Institutional—Available resources. This section describes those resources which are considered available to an institutionalized client. (1)

Resources are defined under chapter 388-511 WAC for an SSI-related client and under chapter 388-216 WAC ((388-22-030)) for ((an AFDC)) a TANF-related client.

(2) The methodology and standards for determining and evaluating resources are under WAC 388-513-1310, ~~((388-513-1330, 388-513-1340))~~ 388-513-1350, and 388-513-1360. Transfers of resources are evaluated under WAC 388-513-1365. Trusts are described under WAC 388-505-0595.

~~((The department shall determine ownership of resources following Washington state community property principles))~~ "Continuously institutionalized" means that for thirty consecutive days, a person:

- (a) Is not absent from an institution; or
- (b) Does not receive home-based or community-based

waivered services.

~~((~~ (4) For a person(~~+~~

~~(a))~~ whose most recent period of continuous 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)) Available resources ((when jointly)) are one-half of the total value of nonexempt resources held in the:

(i) Names of both the institutionalized spouse and the community spouse; or

(ii) Name of the institutionalized spouse only.

~~((The separate property of the community spouse when))~~ Unavailable resources are:

(i) The other half of the total value of nonexempt resources determined under subsection (3)(a) of this section;

(ii) Held solely in the ((separate)) name of the community spouse; or

~~((+))~~ (iii) Transferred between spouses as described

under ((WAC 388-513-1350(7))) subsection (4)(b) of this section.

~~((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))~~ (5) For ((the purpose of determining Medicaid eligibility of)) a person, whose most recent ((continuous)) period of continuous institutionalization 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;))~~ available resources include all nonexempt resources in the name of either the community spouse or the institutionalized ((spouse, except resources exceeding the greater of)) spouse except;

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(a) The following resources are exempt when the institutionalized person has a community spouse:

(i) ~~((Seventy-nine)) One vehicle without regard to use or value; and~~

(ii) Effective January 1, 1998, eighty thousand ~~((twenty)) seven hundred sixty dollars ~~((effective January 1, 1997;~~~~

~~((ii) An amount)); or~~

(b) An amount greater than the amount in subsection (4)(a)(ii) of this section if:

(i) 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)) (ii) Transferred to the community spouse by ~~((the))~~ court order.~~

~~((e) Ensure))~~

~~(6) Resources ~~((available to the community spouse are in the name of the community spouse or))~~ of the institutional spouse must be 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))~~ possible, taking into account ~~((such))~~ the 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))~~

(7) The resources of the community spouse are:

(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))~~ is continuously institutionalized.

(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))~~ Is not continuously institutionalized.

WSR 98-08-083

PROPOSED RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Medical Assistance Administration)

[Filed April, 1, 1998, 9:22 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-01-067 and 98-04-066.

Title of Rule: Adds new section WAC 388-517-1770 Qualified individuals (QI) program. Amends rules for Medi-

care-related medical eligibility, WAC 388-517-1710, 388-517-1715, 388-517-1730, 388-517-1750, and medical effective dates, WAC 388-521-2160. Repeals WAC 388-517-1720 Qualified Medicare beneficiaries—Income and resources, 388-517-1740 Special low-income Medicare beneficiaries (SLMB)—Income and resources, and 388-517-1760 Qualified disabled working individuals (QDWI) income and resources.

Purpose: These rules implement provisions in the Balanced Budget Act, which expand the coverage group for Medicare cost-sharing.

Statutory Authority for Adoption: RCW 74.08.090, 74.04.050, 74.05.057, 74.09.530.

Statute Being Implemented: HR 2015, Section 4732, the Balanced Budget Act of 1997.

Summary: Incorporates federal standards which increase the number of clients who are eligible for Medicare cost-sharing. Language is clarified. Repeals WAC 388-517-1720, 388-517-1740 and 388-517-1760 because the provisions in these rules have been incorporated into the amended rules.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Joanie Scotson, P.O. Box 45530, Olympia, WA, (360) 753-7462.

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

Rule is necessary because of federal law, HR 2015, Section 4732, the Balanced Budget Act of 1997.

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

Proposal Changes the Following Existing Rules: Repeals WAC 388-517-1720, 388-517-1740 and 388-517-1760 because the provisions of these rules were incorporated into the amended sections

Amends WAC 388-517-1710, 388-517-1715, 388-517-1730, 388-517-1750, and 388-521-2160. These sections are rewritten for clarity and contain new federal standards.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Does not economically impact small businesses

RCW 34.05.328 does not apply to this rule adoption. RCW 34.05.328 (5)(b)(vii) exempts the Department of Social and Health Services rules that only [apply] to client medical or financial eligibility.

Hearing Location: Lacey Government Center (behind Tokyo Bento Restaurant), 1009 College Street S.E., Room 104-B, Lacey, WA 98503, on May 5, 1998, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Paige Wall by April 24, 1998, phone (360) 902-7540, TTY (360) 902-8324, e-mail pwall@dshs.wa.gov.

Submit Written Comments to: Identify WAC Numbers, Paige Wall, Rules Coordinator, Rules and Policies Assistant Unit, P.O. Box 45850, Olympia, WA 98504-5850, FAX (360) 902-8292, by May 5, 1998.

Date of Intended Adoption: No sooner than May 6, 1998.

March 31, 1998

Edith M. Rice, Chief
Office of Legal Affairs

AMENDATORY SECTION (Amending WSR 95-14-046, filed 6/28/95, effective 7/29/95)

WAC 388-517-1710 Medicare ("buy-in") cost-sharing programs. (1) ~~((The department shall pay Medicare "buy-in" for))~~ This section describes the benefits and eligibility criteria common to the following Medicare cost-sharing programs:

- (a) The qualified Medicare beneficiary (OMB) program;
- (b) The special low-income Medicare beneficiary (SLMB) program;
- (c) The qualified disabled working individual (ODWI) program;
- (d) The qualified individual (OI) program; and
- (e) The buy-in program.

(2) A person must be entitled to Medicare Part A and ~~((who receives:~~

- ~~(a) AFDC cash grant;~~
- ~~(b) SSI cash assistance;~~
- ~~(c) Categorically needy medical assistance; or~~
- ~~(d) Medically needy medical assistance.~~

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

- ~~(a) Supplementary medical insurance Part B premium, under Title XVIII of the Social Security Act;~~
- ~~(b) Coinsurance; and~~
- ~~(c) Deductibles.~~

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

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

~~(5) The department shall only pay Part A premium, under Title XVIII of the Social Security Act, for a person eligible under WAC 388-517-1750 and 388-517-1760)) have resources which do not exceed twice the standard described in WAC 388-511-1110 to receive Medicare cost-sharing benefits.~~

(3) A person determined eligible for the OMB program under WAC 388-517-1715 is eligible to receive Part A and Part B Medicare premiums, coinsurance, and deductibles.

(4) A person determined eligible for the SLMB program, levels one and two, under WAC 388-517-1730 is eligible to receive only the Part B Medicare premium.

(5) A person determined eligible for the ODWI program under WAC 388-516-1750 is eligible to receive only the Part A Medicare premium.

(6) A person determined eligible for the OI program under WAC 388-517-1770 is eligible to receive one dollar and seven cents per month reimbursement for Medicare premiums.

(7) A person determined ineligible for the OMB, SLMB (level one), or ODWI programs, is eligible for Part B Medicare premium, coinsurance and deductibles when the person is entitled to Medicare Part A and receives categorically needy or medically needy medical assistance.

AMENDATORY SECTION (Amending WSR 95-14-046, filed 6/28/95, effective 7/29/95)

WAC 388-517-1715 Qualified Medicare beneficiary (QMB) ((eligible for Medicare cost sharing)) program. ~~((The department shall provide))~~ This section describes who is eligible for the QMB program.

(1) A person is eligible for Medicare cost sharing ~~((under))~~ described in WAC 388-517-1710 ~~((3))~~ for a person:

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

(2) Entitled to Medicare hospital insurance benefits, Part A, under Title XVIII of the Social Security Act) (2) when the person's income does not exceed one hundred percent of the federal poverty level (FPL). One hundred percent of the current FPL is:

Family Size	Monthly
One	\$671
Two	\$905

(2) A QMB client's Social Security cost-of-living increase is not counted until April 1st of each year.

AMENDATORY SECTION (Amending WSR 95-14-046, filed 6/28/95, effective 7/29/95)

WAC 388-517-1730 Special low-income Medicare beneficiaries (SLMB) ((eligible for Medicare cost sharing)) program. ~~((The department shall provide))~~ This section describes who is eligible for the SLMB program.

(1) A person is eligible for Medicare cost sharing ~~((under))~~ described in WAC 388-517-1710 ~~((4))~~ for a person) (3) when the person has countable income for:

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

(a) Level one of SLMB countable income, which is over one hundred percent of the FPL, but does not exceed one hundred twenty percent of the FPL. One hundred twenty percent of the FPL is:

Family Size	Monthly
One	\$805
Two	\$1085

(b) Level two of SLMB countable income, which is over one hundred twenty percent of the FPL, but does not exceed one hundred thirty-five percent of the FPL. One hundred thirty-five percent of the FPL is:

Family Size	Monthly
One	\$906
Two	\$1221

(2) ((Entitled to Medicare hospital insurance benefits, Part A, under Title XVIII of the Social Security Act)) A person whose income is described in level two is eligible for the

PROPOSED

SLMB program only if the person is not eligible for another medical assistance program.

(3) An SLMB client's Social Security cost-of-living increase is not counted until April 1st of each year.

AMENDATORY SECTION (Amending WSR 95-14-046, filed 6/28/95, effective 7/29/95)

WAC 388-517-1750 ~~((Hospital premium insurance enrollment for the))~~ Qualified disabled working individuals (QDWI) program. ~~((The department shall pay premiums))~~ This section describes who is eligible for the QDWI program. A person is eligible for Medicare ((Part A under)) cost-sharing described in WAC 388-517-1710~~((4) for an SSI-related))~~ (4) when the person:

- (1) ((Who)) Is not otherwise entitled to medical assistance; and
- (2) ((Entitled to enroll for Medicare hospital insurance benefits, Part A, under section 1818A of the Social Security Act.)) Has countable income which does not exceed two hundred percent of the FPL. Two hundred percent of current FPL is:

<u>Family Size</u>	<u>Monthly</u>
<u>One</u>	<u>\$1342</u>
<u>Two</u>	<u>\$1809</u>

NEW SECTION

WAC 388-517-1770 Qualified individuals (QI) program. This section describes who is eligible for the QI program. A person is eligible for Medicare cost-sharing described in WAC 388-517-1710(5) when the person:

- (1) Is not otherwise eligible for medical assistance; and
- (2) Has countable income over one hundred thirty-five percent of the FPL, but does not exceed one hundred seventy-five percent of the FPL. One hundred seventy-five percent of the FPL is:

<u>Family Size</u>	<u>Monthly</u>
<u>One</u>	<u>\$1174</u>
<u>Two</u>	<u>\$1583</u>

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 388-517-1720	Qualified Medicare beneficiaries—Income and resources.
WAC 388-517-1740	Special low-income Medicare beneficiaries (SLMB)—Income and resources.

WAC 388-517-1760

Qualified disabled working individuals (QDWI) income and resources.

AMENDATORY SECTION (Amending WSR 94-10-065, filed 5/3/94, effective 6/3/94)

WAC 388-521-2160 Effective date and certification period for the special low-income Medicare beneficiary (SLMB) program. ~~((The department shall ensure the effective date of eligibility for))~~ (1) A client is eligible for Medicare cost-sharing under the SLMB program ((shall be the later of the)) beginning:

- ((1)) (a) The first day of the month ((in which)) the client ((is enrolled in Part B)) applies; or
- ((2) Retroactive period described under)
 - (b) Retroactively according to WAC 388-521-2105(2).
 - (2) A client who is eligible for level one SLMB, according to WAC 388-517-1730 (1)(a), is certified for twelve months from the date of application.
 - (3) A client who qualifies for level two SLMB, according to WAC 388-517-1730 (1)(b) on or after January 1, 1998, is certified through the end of the calendar year in which the client applied while funds remain available.
 - (4) A client who qualifies for the qualified individual (QI) program, according to WAC 388-517-1770(2) on or after January 1, 1998, is certified through the end of the calendar year in which the client applied while funds remain available.

**WSR 98-08-090
PROPOSED RULES
DEPARTMENT OF TRANSPORTATION**

[Filed April 1, 1998, 9:31 a.m.]

Original Notice.
Preproposal statement of inquiry was filed as WSR 98-04-043.
Title of Rule: WAC 468-38-260 Night-time movements.
Purpose: Brings current practices into compliance with rule. Current practice was initiated for safety to the motoring public and reduce interference with traffic during higher volume times.
Other Identifying Information: Filed as an emergency rule change on January 30, 1998.
Statutory Authority for Adoption: RCW 46.44.090.
Summary: Allows for certain over-legal move to be performed during night-time hours. Moves are restricted to department preferred hours and routes and in compliance with published curfew hours.
Reasons Supporting Proposal: Reduces risk to motoring public and reduces interference with traffic flow during higher volume hours.
Name of Agency Personnel Responsible for Drafting and Implementation: Barry Diseth, Washington State Department of Transportation, Olympia, (360) 664-9497;

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and Enforcement: Capt. Tim Erickson, Washington State Patrol, Olympia, (360) 753-0350.

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: Allows for certain over-legal move to be performed during night-time hours. Moves are restricted to department preferred hours and routes and in compliance with published curfew hours.

Reduces risk to motoring public and reduces interference with traffic flow during higher volume hours.

Proposal Changes the Following Existing Rules: Eliminates reference to ten foot wide limit and allows movement at department discretion. Also clarifies when no movement shall be made (i.e. visibility reduced to five hundred feet or when roadway conditions are hazardous, including snow, ice, mud, wind or water flooding).

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not applicable.

RCW 34.05.328 does not apply to this rule adoption.

Hearing Location: Transportation Building, Commission Board Room, 1D2, Olympia, Washington 98504, on May 29, 1998, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact TDD (360) 705-6980, by May 26, 1998.

Submit Written Comments to: Barry Diseth, Motor Carrier Services, P.O. Box 47367, Olympia, WA 98504-7367, FAX (360) 664-9440, by May 26, 1998.

Date of Intended Adoption: May 29, 1998.

March 31, 1998

Gerald E. Smith

Deputy Secretary Operations

AMENDATORY SECTION (Amending Order 132, filed 11/2/92, effective 12/3/92)

WAC 468-38-260 Night-time movements. Vehicles or combinations operating under special motor vehicle permits that are overweight and/or overdimensional (~~not exceeding ten feet wide or one hundred feet long, and of legal height~~) may be permitted to move at night on state highways (~~during normal atmospheric conditions~~), subject to department preferred hours/routes of travel, and in compliance with published curfew restrictions. "Night-time movement approved" must be stated on the permit. Night means one-half hour after sunset to one-half hour before sunrise. Those oversize loads that are allowed to move at night shall have lighting equipment as required by the Code of Federal Regulations, Title 49, part 393.11. No movements shall be made when visibility is reduced to less than ~~((one thousand))~~ five hundred feet or when hazardous roadway conditions exist (including, but not limited to: Snow, ice, mud slide, wind or water flooding over roadway). It shall be the responsibility of the permittee to discontinue movement and remove the unit from the highway when any of the above conditions exist which could create an unsafe movement.

WSR 98-08-091

WITHDRAWAL OF PROPOSED RULES

DEPARTMENT OF SOCIAL AND HEALTH SERVICES

(By the Code Reviser's Office)

[Filed April 1, 1998, 9:57 a.m.]

WAC 388-76-590, 388-76-610, 388-76-640 and 388-76-765, proposed by the Department of Social and Health Services in WSR 97-18-087 appearing in issue 97-19 of the State Register, which was distributed on October 1, 1997, is withdrawn by the code reviser's office under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor
Washington State Register

WSR 98-08-092

WITHDRAWAL OF PROPOSED RULES

ENERGY FACILITY SITE EVALUATION COUNCIL

(By the Code Reviser's Office)

[Filed April 1, 1998, 9:58 a.m.]

WAC 463-54-070, proposed by the Energy Facility Site Evaluation Council in WSR 97-19-058 appearing in issue 97-19 of the State Register, which was distributed on October 1, 1997, is withdrawn by the code reviser's office under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor
Washington State Register

WSR 98-08-093

WITHDRAWAL OF PROPOSED RULES

DEPARTMENT OF ECOLOGY

(By the Code Reviser's Office)

[Filed April 1, 1998, 9:59 a.m.]

WAC 173-160-020, 173-162-100, 173-162-120, 173-162-127, 173-162-130 and 173-162-165, proposed by the Department of Ecology in WSR 97-19-081 appearing in issue 97-19 of the State Register, which was distributed on October 1, 1997, is withdrawn by the code reviser's office under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor
Washington State Register

WSR 98-08-094
PROPOSED RULES
NORTHWEST AIR
POLLUTION AUTHORITY

[Filed April 1, 1998, 9:56 a.m.]

Date of Intended Adoption: May 14, 1998.

March 30, 1998

James B. Randles

Assistant Control Officer

AMENDATORY SECTION

SECTION 322 - EXEMPTIONS FROM REGISTRATION

~~((322.21 Portable sandblasting operations provided that the operator notifies the NWAPA at least ten (10) days prior to start-up.))~~

SECTION 323 - CLASSES OF REGISTRATION

323.15 CLASS G - All gasoline stations installed or reconstructed after January 1, 1990 with a nominal total gasoline storage capacity greater than thirty-eight thousand liters (10,000 gallons) and all gasoline stations with a total annual gasoline throughput greater than one million three hundred ~~((twenty-five))~~ sixty-four thousand liters ~~((350,000))~~ 360,000 gallons).

AMENDATORY SECTION

SECTION 501 - OUTDOOR BURNING

501.6 OUTDOOR BURNING PROGRAM

501.61 General Requirements.

501.611 All outdoor burning requires a permit as covered in section 501.7.

501.612 Permits shall not be issued, and thus outdoor burning is not allowed, in areas where reasonable alternatives are available.

501.613 No outdoor burning shall be allowed in areas that exceed federal or state ambient air quality standards for fine particulate matter (PM-10) or carbon monoxide. Such areas shall be defined as the entire PM-10 and/or carbon monoxide nonattainment area, unless otherwise determined pursuant to section 506.21 of the regulation.

501.614 A fire protection authority may declare a fire hazard in areas where outdoor burning is banned and in areas where outdoor burning is allowed. If outdoor burning is determined to be the most appropriate manner to abate a fire hazard, the fire protection authority must request from the Authority permission to burn. Permits issued under section 501.614 shall provide that:

501.6141 Prohibited material shall not be burned.

501.6142 Outdoor burning shall not be conducted during a period of impaired air quality.

501.6143 No reasonable alternative is available.

501.6144 No outdoor burning shall be conducted in areas that exceed federal or state ambient air quality standards for Carbon monoxide and/or PM-10. Such areas shall be defined as nonattainment areas for these pollutants.

501.615 Failure to abide by conditions of an Outdoor Burning Permit shall be unlawful.

501.7 OUTDOOR BURNING PERMIT REQUIREMENTS

501.71 All outdoor burning requires a permit. For areas where burning is allowed, the Authority, fire districts or departments, conservation districts, or counties may issue permits. Those issuing permits are responsible for field

Original Notice.

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

Title of Rule: Northwest Air Pollution Authority (NWAPA).

Purpose: To amend, add and delete subsections of the NWAPA regulation to provide more clarity for users, to make the regulation more consistent with state and federal rules and to promote more effective air pollution control.

Statutory Authority for Adoption: Chapter 70.94 RCW.

Statute Being Implemented: RCW 70.94.141.

Summary: Subsections:

322.21, deleting subsection to remove notification requirement for portable sandblasting operations.

323.15, provides consistency with NWAPA 580.611 and allows registration of new and modified gasoline stations.

501.615, adding subsection to clarify enforceability of outdoor burning permit conditions.

501.75 and 501.76, adding language to clarify Department of Natural Resources definition of "rule burn."

504, amending, adding and deleting subsections to be consistent with state rules and remove outdated information. This section as amended sets controls on agricultural burning, establishes permit conditions, sets a local agency fee for agricultural burning permits and clarifies the definition of incidental agricultural burning.

580.31, amended to make language consistent with NWAPA 580.36.

580.611 and 580.612, amended to provide consistency within the subsections.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: James Randles, 1600 South Second Street, Mount Vernon, WA 98273-5202, (360) 428-1617.

Name of Proponent: Northwest Air Pollution Authority, governmental.

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

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

Proposal Changes the Following Existing Rules: See Summary above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not required.

RCW 34.05.328 does not apply to this rule adoption.

Hearing Location: Northwest Air Pollution Authority Hearing Room, 1600 South Second Street, Mount Vernon, WA 98273-5202, on May 14, 1998, at 1:30 p.m.

Assistance for Persons with Disabilities: Contact Susan Duffy by April 30, 1998, (360) 428-1617 ext. 200.

Submit Written Comments to: FAX (360) 428-1620, by May 13, 1998.

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response to outdoor burning complaints. Ecology will provide guidance for field response programs which addresses funding, training, and staffing.

501.72 In selecting a permit program, the options range from the minimum - a general rule burn, as described below, to a written permit. A permit program must be in place eight months after Ecology provides guidance for the program. If at that time, no agreement has been reached, the area becomes a no-burn area and falls under the restrictions set forth in section 501.62 above. A no-burn area will be established only after a public hearing has been conducted to address the matter.

501.73 Fees. The Authority may charge a fee to cover the administrative cost of a permit program. Fire districts, counties, and conservation districts issuing fire permits may collect fees to cover administrative costs.

501.74 The Authority may apply additional restrictions on outdoor burning as necessary to reduce the impacts from outdoor burning. These restrictions include, but are not limited to, restricting burning in sensitive areas per 173-400 WAC, restricting the time periods for which burning is allowed, limiting permissible hours of burning, restricting burning to specific weather conditions, and imposing requirement for good combustion.

501.75 General Rule Burn Permits. For areas where outdoor burning is allowed, fire permitting agencies may elect to use a general permit by rule. A person burning under a general permit by rule system must meet, at minimum, the following requirements and any additional restrictions including those established by cities, counties, or fire protection authorities. Persons not able to meet all of the requirements of this sections must apply for and receive a written permit. Persons intending to burn by general rule on land subject to the Forest Protection Assessment (RCW 76.04.610) are exempt from this subsection but are regulated by the Washington Department of Natural Resources under WAC 332-24-211.

General rule burn permits under section 501.75 may be used for the following number of days per year:

1992-1995	twenty-one days/year
1995-1998	fourteen days/year
After 1998	seven days/year

A person burning under a general rule burn permit must follow the requirements listed in section 501.751 through 501.759 below and any additional restrictions in affect while burning, including those established by cities, counties, fire protection agencies, and the Authority.

501.76 Additional requirements for land clearing burning. The following "best available burning practices" shall be used when land clearing burns are conducted on land not subject to the Forest Protection Assessment (RCW 76.04.610). Land clearing burning conducted on lands subject to the Forest Protection Assessment are regulated by the Washington Department of Natural Resources under WAC 332-24-201.

AMENDATORY SECTION

SECTION 504 - AGRICULTURAL BURNING ((OUTDOOR BURNING - GRASS SEED FIELDS.))

All definitions in Section 200 are fully applicable to Section 503

AG TASK FORCE - Means the agricultural burning practices and research task force.

AGRICULTURAL OPERATION - Means a farm that can substantiate that the operation is commercial agriculture by showing the most recent year's IRS schedule F form or proof that the land is designated in a classification for agricultural use. It also includes activities conducted by irrigation district or drainage district personnel as part of water system management.

AGRICULTURAL LAND - Land that is designated in a classification for agricultural use or land that is used for the operation of commercial agriculture and can be substantiated by the most recent year's IRS schedule F form.

BEST MANAGEMENT PRACTICE - Means the criteria established by the agricultural burning practices and research task force (Ag task force).

FARMER - Means any person engaged in the business of growing or producing for sale upon their own lands, or upon the land in which they have a present right of possession, any agricultural product. Farmer does not mean persons using such products as ingredients in a manufacturing process, or persons growing or producing such products primarily for their own consumption.

FIELD GRASSES - Canary grass, brome grass, oat grass, timothy grass, ryegrass, wheat grass, forage grass, and orchard grass planted for seed production.

TURF GRASSES - All blue grasses, fescues, and bent grass and perennial rye grass planted for seed production.

((504.1 It is the policy of the NWAPA in carrying out its responsibilities under Chapter 70.94 RCW to:))

504.1 Purpose. This Section establishes fees and controls for agricultural burning in the NWAPA jurisdiction in order to minimize adverse health effects and environmental impacts, consistent with best management practices and the responsibilities of the NWAPA under WAC 173-430, RCW 70.94.650, 70.94.656, and 70.94.745.

((504.11 Reduce and ultimately eliminate unnecessary agricultural burning through the earliest possible application of practical alternate methods.

504.12 Encourage and assist grass seed producers and processors to conduct or participate in a research and technological program designed to progressively reduce adverse effects on the environment through application of best practicable agricultural practices.

504.13 Discourage any increase in the number of acres being burned during the time period alternate methods are being developed to eliminate agricultural burning by the grass seed industry; and to seek an equitable and effective method of preventing an increase in burning.

504.2 No outdoor burning of field grasses or turf grasses shall be undertaken unless a permit has been obtained from the Authority. The issuance of permits hereunder shall be governed by consideration of air quality conditions in the area where proposed burning is to occur, the time of year, the size and duration of the proposed burning activity, and the applicant's need to carry out such burning as weighed against the public interest in clean air. Permits will be conditioned to minimize air pollution insofar as practical. The Authority

may limit the number of acres for which permits to burn will be issued in order to effectively control emissions from this source and to implement the policy expressed in 504.13:))

504.2 Applicability. This Section applies to agricultural burning in all areas of the NWAPA jurisdiction unless specifically exempted. Nothing in Section 504 shall apply to silvicultural burning or open burning.

~~((504.3 The NWAPA hereby adopts by reference Chapter 18-16 WAC "Burning of Field and Turf Grasses Grown for Seed".))~~

504.3 Prohibitions. All agricultural burning requires an agricultural burning permit issued by the Authority. No person shall practice or permit the practice of agricultural burning in any of the following circumstances and locations:

504.31 When the applicant is not a farmer with an agricultural operation or a government entity with specific agricultural burning needs, such as irrigation districts, drainage districts, and weed control boards.

504.32 When the materials to be burned include anything other than natural vegetation.

504.33 During a no burn day as declared by the Authority or during an air pollution episode for a defined geographical area.

504.34 When burning causes a nuisance or the Authority determines that a nuisance is likely to result from burning.

504.35 If the applicant is unable to show to the satisfaction of the Authority that burning, as requested, is reasonably necessary to successfully carry out the enterprise in which the applicant is engaged; and constitutes a best management practice; and is necessary because no practical alternative is reasonably available.

504.36 If the burning includes any material other than natural vegetation generated on the property, which is the burning site, or material transported to the burning site by wind or water.

~~((504.4 Practical alternative production methods and disease controls which would reduce or eliminate outdoor burning shall be utilized as soon as they become available regardless of specific provisions of the compliance program included within this section:))~~

504.4 General Conditions. Considering population density and local conditions affecting air quality, the Authority shall establish conditions for all permits to minimize air pollution as much as practical. Conditions may include but are not limited to restricting the permissible hours of burning, restricting burning to a defined season, restricting the size of fires, imposing requirements for good combustion practice, and restricting burning to specified weather conditions. Any person who practices or permits the practice of agricultural burning shall, in addition to any specific permit conditions imposed, comply with all of the following conditions:

504.41 Whenever any stage of an air pollution episode or no burn day is declared, all fires shall be extinguished by withholding new fuel as appropriate, and allowing the fire to burn down.

504.42 The fire shall be attended by a person who is responsible for the fire and is capable of extinguishing the fire. The fire must be extinguished before it is left unattended.

504.43 Burning shall occur during daylight hours only, or a more restrictive period as determined by the Authority. No burning is allowed at night except as a best management practice.

504.44 Permission from a landowner, or the owner's designated representative, must be obtained before starting the fire.

504.45 The responsible person shall notify the local fire district prior to igniting a fire. Compliance with all fire safety regulations of the local fire protection agency, including any no-burn directives they may issue, is required.

504.46 If it becomes apparent at any time to the Authority that limitations must be imposed to reduce smoke and prevent air pollution and/or protect property and the health, safety, and comfort of persons from the effects of burning, the Authority shall notify the permittee or responsible person and any limitation so imposed shall become a condition under which the permit is issued.

504.47 Burning only natural vegetation.

504.48 Burning when wind takes smoke away from roads, homes population centers, or other public areas, to the greatest extent possible.

504.49 No burning during adverse meteorological conditions.

~~((504.5 Mobile field burners and other methods of incineration, not classified as outdoor burning, shall not be prohibited by the above restrictions, providing emissions do not exceed the following standards:))~~

504.5 Administrative requirements.

~~((504.51 Visible emissions shall not exceed an opacity of 20% for more than three (3) minutes in any one hour;))~~

504.51 All agricultural burning permits require a fee. This fee shall not exceed the level determined by the agricultural burning practices and research task force, pursuant to Chapter 70.94.650 RCW.

~~((504.52 Particulate emissions shall not exceed 0.1 grains per standard cubic foot of exhaust gas corrected to 7% oxygen at standard conditions, dry:))~~

504.52 The fee shall be the greater of:

504.521 A minimum fee of twenty-five dollars per year per farm which shall be used as follows: Twelve dollars and fifty cents of which goes to the agricultural burning research fund, and the remaining twelve dollars and fifty cents will be kept by the Authority to cover the costs of administering and enforcing this regulation; or

504.522 A variable fee based on the acreage or equivalent of agricultural burning which will be used as follows: Up to one dollar per acre for applied research, twenty-five cents per acre for ecology administration and one dollar and twenty-five cents per acre for local permit program administration.

504.53 The Authority shall act on a complete permit application within seven days from the date such complete application is filed.

~~((504.6 Nothing herein shall relieve any applicant for a permit hereunder from obtaining permits, licenses or approvals required by any other laws, regulations, or ordinances:))~~

504.6 Exemptions. Burning that is incidental to commercial agricultural activities shall be allowed without apply-

ing for any permit and without the payment of any fee if all of the following conditions are met:

504.61 The operator notifies the local fire department within the area where the burning is to be conducted;

504.62 The burning does not occur during a no burn day, or any stage of impaired air quality declared under RCW 70.94.715; and

504.63 Only the following items are burned: orchard prunings, organic debris along fence lines or irrigation or drainage ditches, or organic debris blown by wind.

504.64 Standing vegetation to be burned is one acre or less in size. This exempt acre (or less) may be burned in addition to that acreage included in fence lines or irrigation or drainage ditches.

504.7 Grass Seed Field Burning. This subsection establishes additional conditions for issuance of permits for burning of turf grass fields and field and forage grass fields, and to implement restrictions upon grass field burning consistent with the provisions of RCW 70.94.650, 70.94.656, 70.94.745 and WAC 173-430. The control strategies include the following:

504.71 Until approved alternate burning practices for grass seed fields become available, the Authority may limit the number of acres on a pro rata basis among those affected for which permits to burn will be issued in order to effectively control emissions from this source.

504.72 Approved alternate methods of burning turf, field, and forage grass seed fields shall be utilized as soon as they become available.

504.8 Other laws. Nothing herein shall relieve any applicant for a permit hereunder from obtaining any permits, licenses, or other approvals required by any other laws, regulations, or ordinances. The farmer must also honor other agreements entered into with any federal, state, or local agency.

AMENDATORY SECTION

SECTION 580 - VOLATILE ORGANIC COMPOUND CONTROL

580.3 High Vapor Pressure Volatile Organic Compound Storage Tanks

580.31 This section shall apply to all tanks except as noted in Section 580.35 and 580.36 of this section which store volatile organic compounds with a true vapor pressure as stored greater than 10.5 kilopascals (Kpa) 1.5 pounds per square inch (psia), but less than 77.7 Kpa (11.1 psia) at actual monthly average storage temperatures and have a capacity greater than one hundred fifty thousand liters (40,000 gallons).

SECTION 580.6 - Gasoline Stations

Section 580.62 shall apply to:

580.611 All gasoline stations (~~in existence on January 1, 1990~~) with a total annual gasoline (~~output~~) **throughput** greater than one million three hundred sixty-four thousand liters (360,000 gallons) and (~~total gasoline storage capacity greater than thirty-eight thousand liters (10,000 gallons) and~~)

580.612 All gasoline stations installed or reconstructed after January 1, 1990 with a nominal total gasoline storage capacity greater than thirty-eight thousand liters (10,000).

Reviser's note: The typographical errors in the above material occurred in the copy filed by the Northwest Air Pollution Authority and appear in the Register pursuant to the requirements of RCW 34.08.040.

WSR 98-08-105 PROPOSED RULES DEPARTMENT OF LICENSING

[Filed April 1, 1998, 11:05 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 97-03-028 [97-03-029].

Title of Rule: Chapter 196-12 WAC, Registered professional engineers; and chapter 196-24 WAC, General.

Purpose: To provide clear, concise language describing the requirements to become licensed as a professional engineer.

Other Identifying Information: Chapters 196-12 and 196-24 WAC were reviewed in accordance with the requirements in Executive Order 97-02.

Statutory Authority for Adoption: RCW 18.43.035.

Summary: Chapter 196-12 WAC and part of chapter 196-24 WAC describes the amount and type of experience required to become licensed as a professional engineer, how to apply for a license, how much experience can be granted for education, the examinations that must be taken, and the procedure for reviewing an examination if it is failed. In addition, the rules provide the requirement for becoming licensed by comity and for waiving the fundamentals of engineering examination.

Reasons Supporting Proposal: These rule amendments are made in accordance with the requirements of Executive Order 97-02. Specific categories of knowledge and experience required for licensure are clearly defined and the amount of time granted for different types of education is identified. Many sections of these rules were deleted because they were redundant or no longer applicable and other sections rewritten to improve clarity.

Name of Agency Personnel Responsible for Drafting: Rick Notestine, 405 Black Lake Boulevard, Olympia, (360) 753-3634; Implementation and Enforcement: George A. Twiss, 405 Black Lake Boulevard, Olympia, (360) 586-3361.

Name of Proponent: Board of Registration for Professional Engineers and Land Surveyors.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The purpose of the rules is to list specific categories of knowledge/experience that must be gained in order to qualify for licensure, bring the structural engineering requirements into compliance with chapter 18.43 RCW, provide a broader range of experience and education that will count toward licensure, and put all of the information needed to become licensed as a professional engineer in one chapter in clear, understandable language. It is anticipated that engi-

neers will have better knowledge of the requirements to become licensed and be able to direct their work and educational experience in order to meet the specific experience criteria needed to take the licensing examination. It is also expected that a somewhat broader range of engineers will now qualify to take the licensing examinations.

Proposal Changes the Following Existing Rules: WAC 196-12-010 was expanded to clarify the minimum requirements to make application for licensure. WAC 196-12-020 was modified to: Logically categorize the various types of education and define the amount of experience credit to be granted for each category; to list specific experience areas in which knowledge must be gained in order to qualify for licensure; and to incorporate the requirements to become licensed as a structural engineer. Several parts of the rule were deleted that are no longer applicable. WAC 196-12-030 had a significant amount of language added to define what examinations must be taken to become licensed as a professional engineer and as a structural engineer. Guidelines for reviewing an examination if it is failed were also added. Sections were deleted that are no longer applicable. WAC 196-12-040 is a new rule that defines the criteria for becoming licensed as a professional engineer by comity. WAC 196-12-050 establishes the requirements to waive the fundamentals of engineering examination. The language was modified to provide clarity and add two new guidelines. WAC 196-12-060 was deleted completely.

The following rules were deleted from chapter 196-24 WAC: WAC 196-24-030, 196-24-040, and 196-24-050. WAC 196-24-105 was rewritten to reflect current examination review procedures.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The board prepared an analysis of the impact of chapters 196-12 and 196-24 WAC on the engineering business community. The board found no significant impact of these rules on business. A total of 5200 packets of information containing a copy of the rule changes and the board's analysis were sent to engineers and other interested parties. Of those mailings, there were 33 responses for a 0.6% response rate. No respondent identified an economic impact due to these rules.

RCW 34.05.328 does not apply to this rule adoption. These rules set forth the registration requirements and procedures for application to become licensed as a professional engineer and meets the requirements of either an interpretive and/or procedural rule as provided for in RCW 34.05.328(5).

Hearing Location: Sea-Tac Hilton Hotel, 17620 Pacific Highway South, SeaTac, WA 98188, on May 7, 1998, at 3:00 p.m.

Assistance for Persons with Disabilities: Contact Shan Gillespie, (360) 586-7568, by April 22, 1998, TDD (360) 586-2788.

Submit Written Comments to: Rick Notestine, Program Director, Board of Registration for Professional Engineers and Land Surveyors, P.O. Box 9649, Olympia, WA 98507-9649.

Date of Intended Adoption: May 7, 1998.

April 1, 1998

George A. Twiss
Executive Director

AMENDATORY SECTION (Amending Order PM 738, filed 5/27/88)

WAC 196-12-010 Applications. A professional engineer (PE) applicant must have passed the first stage examination (the fundamentals-of-engineering (FE) examination) and be enrolled as an engineer-in-training (EIT), or qualify to waive the FE examination in accordance with WAC 196-12-050, before he or she can take the second stage (PE) examination. If the applicant has at least eight years of qualifying engineering experience, the PE examination may be applied for at the same time that he or she applies for the FE examination. The PE application may also be submitted before the results of the FE examination have been received, provided the application is submitted at least four months before the second stage examination date.

All applications ((shall be sent to the registrar of the board;)) must be completed on forms provided by the board and filed with the executive director at the board's ((official)) address((, on forms provided by the board)). The deadline for ((receipt of)) properly completed applications ((properly filled out and)) accompanied by the ((application)) appropriate fee and charge as listed in WAC 196-26-020 is four months ((before)) prior to the date of the examination. ((Verification of the applicant's claimed experience must be in the board office three months before the date of the examination.)) Late applications ((received after the deadline)) will be ((held for consideration)) considered for a later examination. ((Lack of verification of experience will also cause the application to be held for a later examination. Those who have previously taken the examination and failed or those who qualified and did not appear for the examination are required to notify the board office in writing three months before the next examination which they intend to take.)) Supporting documents such as college transcripts and experience verification forms must be submitted in a timely manner in order for the board to meet examination preparation deadlines. An applicant will be notified what documents are missing, and a date set by the board by which those documents must be received. Failure to have the missing documents sent to the board by the defined deadline will result in the application being delayed until a later examination.

To reschedule the taking of an examination, a written request accompanied by the applicable fee and charge as listed in WAC 196-26-020 is required at least three months prior to the examination date. Once an application has been approved, no further application is required.

AMENDATORY SECTION (Amending WSR 92-01-101, filed 12/17/91, effective 1/17/92)

WAC 196-12-020 Experience records. ~~(((1) Evaluation of records: The basic requirement for registration as a professional engineer is a specific record of eight years or~~

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more of approved experience in engineering work of a professional grade. The provisions of the law are that any experience by college study, as defined below, must be substantiated by an official transcript, the supplying of which is the responsibility of the applicant.

(a) Graduation in an approved engineering college curriculum of four years is equivalent to four years of the required experience.

(b) Satisfactory completion of each year of such an approved engineering curriculum is equivalent to one year of experience.

(c) Graduation in a program in engineering technology approved by the accreditation board for engineering and technology (ABET) is equivalent to three years of required experience. Satisfactory completion of each year of such an approved program is equivalent to three-fourths of one year of experience.

(d) Graduation in a program in engineering technology from a non-ABET approved curricula, however approved by the board, is equivalent to two years of required experience. Satisfactory completion of each year of such a program is equivalent to one-half of one year of experience.

(e) Satisfactory completion of each year of a nonapproved curriculum in engineering may be granted up to a maximum of one-half of one year of experience. Coursework in such a program must be equivalent to that of an approved curriculum to grant maximum experience credit.

(f) Graduation in a curriculum other than engineering will be evaluated by the board.

(g) Postgraduate study in engineering may be given credit up to one year. A postgraduate degree must be obtained to be granted maximum experience credit.

(h) Applicants having engineering degrees from countries other than the United States or Canada may be required to have their transcripts evaluated by a transcript evaluation service approved by the board. This evaluation will be performed at the applicant's expense, and the applicant will be responsible for submitting all the necessary information to the evaluation service. The board shall not take any action on an application until the report from the evaluation service and all other documents are received.

(i) The board may approve engineering degree programs from countries other than the United States and Canada. A listing of said approved programs will be maintained in the board office. Graduation from such an approved program will exempt the applicant from utilizing the transcript evaluation service.

(2) Colleges recognized by the board: All student's credits from curricula approved by the accreditation board for engineering and technology are accepted. In the state of Washington student's credits from other curricula than those approved by the accreditation board for engineering and technology may be accepted at the discretion of the board.

(3) In evaluating the work experience required to qualify for registration, the following criteria will be used:

(a) In the normal educational sequence, experience gained between semesters or quarters will not be considered as professional experience.

(b) In situations where the experience/educational track is intermixed with a degree attained late in the sequence, edu-

ational achievement will not be counted in addition to work experience in determining total experience. However, professional work experience will not necessarily be considered as starting subsequent to graduation but will be evaluated in total with consideration given to progression in level of technical complexity and responsibility.

(c) Where a degree is not attained, but at least three years of education in an approved curriculum has been completed prior to a work experience track, the education will be considered in conjunction with the work experience in determining the total years of experience.

(d) Engineering teaching of a character satisfactory to the board may be recognized as professional level experience up to a maximum of two years.

(e) Any work experience gained in a situation which violates the provisions of chapter 18.43 RCW or Title 196 WAC will not be credited towards the statutory experience requirement.

(f) The statutory experience requirement to qualify for examination must be completed sixty days prior to the date of examination. Furthermore, the applicant is to provide the necessary verification of said experience up to the sixty day limit.

(4) An applicant must have passed the first stage of the examination and be enrolled as an E.I.T. in accordance with WAC 196-12-050 before applying for the second stage or branch examination.)) The law requires eight years of experience in engineering work of a character satisfactory to the board and passing the fundamentals of engineering examination to be eligible for the second stage (PE) engineer examination. These eight years must be of broad based, progressive experience to include gaining knowledge and comprehension of engineering subjects and applying engineering principles. The eight years of experience must be completed sixty days prior to the date of the examination.

The board shall evaluate all experience, which includes education, on a case-by-case basis and approve such experience as appropriate. The board will use the following criteria in evaluating an applicant's experience record:

(1) Education experience will be based on transcripts. Therefore, any transcripts not previously sent to the board's office should be submitted for maximum experience credit. Education may be approved as experience based on the following:

(a) Graduation with a baccalaureate degree in engineering approved by the engineer accreditation commission (EAC) of the accreditation board for engineering and technology (ABET) shall be equivalent to four years of required experience. Satisfactory completion of each year of such an approved engineering curriculum is equivalent to one year of experience.

(b) Graduation with a baccalaureate degree in a program in engineering technology approved by the technology accreditation commission (TAC) of the accreditation board for engineering and technology (ABET) is equivalent to three years of required experience. Satisfactory completion of each year of such an approved program is equivalent to three-fourths of one year of experience.

(c) Graduation in an approved four year non-ABET accredited engineering curriculum will be given a maximum of three years of experience.

(d) A maximum of one year may be granted for post-graduate engineering courses approved by the board for those applicants having earned degrees in accordance with (a), (b) or (c) of this subsection.

(e) A nonengineering bachelor of science program can be given a maximum of two years of experience. If the degree is followed by a master of science in engineering from a school that has an ABET accredited undergraduate program in the same discipline as the master's degree, a maximum of four years of experience may be granted for this combination of education.

(f) Graduation with an associate degree in engineering from an approved curriculum may be equivalent of up to two years of required experience.

(g) Education gained in a piecemeal fashion over time where no degree is conferred will be granted up to a maximum of two years of experience. For the purpose of this subsection, education in a "piecemeal fashion" means: One or two classes taken at a time, often at different schools; seminars; workshops; and classes taken through industry and the military. In order to determine the appropriate amount of experience, this type of education will be compared to college coursework in a baccalaureate of engineering technology degree program.

(h) The board may approve engineering degree programs from other countries.

(i) A number of foreign degree programs are included in mutual recognition agreements entered into by ABET with other accrediting authorities. Applicants with a degree from one of these programs will be evaluated in accordance with (a) and (b) of this subsection. A list of those approved mutual recognition degree programs is maintained in the board office.

(ii) Applicants having engineering degrees from programs in countries that are not on the mutual recognition list will be required to have their transcripts evaluated by a transcript evaluation service approved by the board. This evaluation will be performed at the applicant's expense, and the applicant will be responsible for submitting all necessary information to the evaluation service. If the evaluation service says that the foreign degree is equivalent to an ABET accredited degree, experience will be granted in accordance with (a) or (b) of this subsection. If the evaluation says that the foreign degree is not equivalent to an ABET accredited degree, then a maximum of three years of experience may be granted in accordance with (c) of this subsection.

(iii) An applicant with an undergraduate foreign degree from a program that is not on the mutual recognition list, can waive the requirement for a degree evaluation if they have a master of science in engineering from a school that has an ABET accredited undergraduate engineering degree program in the same discipline as the master's degree. A maximum of four years of experience can be granted for this combination of education.

(i) Any other education will be taken into account and evaluated on its merits.

(j) Work experience gained between semesters or quarters or during summers while enrolled in an approved curriculum will be considered as part of the educational process. The board grants one year of experience for a year of approved education including any associated work experience within that year.

(2) Work experience will be approved based on a demonstration of competency and progressive responsibility in the analysis, synthesis and evaluation of engineering concepts and data, under the direct supervision of a person authorized by chapter 18.43 RCW or other applicable statute to practice engineering. Under the general guidance and direct supervision of an authorized professional, the applicant must be in a position of making independent judgments and decisions in the following experience areas:

(a) Formulating conclusions and recommendations;

(b) Identifying design and/or project objectives;

(c) Identifying possible alternative methods and concepts;

(d) Defining performance specifications and functional requirements;

(e) Solving engineering problems;

(f) Interacting with professionals from other areas of practice;

(g) Providing independent judgment/evaluation to peers and/or clients based on your expertise;

(h) Demonstrating an understanding and concern for energy/environmental considerations, and sustainability of resources.

(3) The branch of structural engineering requires specialized work experience to protect the public safety. To be eligible to take the structural principle and practice examination, an applicant must have eight years of progressive responsibility in structural engineering experience documented in the application in accordance with subsection (2) of this section. This experience must be supervised by a licensed professional engineer in the branch of structural engineering or a licensed professional engineer with significant structural engineering work experience. Up to five years of this experience may be gained through education in accordance with subsection (1) of this section. In order to be granted the fifth year, a postgraduate degree in engineering with a concentration of structural courses must be obtained from a school that has an ABET accredited undergraduate program in engineering.

(4) Engineering teaching character may be considered satisfactory experience up to a maximum of two years.

(5) Applied research is considered satisfactory experience when it meets the following conditions:

(a) The research must be conducted under the guidance or supervision of a licensed engineer. For the purposes of this subsection, guidance or supervision means being cognizant of all applicable aspects of the work and a reviewer of all applicable reporting documentation.

(b) The principle result(s) of the research are in a published report or a recognized engineering journal article in which the applicant is the first author or the work is adequately documented and available to the board upon request.

(6) For military engineering experience to be considered acceptable, it should be similar to engineering experience that

would be gained in a nonmilitary environment as defined in subsection (2) of this section, and such experience must be verified.

(7) Any work experience gained without the supervision of a professional engineer authorized to practice under chapter 18.43 RCW or an individual authorized by another statute to practice engineering, or any work experience gained in any other situation which violates the provisions of chapter 18.43 RCW or Title 196 WAC will not be counted toward the statutory experience requirement.

AMENDATORY SECTION (Amending WSR 93-01-081, filed 12/15/92, effective 1/15/93)

WAC 196-12-030 Examinations. (1) ~~(The examination is given in three parts; fundamentals of engineering (EIT), branch (PE), and law. All examinations are given with open book unless otherwise specified by the board.~~

~~For the specific branch of engineering in which the applicant desires to qualify, and for the times and places of such examinations, see WAC 196-24-050.~~

~~(2) The following rules shall apply:~~

~~(a) Applicants must be enrolled as an engineer-in-training in order to take the branch examination.~~

~~(b) Applicants enrolled as an EIT in any other state, territory, or possession of the United States, the District of Columbia, or a foreign country by virtue of a written examination comparable to that given by the state of Washington will be exempt from taking the fundamentals of engineering examination.~~

~~(c) All qualified applicants are required to take the examination in the specific branch of engineering in which they desire to become registered.~~

~~(d) All three parts of the examination must be passed to become licensed as a professional engineer. Except for candidates who have been approved to waive the fundamentals and engineering exam under WAC 196-12-050(2); those candidates must write only the branch and law exams.~~

~~(3) Applicants for a professional engineer (PE) license, either by examination or comity, must take and pass the law portion of the examination effective as follows:~~

Examination

~~Starting with the April 16, 1993, examination, and continuing with future licensing examinations, PE applicants being examined for initial licensure shall also take the law exam. Initial licensure, in the context of this section, means licensure for an applicant who has not previously obtained a professional license under chapter 18.43 RCW in the state of Washington.~~

Comity

~~Any applicant for licensure by comity whose application is postmarked on or after April 1, 1993, shall take the law examination.~~

~~(a) The law examination will cover the following sections of statute and administrative code:~~

~~Chapter 18.43 RCW;
Chapter 196-04 WAC;
Chapter 196-08 WAC;~~

~~Chapter 196-12 WAC;
Chapter 196-16 WAC;
Chapter 196-20 WAC;
Chapter 196-24 WAC;
Chapter 196-26 WAC;
Chapter 196-27 WAC.~~

~~(b) The examination is multiple choice format and will be administered as a "take-home" exam. The law exam shall be taken after the branch exam.~~

~~(c) A candidate failing the law examination may retake the examination upon notice that they did not pass.)) Except as provided in WAC 196-12-050, to become licensed as a professional engineer the candidate must pass two stages of examination. The first stage is the fundamentals of engineering examination. The second stage examination consists of multiple parts including the principles and practice (branch) examination and law and ethics examination. The law and ethics exam is a take-home examination covering chapter 18.43 RCW and Title 196 WAC. The fundamentals of engineering examination must be passed, or waived in accordance with WAC 196-12-050, before taking the second stage examination.~~

~~Examinations are given at times and places designated by the board. The schedule of future examinations and examination syllabi may be obtained from the board office. Examinees will not be allowed to view any examination material prior to taking the examination other than syllabi available to the public or sample examination booklets published by the National Council of Examiners for Engineering and Surveying. If one examination part is failed, only that examination part must be retaken.~~

~~(2) If a professional engineer holding a current registration in the state of Washington wants to become licensed in multiple branches of engineering, an additional principle and practice examination must be taken in each branch.~~

~~(3) The branch of structural engineering requires a more exhaustive principle and practice examination to protect the public safety. In addition to the stage 1 fundamentals of engineering examination, to become licensed as a professional engineer in the branch of structural engineering, the candidate must pass the stage 2 examination comprised of all parts of the principles and practice of structural engineering examination, including a demonstration of competency in structural engineering issues important to Washington state, and the law and ethics examination.~~

~~(4) Except for the law and ethics examination, an exam part may be reviewed if it is failed. Examinees who achieve a passing score will not be permitted to review their examination. The purpose of examination review is to permit the examinee an opportunity to review his or her exam in order to identify areas of poor performance. This is not an opportunity to take notes for future reference.~~

~~Failing examinees may review their examination (test booklet, answer sheet and/or solution pamphlet and answer key) during a period of time prescribed by the board. Examinees who fail to review their exam during the prescribed time will not be scheduled for an examination review. The examination review guidelines are as follows:~~

(a) An examinee can review his or her examination one time only. An appointment for this review must be arranged in advance with board staff.

(b) All examination reviews will be in the presence of a member of board staff. No one may accompany the examinee during the examination review, except where persons with disability require assistance. In that case, the need for assistance must be conveyed to staff when the review appointment is made.

(c) For examinations having machine scored answer sheets, the examinee will be allowed to review a copy of his or her answer sheet, not the original.

(d) Each reviewer will be given a review sheet that they can take with them following the review. This review sheet will include the problem number, problem subject matter, score achieved for each problem and total score. Reviewers will not be permitted to add further information to the review sheet.

(e) Scratch paper and writing instruments will be provided during the examination review. However, scratch paper may not be removed from the review area.

(5) Individuals may appeal to have their examination rescored only at the time they review their exam. Multiple choice questions are not appealable. Essay (free response) type questions may be appealed if the reviewer can demonstrate, in writing, sufficient technical justification that their solution deserves reconsideration.

The required fee for rescoring must be paid at the time the rescore request is made. The results of the rescore are final and no additional administrative appeals are available.

NEW SECTION

WAC 196-12-045 Comity registration of applicants qualified in other jurisdictions. (1) Applicants for registration as a professional engineer by comity must meet the following criteria:

(a) The applicant must complete an application on forms provided by the board and filed with the executive director at the board's address accompanied by the appropriate fee and charge pursuant to WAC 196-26-020.

(b) The applicant's qualifications must meet the requirements of chapter 18.43 RCW and this chapter.

(c) The applicant is in good standing with the licensing agency in a state, territory, possession, district, or foreign country. Good standing shall be defined as a currently valid license in the jurisdiction of original registration or the jurisdiction of most recent practice if different from the jurisdiction of original registration.

(d) The applicant has been qualified by written examinations determined by the board to adequately test the fundamentals and principles and practice of engineering.

(2) The applicant will be required to pass the law and ethics examination and may be required to take and pass state specific examinations to demonstrate competency in issues specific to Washington.

(3) The original application for comity may be for multiple branches of engineering provided that the applicant has passed an examination in each branch equivalent to the examination given in the state of Washington. Licenses will

be issued only in the branches of engineering offered by the board. Additional branches may be added at a later time; however, this will require submitting a new application and fee.

AMENDATORY SECTION (Amending WSR 93-01-081, filed 12/15/92, effective 1/15/93)

WAC 196-12-050 (~~Evaluation of candidates for engineering licenses.~~) **Waiving the fundamentals-of-engineering examination.** ((1) A candidate who is enrolled as an E.I.T. is required to write both the examination in the branch approved by the board and the law examination to obtain licensure.

~~(2) Candidates who have had)~~ **An applicant who has at least twelve years of experience satisfactory to the board ((and hold)) as identified in WAC 196-12-020(2) after obtaining a baccalaureate degree in an approved engineering curriculum as defined in WAC 196-12-020 (1)(a) and (h)(i) and (ii), may request that the stage 1 fundamentals-of-engineering (FE) examination be waived and that ((they be permitted)) permission be granted to ((write the branch and law examinations only.**

~~(3) A professional land surveyor seeking registration as a professional engineer should refer to WAC 196-12-020))~~ **take the stage 2 examination (principles and practice and law and ethics) only: *Provided*, That the applicant has not failed the FE examination within the last ten years.**

The opportunity to waive the stage 1 examination is based on the premise that the demonstration of a solid experience record is a better measure of engineering competency than the passage of the stage 1 examination at this point in the applicant's career. It is the board's discretion, based on information provided in the application, as to whether to grant a waiver.

Teaching experience is not limited to two years for the purposes of qualifying for this waiver.

The applicant should take note that a license granted based on waiving the fundamentals exam may not be accepted by other licensing jurisdictions.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 196-12-060	Persons enrolled as E.I.T.s.
WAC 196-12-085	Corporation or joint stock associations.

AMENDATORY SECTION (Amending WSR 93-01-081, filed 12/15/92, effective 1/15/93)

WAC 196-24-105 Examination review. (~~The following conditions shall apply to all examinations administered by the board except the law examination. The law exam may not be reviewed:~~

~~First time examinees shall not be allowed to view any examination material prior to taking the examination other~~

than syllabi available to the public or sample examination booklets published by the National Council of Examiners for Engineering and Surveying.

~~Examinees who achieve a passing score will not be permitted to review their examination.~~ (1) Except for the law and ethics examination, an exam part may be reviewed if it is failed. Examinees who achieve a passing score will not be permitted to review their examination. The purpose of examination review is to permit the examinee an opportunity to review his or her exam in order to identify areas of poor performance. This is not an opportunity to take notes for future reference.

Failing examinees may review their examination (test booklet, answer sheet or solution pamphlet and answer key) during a period ~~((of up to ninety days))~~ as prescribed by the board. ~~((Examinees shall review their examinations only during the prescribed time period.))~~ Examinees who fail to review their exam during the prescribed time will not be scheduled for an examination review. ~~((This review shall be under the following conditions:~~

~~((1))~~ The examination review guidelines are as follows:

~~((a))~~ (a) An examinee shall be able to review his/her examination one time only. This review shall be arranged in advance by appointment with ~~((office))~~ board staff.

~~((2))~~ (b) All examination reviews shall be conducted in the presence of a member of the ~~((office))~~ board staff. No one may accompany the examinee during the examination review except where persons with disability require assistance, and that need is conveyed to staff when the exam review appointment is made.

~~((3))~~ ~~In regard to any~~ (c) For examinations ((consisting of)) having machine scored answer sheets, the examinee shall be allowed to review a copy of his/her answer sheet.

~~((4))~~ Note taking shall be limited to examination scoring and general problem subject matter. No detailed notes depicting any portion of an examination question or solution will be permitted.

~~((5))~~ Board of registration staff shall supply the examinee with writing materials for taking notes.

~~((6))~~ All notes must be reviewed by board staff prior to the examinee leaving the office.

~~((7))~~ All examination appeals shall be conducted in conformance with the policies and procedures adopted by the board. Any questions pertaining to an appeal of examination scoring shall be directed to supervisory staff. ~~((d))~~ Each reviewer will be given a review sheet that they can take with them following the review. This review sheet will include the problem number, problem subject matter, score achieved for each problem and total score. Reviewers will not be permitted to add further information to this review sheet.

(e) Scratch paper and writing instruments will be provided during the examination review. However, scratch paper may not be removed from the review area.

(2) Individuals may appeal to have their examination rescored only at the time they review their exam. Multiple choice questions are not appealable. Essay (free response) type questions may be appealed if the reviewer can demonstrate, in writing, sufficient technical justification that their solution deserves reconsideration. The required fee for rescoring must be paid at the time the rescore request is made.

The results of the rescore are final, and no additional appeals are available.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 196-24-030	Comity.
WAC 196-24-040	Applications.
WAC 196-24-050	Examinations.

WSR 98-08-106

PROPOSED RULES

DEPARTMENT OF LICENSING

(Board of Registration for Professional Engineers and Land Surveyors)

[Filed April 1, 1998, 11:06 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 97-18-039.

Title of Rule: Business practices, chapter 196-25 WAC.

Purpose: To implement the provisions of legislation enacted in 1997 (chapter 247, Laws of 1997) as codified in RCW 18.43.130 Excepted services—Fees (effective July 1, 1998).

Statutory Authority for Adoption: RCW 18.43.035, 18.43.130.

Statute Being Implemented: RCW 18.43.130.

Summary: In the 1997 legislation provisions were made amending the registration requirements for engineering corporations, engineering partnerships, PS corporations. It also clarifies the recognition of joint stock associations and establishes the requirements for the new category of limited liability companies. The rules under this filing deal with the administration of these statutory amendments.

Reasons Supporting Proposal: Implements existing statutory language that becomes effective July 1, 1998. These rules provide for a more simplified process.

Name of Agency Personnel Responsible for Drafting: Rick Notestine, 405 Black Lake Boulevard, Olympia, WA, (360) 753-3634; Implementation and Enforcement: George A. Twiss, 405 Black Lake Boulevard, Olympia, WA, (360) 586-3361.

Name of Proponent: Board of Registration for Professional Engineers and Land Surveyors, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: These rules are necessary to implement the registration process for the business categories identified in the enabling legislation.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The 1997 legislature amended chapter 18.43 RCW to include changes to the registration requirement for corpo-

rations and partnerships that offer engineering services in Washington. This amendment also clarifies the registration of joint stock associations and establishes the requirements for limited liability companies that will be offering engineering and land surveying services that were not previously recognized in chapter 18.43 RCW.

The rules proposed for new chapter 196-25 WAC are a combination of amendments to the old rules for engineering corporation currently codified in chapter 196-24 WAC and new rules dealing with revised corporation provisions, joint stock associations and limited liability companies that offer engineering and/or land surveying services in Washington.

These rules set forth a simplified process for the registration of these business entities under chapter 18.43 RCW.

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

No small business economic impact statement has been prepared under chapter 19.85 RCW. The 1997 legislature made changes to RCW 18.43.130 impacting corporations, joint stock associations and engineering partnerships. These changes were: Engineering partnerships and PS corporations would no longer be required to apply to the board for a certificate of authority to practice in the state; all other corporations practicing engineering would continue to apply; corporations practicing land surveying, and limited liability companies practicing engineering and/or land surveying would now be required to apply to the board to practice, where in the past, they did not. Chapter 196-25 WAC did not create these requirements, but is written to implement the legislative changes.

The Board of Registration mailed 5,200 packets of information out to the regulated community informing them of the rule changes. About 3,000 of those were sent to engineering businesses as provided on a list by the Department of Revenue under SIC Code 8711. The majority of engineering businesses fall within the definition of "small business."

The documents mailed included the board's analysis of the impact of chapter 196-25 WAC on the engineering business community. The board found no significant impact of these rules on business. Of the 5,200 mailings, there were thirty-three responses for a return rate of 0.6%. No respondent identified an economic impact due to this rule that could be addressed by this rule making.

RCW 34.05.328 does not apply to this rule adoption. These rules are required to implement the 1997 legislation in chapter 247, Laws of 1997. These rules set forth registration requirements and procedures for the application and issuance of a certificate of authorization (permit) for certain business entities to offer and practice engineering or land surveying in the state of Washington (RCW 34.05.328 (5)(c) Procedural rule).

Hearing Location: Sea-Tac Hilton Hotel, 17620 Pacific Highway South, SeaTac, WA 98188, on May 7, 1998, at 3:00 p.m.

Assistance for Persons with Disabilities: Contact Shan Gillespie, (360) 586-7568, by April 22, 1998, TDD (360) 586-2788.

Submit Written Comments to: Rick Notestine, Program Director, Board of Registration for Professional Engineers

and Land Surveyors, P.O. Box 9649, Olympia, WA 98507-9649.

Date of Intended Adoption: May 7, 1998.

March 31, 1998

George A. Twiss

Executive Director

Chapter 196-25 WAC

BUSINESS PRACTICES

NEW SECTION

WAC 196-25-001 Purpose. The purpose of this chapter is to implement that part of chapter 18.43 RCW related to corporations and limited liability companies offering engineering and land surveying services, as enacted by the 1997 legislature.

NEW SECTION

WAC 196-25-002 Definitions. Board. The Washington state board of registration for professional engineers and land surveyors.

Professional engineer. A person registered by the board under chapter 18.43 RCW to practice engineering in this state.

Professional land surveyor. A person registered by the board under chapter 18.43 RCW to practice land surveying in this state.

Business. A corporation, joint stock association or limited liability company that is practicing or offering to practice, engineering or land surveying or both in this state.

Designee. A currently registered professional engineer designated by the business to be in responsible charge of engineering activities for the business in this state, OR, a currently registered professional land surveyor designated by the business to be in responsible charge of land surveying activities for the business in this state.

Certificate of authorization. A certificate issued by the board, pursuant to chapter 18.43 RCW, to a business authorizing it to practice engineering or land surveying or both in this state. (Note: This is a different certificate than the certificate of authorization that may be filed with the secretary of state.)

NEW SECTION

WAC 196-25-005 Businesses that must be authorized by the board. Except for professional service (PS) corporations and professional service limited liability companies (PLLC's), all corporations, joint stock associations and limited liability companies (LLC's) that offer engineering or land surveying services must apply to the board for a certificate of authorization to practice engineering or land surveying or both in the state of Washington.

PROPOSED

Effective July 1, 1998, engineering partnerships currently registered with the board will no longer be required to pay an annual renewal fee. Also effective July 1, partnerships and limited liability partnerships offering engineering and/or land surveying services will not be required to apply for a certificate of authorization from the board. However, the partnership must employ at least one person currently registered as a professional engineer or professional land surveyor or both under chapter 18.43 RCW.

NEW SECTION

WAC 196-25-010 Applications. All applications must be completed on forms provided by the board and filed with the executive director at the board's address and be accompanied by the appropriate fee as listed in WAC 196-26-020.

NEW SECTION

WAC 196-25-020 Corporations or joint stock associations. (1) The following will be submitted with the application for a certificate of authorization: A certified copy of a resolution of the board of directors; identification of the designee(s); an affidavit signed by the designee(s); a copy of the certificate of incorporation or certificate of authorization as filed with the secretary of state; and, a copy of the corporation's current Washington business license.

(2) The resolution of the board of directors of the corporation designating person(s) must also provide full authority to the designee to make all final engineering or land surveying decisions respectfully on behalf of the corporation for work performed by the corporation in this state.

The resolution must further state that the bylaws of the corporation shall be amended in accordance with RCW 18.43.130 (8)(c) pertaining to engineering or land surveying decisions made by the designee.

NEW SECTION

WAC 196-25-030 Limited liability companies. (1) The following must be submitted with the application for a certificate of authorization: A certified copy of a resolution by the company manager or managers; identification of the designee(s); an affidavit signed by the designee(s); a copy of the certificate of formation as filed with the secretary of state; and, a copy of the company's current business license.

(2) The resolution by the limited liability company manager or managers designating person(s), must also provide full authority to the designee to make all final engineering or land surveying decisions respectfully on behalf of the company for work performed by the company in the state of Washington. The resolution must further state that the limited liability company agreement shall be amended in accordance with RCW 18.43.130 (10)(b) pertaining to engineering or land surveying decisions made by the designee.

NEW SECTION

WAC 196-25-040 Provisions pertaining to both corporations and limited liability companies. (1) If the busi-

ness offers both engineering and land surveying services, there must be a designee for each profession. If a person is licensed in both engineering and land surveying, that person may be designated for both professions.

(2) An affidavit must be signed by the designee(s) stating that he or she knows they have been designated by the business as being responsible for the engineering and/or land surveying activities in the state of Washington.

(3) The designated engineer and/or designated land surveyor must be an employee of the business.

(4) No person may be the designated engineer or designated land surveyor at more than one business at any one time.

(5) If there is a change in the designee(s), the business must notify the board in writing within thirty days of the effective date of the change and submit a new affidavit.

(6) If the business changes its name, the business must submit a copy of its amended certificate of authority or amended certificate of incorporation (for corporations) or a copy of the certificate of amendment (for LLC's), as filed with the secretary of state within thirty days of the filing.

(7) At the time of renewal, a copy of the business' business license must be submitted to insure that the company is registered with the secretary of state and has a current uniform business identification (UBI) number.

(8) The filing of the resolution shall not relieve the business of any responsibility or liability imposed upon it by law or by contract. Any business that is certified under chapter 18.43 RCW and this chapter is subject to the authority of the board as provided in RCW 18.43.035, 18.43.105, 18.43.110, and 18.43.120.

WSR 98-08-108

PROPOSED RULES

DEPARTMENT OF AGRICULTURE

[Filed April 1, 1998, 11:30 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-04-078.

Title of Rule: Quarantine—Agriculture pests.

Purpose: To add Skagit County to the existing apple maggot quarantine area.

Statutory Authority for Adoption: RCW 17.24.041.

Statute Being Implemented: Chapter 17.24 RCW.

Summary: The proposed rule change adds Skagit County to the existing quarantine area and is intended to prevent or minimize possible movement of apple maggot from Skagit County into uninfested areas.

Reasons Supporting Proposal: Growers will not need a permit to transport fruit from place to place within quarantine areas.

Name of Agency Personnel Responsible for Drafting: Mary Toohey, 1111 Washington Street, Olympia, WA 98504-2560, (360) 902-1907; Implementation and Enforcement: Diane Dolstad, 1111 Washington Street, Olympia, WA 98504-2560, (360) 902-2071.

Name of Proponent: Apple Maggot Working Group and Washington State Department of Agriculture, public and governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Apple maggot is an economically significant pest of apples which is not presently established in commercial apple production areas of eastern Washington, but which is established in other areas of the state and in other states. The existing rule establishes quarantine areas within Washington and between this state and other states, so that apple maggot is not allowed to infest in areas. Insect trapping data from 1996 and 1997 indicates that apple maggot has recently become established in portions of Skagit County. The proposed rule change adds Skagit County to the existing quarantine area and is intended to prevent or minimize possible movement of apple maggot from Skagit County into uninfested areas.

Proposal Changes the Following Existing Rules: The proposed rule change is intended to prevent or minimize the possible movement of apple maggot from Skagit County into uninfested areas, such as the commercial apple-growing areas of eastern Washington. Other changes were requested by apple growers in order to clarify existing rules, so that it is clear that growers do not need a permit to transport fruit from place to place within quarantine areas within the state.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Although this rule change has potential to negatively impact Skagit County growers, the intent of the rule is to preserve the apple growing industry state-wide. By doing so, apple growers will maintain the ability to market fruit internationally and interstate into areas which quarantine apple maggot.

The number of growers and commercial acreage of apples in Skagit County and the potential economic impact to Skagit County apple growers is a relatively small portion of the total state-wide apple industry

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: Washington State University - Mount Vernon, Research and Extension Unit, 1468 Memorial Highway, Mount Vernon, WA 98273, on May 18, 1998, at 11:00 a.m.

Assistance for Persons with Disabilities: Contact Cathy Jensen by May 11, 1998, TDD (360) 902-1996, or (360) 902-1976.

Submit Written Comments to: Mary A. Martin Toohey, Assistant Director, Washington State Department of Agriculture, Laboratory Services Division, P.O. Box 42560, Olympia, WA 98504-2560, FAX (360) 902-2094 by May 18, 1998.

Date of Intended Adoption: June 2, 1998.

April 1, 1998

Mary A. Martin Toohey
Assistant Director

AMENDATORY SECTION (Amending WSR 97-09-098, filed 4/23/97, effective 5/24/97)

WAC 16-470-100 Quarantine—Apple maggot and plum curculio—Area under order. (1) The following areas are declared by the director to be under quarantine for apple maggot:

(a) Exterior quarantine. All states or foreign countries where apple maggot is established, including but not limited to the states of North Dakota, South Dakota, Nebraska, Oklahoma, and Texas, and all states east thereof including the District of Columbia, and the states of Idaho, Oregon, Utah, and California, and any other areas where apple maggot is established.

(b) Interior quarantine. The entire counties of Clallam, Clark, Cowlitz, Grays Harbor, Island, Jefferson, King, Kitsap, Klickitat, Lewis, Mason, Pacific, Pierce, Snohomish, Spokane, Skagit, Skamania, Thurston and Wahkiakum, and any other counties where apple maggot is established.

(c) Regional area quarantine. When mutually agreed upon, and formally accepted by the directors of the Washington state department of agriculture and Oregon state department of agriculture the following shall apply: In Oregon state the counties of Wasco and Hood River and in Washington state the counties of Skamania and Klickitat will be considered a single production area. Commercial fruit produced in these counties may move freely throughout this production area unless regulatory measures as prescribed in WAC 16-470-120 are implemented.

(2) The following areas are declared by the director to be under quarantine for plum curculio: Utah, and, in the eastern United States, all states and districts east of and including the states of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas, and any other areas where plum curculio is established.

(3) The following definitions shall apply to WAC 16-470-100 through 16-470-120:

(a) "Apple maggot (*Rhagoletis pomonella*)" means a dipterous insect belonging to the family Tephritidae which in the larval stage lives within fruit of its host plants with potential for causing extensive damage to fruit of certain crops.

(b) "Established" means present in a country, state, county or other area, multiplying and expected to continue.

(c) "Plum curculio (*Conotrachelus nenuphar*)" means a coleopterous insect of the family Curculionidae which in the larval stage lives within the fruit of its host plants with potential for causing extensive damage to fruit of certain crops.

(d) "Threatened with infestation" means that any life stage of apple maggot or plum curculio has been found within one-half mile of production site including any portion of an orchard outside or beyond the one-half mile boundary if any portion of the orchard is within the one-half mile area.

AMENDATORY SECTION (Amending Order 1862, filed 7/8/85)

WAC 16-470-120 Apple maggot and plum curculio quarantine restrictions—Interior/exterior. (1) Certification required. Commodities described in WAC 16-470-110 that are produced in or shipped from the area under quaran-

PROPOSED

tine are prohibited entry into the state of Washington or movement within areas not under quarantine in the state of Washington unless a certificate issued by and bearing the original or facsimile signature of the authorized agricultural official of the state from which the commodity is shipped evidencing compliance with WAC 16-470-120 (3), (4), (5), (7), (8), or (9). No certificate is required for commodities meeting the requirements of WAC 16-470-120 (2) or (6).

(2) Reshipments in original containers. Commodities in original unopened containers, each bearing labels or other identifying marks evidencing origin outside the area under quarantine, may be reshipped to this state from any point within the area under quarantine.

(3) Repacked commodities. Each lot or shipment of commodities certified by an authorized agricultural official to have been grown outside the area under quarantine and which has had continued identity maintained while within the area under quarantine, may be repacked and shipped by common carrier from any point within the area under quarantine to this state. The certificate shall contain the following information:

- (a) The state in which commodities were grown,
- (b) The point of repacking and reshipment,
- (c) The amount and kind of commodities comprising the lot or shipment,
- (d) The names and addresses of the shipper and consignee.

(4) Apples exposed to controlled atmosphere (CA) storage. Apples which are exposed to controlled atmosphere (CA) storage for a continuous period of ninety days, during which period the temperature within the storage room has been maintained at thirty-eight degrees Fahrenheit or less, may be admitted into Washington: *Provided*, That the storage room or building is approved by the proper authorities in the state of origin as a controlled atmosphere facility, and each lot or shipment of such apples to Washington state is accompanied by a certificate, as provided in WAC 16-470-120(1).

(5) Shipments from cold storage. Commodities described in WAC 16-470-110 which are held in cold storage for a continuous period of forty days or more, during which period the temperature within the storage room is maintained at thirty-two degrees Fahrenheit or less, may be admitted into Washington state: *Provided*, That each lot or shipment is accompanied by a certificate, as stated in WAC 16-470-120(1) evidencing compliance with the minimum temperature requirements.

(6) Solid frozen fruits exempt. No restrictions are placed on the entry into this state of fruits which upon arrival are frozen solid and which are under refrigeration to assure their solid frozen state.

(7) Commercial fresh fruit from California, Idaho, Utah, Oregon, and Washington. All commercial fresh fruit as described in WAC 16-470-110 grown in and shipped from the states of California, Idaho, Utah, Oregon, and Washington may be shipped into or within Washington state: *Provided*, That the origin state department of agriculture conducts an adequate apple maggot (and plum curculio in Utah and in any other state where plum curculio is detected) detection program and provides the Washington state department of agriculture immediate written notification of detections in

counties where apple maggot (and plum curculio in Utah and in any other state where plum curculio is detected) has not been previously detected, and the origin state shall certify that shipments originated in an area found to be free from apple maggot (and plum curculio in Utah and in any other state where plum curculio is detected) and were grown in a commercial orchard and have not been placed under quarantine by the origin state or the director.

(8) All commercial fresh fruit of apple (including crabapple), cherry, hawthorn (haw), plum, and prune produced in counties in the states of California, Idaho, Oregon, and Utah where apple maggot is known to occur, or all commercial fresh fruit listed in WAC 16-470-110 produced in counties in the state of Utah where plum curculio is known to occur may move into Washington under permit, when permit provisions have been authorized by the director and formally accepted by the origin state.

(9) All commercial fresh fruit of apple (including crabapple) and hawthorn (haw) produced in ~~((or))~~ an area under quarantine in Washington state and shipped ~~((from any location))~~ to or through an area not under quarantine in Washington state. The director may pursuant to RCW 17.24.105 prescribe specific regulatory or control measures to apply within designated areas to prevent or minimize the possible movement of apple maggot from commercial orchards. The following action shall be taken when it has been determined that the commercial fruit that is to be shipped from an area under quarantine to or through an area not under quarantine may be infested with or threatened with infestation by apple maggot or plum curculio.

(a) All fresh fruit of apple (including crabapple) and hawthorn (haw) (except graded culls - see (b) of this subsection) shall be sampled by an authorized agency inspector, following accepted agency and industry standards.

(i) If found to be free from apple maggot or plum curculio, a certificate as provided for in WAC 16-470-120(1) shall be issued.

(ii) If found to be infested with apple maggot or plum curculio, one or more of the following procedures shall be prescribed before any fresh fruit of apple (including crabapple) and hawthorn (haw) are moved from designated or quarantined areas.

(A) Fresh fruit to be exposed to controlled atmosphere (CA) storage as provided in WAC 16-470-120(4).

(B) Fresh fruit to be exposed to cold storage as provided in WAC 16-470-120(5).

(C) Other methods as may be prescribed by the director.

(b) Graded culls shall be subject to (a)(ii) (A) or (B) of this subsection or other requirements as prescribed by the director.

(10) All commodities as described in WAC 16-470-110 known or found to be infested with or damaged by apple maggot or plum curculio shall not be sold, held for sale, or offered for sale, except as provided for in WAC 16-470-120 (4) or (5).

WSR 98-08-109
PROPOSED RULES
DEPARTMENT OF AGRICULTURE
 [Filed April 1, 1998, 11:31 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-04-077.

Title of Rule: Noxious weed control.

Purpose: To delete *Hypericum perforatum* (common St. Johnswort) from WAC 16-752-610.

Statutory Authority for Adoption: Chapters 17.10 and 17.24 RCW.

Statute Being Implemented: Chapters 17.10 and 17.24 RCW.

Summary: As market conditions change, the sale of aggressive plant species in our state contributes to their spread as weeds and compromises ongoing control work. The Washington State Noxious Weed Control Board would prefer to focus quarantine efforts on new invaders and to delete currently established species.

Name of Agency Personnel Responsible for Drafting: Mary Toohey, 1111 Washington Street, Olympia, WA 98504-2560, (360) 902-1907; Implementation and Enforcement: Diane Dolstad, 1111 Washington Street, Olympia, WA 98504-2560, (360) 902-2071.

Name of Proponent: Washington State Noxious Weed Control Board, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: In recent years, common St. Johnswort, previously regarded as an aggressive weed species, has become sought after for its possible medicinal properties. By removing common St. Johnswort from the existing noxious weed seed and plant quarantine regulated articles, we can allow it to be harvested and sold. In addition, removing this common weed from the existing regulations will allow the Washington State Noxious Weed Control Board to focus their quarantine efforts on new invaders instead of currently established species such as this.

Proposal Changes the Following Existing Rules: The change includes removing common St. Johnswort from the existing noxious weed seed and plant quarantine regulated articles.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Removing common St. Johnswort from the existing noxious weed seed and plant quarantine regulated articles will allow our customers to sell it and make a profit from it. It will also allow the Washington State Noxious Weed Control Board to focus their quarantine efforts on new invaders instead of currently established species.

Hearing Location: Washington State Department of Agriculture, Laboratory Services Division, 1111 Washington Street, 2nd Floor, Conference Room 259, Olympia, WA 98504, on May 20, 1998, at 11:00 a.m.

Assistance for Persons with Disabilities: Contact Cathy Jensen by May 13, 1998, TDD (360) 902-1996 or (360) 902-1976.

Submit Written Comments to: Mary A. Martin Toohey, Assistant Director, Washington State Department of Agriculture, Laboratory Services Division, P.O. Box 42560, Olympia, WA 98504-2560, FAX (360) 902-2094, by May 20, 1998.

Date of Intended Adoption: June 4, 1998.

March 31, 1998

Mary A. Martin Toohey
 Assistant Director

AMENDATORY SECTION (Amending WSR 92-07-025, filed 3/10/92, effective 4/10/92)

WAC 16-752-610 Noxious weed seed and plant quarantine—Regulated articles. All plants, plant parts, and seeds in packets, blends, and "wildflower mixes" of the following listed species are regulated under the terms of this noxious weed quarantine:

Scientific Name	Common Names
<i>Amorpha fruticosa</i>	indigobush, lead plant
<i>Anchusa officinalis</i>	common bugloss, alkanet, anchusa
<i>Anthriscus sylvestris</i>	wild chervil
<i>Carduus acanthoides</i>	plumeless thistle
<i>Carduus nutans</i>	musk thistle, nodding thistle
<i>Centaurea diffusa</i>	diffuse knapweed
<i>Centaurea jacea</i>	brown knapweed, rayed knapweed, brown centauri horse-knobs, hardheads
<i>Centaurea maculosa</i>	spotted knapweed
<i>Centaurea macrocephala</i>	bighead knapweed
<i>Centaurea nigra</i>	black knapweed
<i>Centaurea nigrescens</i>	Vochin knapweed
<i>Chaenorrhinum minus</i>	dwarf snapdragon
<i>Chrysanthemum leucanthemum</i>	oxeye daisy, white daisy, whiteweed, field daisy, marguerite, poorland flower
<i>Cytisus scoparius</i>	Scotch broom
<i>Daucus carota</i>	wild carrot, Queen Anne's lace
<i>Echium vulgare</i>	blueweed, blue thistle, blue devil, viper's bugloss, snake flower
<i>Heracleum mantegazzianum</i>	giant hogweed, giant cow parsnip
<i>Hibiscus trionum</i>	Venice mallow, flower-of-an-hour, bladder ketmia, modesty, shoo-fly
<i>Hieracium aurantiacum</i>	orange hawkweed, orange paintbrush, red daisy flameweed, devil's weed, grim-the-collier
<i>Hieracium pratense</i>	yellow hawkweed, yellow paintbrush, devil's paintbrush, yellow devil, field hawkweed, king devil
(<i>Hypericum perforatum</i> — common St. Johnswort, goatweed, St. Johnswort)	
<i>Isatis tinctoria</i>	dyers' woad
<i>Kochia scoparia</i>	kochia, summer-cyprus, burning-bush, fireball, Mexican fireweed
<i>Linaria genistifolia</i> spp. <i>dalmatica</i>	Dalmatian toadflax
<i>Lepidium latifolium</i>	perennial pepperweed
<i>Mirabilis nyctaginea</i>	wild four o'clock, umbrella-wort
<i>Onopordum acanthium</i>	Scotch thistle
<i>Proboscidea louisianica</i>	unicorn-plant
<i>Salvia aethiopsis</i>	Mediterranean sage

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Scientific Name	Common Names
Silybum marianum	milk thistle
Torilis arvensis	hedgearsley
Ulex europaeus	gorse, furze
Zygophyllum fabago	Syrian bean-caper

WSR 98-08-116
PROPOSED RULES
DEPARTMENT OF HEALTH
 [Filed April 1, 1998, 11:55 a.m.]

Continuance of WSR 97-20-161.

Preproposal statement of inquiry was filed as WSR 97-15-002..

Title of Rule: Sexual misconduct, WAC 246-840-985 and 246-840-010 Definitions.

Purpose: This would create a new WAC to assist the nurses and the public in understanding the concept and actions which can be taken in disciplinary cases coming before the Nursing Commission and to ensure that the Nursing Commission's disciplinary actions are enforceable and therefore more fully protect the public.

Other Identifying Information: The rules hearing was held December 12, 1997. Additional information has been received prior to filing the CR-103 which has caused the Nursing Commission to rereview the proposed language. A public meeting will be held April 10, 1998, by the Nursing Commission to review the proposed language again.

Statutory Authority for Adoption: RCW 18.130.180(24).

Statute Being Implemented: Chapter 18.79 RCW.

Summary: This rule would make it easier for nurses and the public to understand that there are professional boundaries and standards of practice which need to be adhered to.

Reasons Supporting Proposal: Protection of the public is the commission's primary goal when the profession of nursing is practiced. This WAC would allow the commission to successfully prosecute sexual misconduct cases reported to the commission. It would also educate the caregivers and the public that sexual misconduct is not an acceptable standard of practice.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Terry J. West, 1300 S.E. Quince Street, Olympia, WA 98504, (360) 664-4207.

Name of Proponent: Washington State Department of Health, Nursing Care Quality Assurance Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Since 1993 the commission has had sexual misconduct guidelines in place. This served as a method of articulating the Nursing Commission's standards for the nursing profession when complaints involving sexual relations with patients and/or former patients were received. While the guidelines were helpful, moving them into rule would provide enforceability of commission actions. The rule would be available to all applicants, licensees, facilities and the pub-

lic via the law book and would set the standard for nursing which would be beneficial to everyone.

Having this rule in place would protect the public because it provides notice to all. It will put facilities, nurses and schools on notice, it will make the patients aware of their rights. Commission action would be enforceable. The action could remove a licensee from the practice of nursing, order therapy, remedial education, or limit the setting a nurse could practice in, or other action deemed appropriate to provide protection to the public.

Date of Intended Adoption: April 17, 1998.

March 26, 1998

Terry J. West

Co-Acting Executive Director

WSR 98-08-117
PROPOSED RULES
DEPARTMENT OF HEALTH
 [Filed April 1, 1998, 11:55 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 97-15-098.

Title of Rule: WAC 246-828-095 and 246-828-105, audiology and speech-language pathology minimum standards of practice.

Purpose: Rules are needed to provide guidance to consumers of hearing and speech health care services, members of the public and audiologists and speech-language pathologists regarding the expected and recognized minimum standards of practice.

Statutory Authority for Adoption: RCW 18.35.161 (3) and (10).

Statute Being Implemented: RCW 18.35.161(10).

Summary: The proposed new rules adopt standards of practice for the professions of audiology and speech-language pathology that are accepted and defined by the national organizations of these professions.

Reasons Supporting Proposal: There is currently no board definition of minimum standards of practice for audiology and speech-language pathology. Minimum standards of practice rules are currently in place for hearing instrument fitting and dispensing.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Diane Young, 1300 Quince Street S.E., Olympia, (360) 586-0205.

Name of Proponent: Department of Health, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The rule clearly defines the expected and recognized minimum standards of practice for audiology and speech-language pathology services. The rule is anticipated to provide guidance for consumers of hearing and speech services, members of the public and audiologists and speech-language pathologists regarding the acceptable standards of practice.

Proposal does not change existing rules.

A small business economic impact statement has been prepared under chapter 19.85 RCW.

Small Business Economic Impact Statement and Economic Impact Analysis

This report contains the economic impact analysis used by health professions quality assurance in determining program costs associated with implementing standards of practice.

Background: The state of Washington recognizes speech-language pathology as a profession that provides services related to the development and disorders that impede oral, pharyngeal, or laryngeal sensorimotor competencies and the normal process of communication. These services are provided in a number of professional health care and educational settings to infants, children, adults and elderly.

The state of Washington recognizes audiology as a profession that provides services related to hearing and the disorders of hearing and to related language and speech disorders, that impede the normal process of communication. It is also acknowledged that this profession fits and dispenses hearing instruments and provides cerumen management. These services are provided in a number of professional health care and education settings to infants, children, adults and elderly.

The proposed standards of practice for speech-language pathologists and audiologists is intended to protect the public from being misled by incompetent, unethical and unauthorized persons; and to assure the availability of hearing and speech services of high quality to citizens of Washington state.

The potential for physical, economical and mental harm compelled the industry to seek regulation. Some examples of harm that could and have resulted from incompetent practice include: Defrauding individuals of thousands of dollars; failure to recognize early signs of chronic disease and misuse of hearing instrumentation causing infections or lacerations of the ear or perforation of the ear drum.

Pursuant to RCW 18.35.161, the board shall have the power and duty to adopt rules relating to standards of care relating to hearing instrument fitter/dispensers, audiologists and speech-language pathologists.

ESHB 2309 expanded the professionals regulated under chapter 18.35 RCW to include not only hearing instrument

fitter/dispensers as it did previously but also audiologists and speech-language pathologists. Rules are in place that define the standards of practice for hearing instrument fitter/dispensers. The proposed regulation creates a voluntary certification for speech-language pathologists and audiologists. The proposed voluntary certification of these professions will provide defined standards of practice and a means for the public to verify that the professional meets those defined standards.

Economic Impact Analysis

Costs to a Business: Due to the voluntary nature of certification of speech-language pathologists and audiologists there is no imposed impact on business. Those individuals with current certification from the national organization or from the state of Washington Superintendent of Public Instruction currently practice under the proposed standards. Research demonstrates that the majority of professionals currently practicing hold at least one of these certifications.

There would be no disproportionate effect on small and large entities. The regulated entities are all small businesses. These businesses have been involved in work groups to develop the rules defining standards of practice for the professions and suggestions submitted by individuals in writing have been incorporated into the proposed rules.

Department of Health Costs to Administer the Regulation: Audiology and speech-language pathology are newly regulated health professions; therefore, there is no program history on cost. Estimated expenditures are based on the Department of Health standard cost factors for budgeting. These include phase-in costs support staffing, purchase of workstation furniture and other equipment, purchase of attorney general services, the Department of Health investigation services and agency indirect costs.

This revenue must be collected from fees assessed on the regulated entities.

The required program revenue includes funds to support both start-up costs as well as recurring expenses for program administration.

The following table illustrates overall administration cost and estimated revenue.

Fees	Cert. App.	Initial Cert.		
	\$ 125.00	\$ 100.00		
Annual volume revenue	76.5	76.5		
	\$9,562.50	\$7,650.00	Total revenue from certificates issued	\$17,212.50
DOH time review	Program staff time for Clerk typist 3 at \$12.40hr and Program Manager at \$19.10hr			
processing	20 minutes	x \$12.40 hr = \$4.09		
certification	20 minutes	x \$12.40 hr = \$4.09		
review	15 minutes	x \$12.40 hr = \$3.10		
	30 minutes	x \$19.10 hr = \$9.55		
	\$3.10			

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	\$4.09		
	\$4.09		
	<hr/>		
	\$11.28		
	cost of application review and processing time multiplied by expected annual volume		
	\$11.28	\$9.55	
	76.5	15	
	<hr/>	<hr/>	
	\$862.92	\$143.25	\$1,006.17
Equipment	Start-up of new program		
	workstation/desk	\$3,000.00	
	computer	\$4,500.00	
	printer	\$5,000.00	
	software	\$475.00	
	calculators	\$225.00	
		<hr/>	
		\$13,200.00	\$13,200.00
			<hr/>
		Subtotal	\$14,206.17
		Agency Indirect (20.5%)	\$2,912.26
		Total cost of administering program	<hr/>
			\$17,118.43

A copy of the statement may be obtained by writing to the Department of Health, Hearing and Speech Program, P.O. Box 47869, Olympia, WA 98504-7869, phone (360) 586-0205, or FAX (360) 586-7840.

RCW 34.05.328 does not apply to this rule adoption. Speech-language pathology and audiology certification is voluntary.

Hearing Location: WSU-Spokane, 601 West First Avenue, Spokane, WA, on May 5, 1998, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Betty Bird by April 21, 1998, TDD (800) 525-0127, or (360) 586-8577.

Submit Written Comments to: Department of Health, Diane Young, P.O. Box 47869, Olympia, WA 98504-7869, FAX (360) 586-7840, by May 1, 1998.

Date of Intended Adoption: May 8, 1998.

March 20, 1998
Dolores E. Spice
Executive Director

NEW SECTION

WAC 246-828-095 Audiology minimum standards of practice. Certified audiologists are independent practitioners who provide a comprehensive array of services related to the identification, assessment, habitation/rehabilitation and prevention of auditory and vestibular impairments.

Audiologists serve in a number of roles including but not limited to clinician, therapist, teacher, consultant, researcher, and administrator. Audiologists provide services in hospitals, clinics, schools, nursing facilities, care centers, private practice and other settings in which audiological services are relevant. Audiologists provide services to individuals of all ages.

Audiologists must engage in and supervise only those aspects of the profession that are within the scope of their education, training and experience.

Standard procedures for providing audiology services may include one or more of the following:

(1) Case history to include:

(a) Documentation of referrals.

(b) Historical review of the nature, onset, progression and stability of the hearing problem, and associated otic and/or vestibular symptoms.

(c) Review of communication difficulties.

(d) Review of medical, pharmacology, vocational, social and family history pertinent to the etiology, assessment and management of the underlying hearing disorder.

(2) Physical examination of the external ear includes:

(a) Otoscope examination of the external auditory canal to detect:

(i) Congenital or traumatic abnormalities of the external canal or tympanic membrane.

(ii) Inflammation or irritation of the external canal or tympanic membrane.

(iii) Perforation of the tympanic membrane and/or discharge from the external canal.

(iv) A foreign body or impacted cerumen in the external canal.

(b) Cerumen management to clean the external canal and to remove excess cerumen for the preservation of hearing.

(c) Referral for otologic evaluation and/or treatment when indicated.

(3) Identification of audiometry:

(a) Hearing screening administered as needed, requested, or mandated for those persons who may be identified as at risk for hearing impairment.

(b) Referral of persons who fail the screening for rescreening, audiologic assessment and/or for medical or other examination and services.

(c) Audiologists may perform speech and language screening measures for initial identification and referral.

(4) Assessment of auditory function includes:

(a) The administration of behavioral and/or objective measures of the peripheral and central auditory system to determine the presence, degree and nature of hearing loss or central auditory impairment, the effect of the hearing impairment on communication, and/or the site of the lesion within the auditory system. Assessment may also include procedures to detect and quantify nonorganic hearing loss.

(i) When traditional audiometric techniques cannot be employed as in infants, children or multiple impaired clients, developmentally appropriate behavioral and/or objective measures may be employed.

(ii) Assessment and intervention of central auditory processing disorders in which there is evidence of communication disorders may be provided in collaboration with other professionals.

(b) Interpretation of measurement recommendations for habilitative/rehabilitative management and/or referral for further evaluation and the counseling of the client and family.

(5) Assessment of vestibular function includes administration and interpretation of behavioral and objective measures of equilibrium to detect pathology within the vestibular system, to determine the site of lesion, to monitor changes in balance and to determine the contribution of visual, vestibular and proprioceptive systems to balance.

(6) Habilitation/rehabilitation of auditory and vestibular disorders may include:

(a) Aural rehabilitation therapy.

(b) Fitting and dispensing of hearing instruments and assistive listening devices.

(c) Habilitative and rehabilitative nonmedical management of disorders of equilibrium.

(7) Industrial and community hearing conservation programs.

(8) Intraoperative neurophysiologic monitoring.

(9) Standardized and nonstandardized procedures may be employed for assessment, habilitation/rehabilitation of auditory and vestibular disorders. When standardized procedures are employed they must be conducted according to the standardized procedure or exception documented. Nonstandardized measures must be conducted according to established principles and procedures of the profession.

NEW SECTION

WAC 246-828-105 Speech-language pathology—Minimum standards of practice. Certified speech-language pathologists are independent practitioners who provide a comprehensive array of services related to the identification, assessment, habilitation/rehabilitation, of communication disorders and oro-pharyngeal and dysphasia. Speech-language pathologists serve in a number of roles including but not limited to clinician, therapist, teacher, consultant, researcher, and administrator. Speech-language pathologists

provide services in hospitals, clinics, schools, nursing facilities, care centers, private practice, and other settings in which speech-language pathology services are relevant. Speech-language pathologists provide services to individuals of all ages.

Services must be provided and products dispensed only when benefit can reasonably be expected. All services provided and products dispensed must be evaluated for effectiveness. A certified speech-language pathologist must engage in and supervise only those aspects of the profession that are within the scope of their education, training, and experience. Speech-language pathologists must provide services appropriate to each individual in his or her care, which may include one or more of the following standard procedures:

(1) Case history, to include the following:

(a) Documentation of referral.

(b) Review of the communication, cognitive and/or swallowing problem.

(c) Review of pertinent medical, pharmacological, social and educational status.

(2) Examination of the oral mechanism for the purposes of determining adequacy for speech communication and swallowing.

(3) Screening to include: Speech and language.

(a) Hearing screening, limited to pure-tone air conduction and screening tympanometry.

(b) Swallowing screening. Children under the age of three years who are considered at risk are assessed, not screened;

(4) Assessment may include the following:

(a) Language may include parameters of phonology, morphology, syntax, semantics, and pragmatics; and include receptive and expressive communication in oral, written, graphic and manual modalities;

(b) Speech may include articulation, fluency, and voice (including respiration, phonation and resonance). Treatment shall address appropriate areas;

(c) Swallowing;

(d) Cognitive aspects of communication may include communication disability and other functional disabilities associated with cognitive impairment;

(e) Central auditory processing disorders in collaboration with other qualified professionals;

(f) Social aspects of communication may include challenging behaviors, ineffective social skills, lack of communication opportunities;

(g) Augmentative and alternative communication include the development of techniques and strategies that include selecting, and dispensing of aids and devices (excluding hearing instruments) and providing training to individuals, their families, and other communication partners in their use.

(5) Habilitation/rehabilitation of communication and swallowing to include the following:

(a) Treatment of speech disorders including articulation, fluency and voice.

(b) Treatment of language disorders including phonology, morphology, syntax, semantics, and pragmatics; and

include receptive and expressive communication in oral, written, graphic and manual modalities.

(c) Treatment of swallowing disorders.

(d) Treatment of the cognitive aspects of communication.

(e) Treatment of central auditory processing disorders in which there is evidence of speech, language, and/or other cognitive communication disorders.

(f) Treatment of individuals with hearing loss, including aural rehabilitation and related counseling.

(g) Treatment of social aspects of communication, including challenging behaviors, ineffective social skills, and lack of communication opportunities.

(6) All services must be provided with referral to other qualified resources when appropriate.

WSR 98-08-118

PROPOSED RULES

DEPARTMENT OF HEALTH

[Filed April 1, 1998, 11:56 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-01-154.

Title of Rule: WAC 246-282-990 Shellfish program certification fees.

Purpose: The proposed rule creates "Harvester" as a new classification of commercial shellfish license with a fee of \$250.

Statutory Authority for Adoption: RCW 69.30.030 and 43.20B.020.

Summary: The harvester classification is intended for very small commercial operations and will be exempt from federal HACCP regulations.

Reasons Supporting Proposal: The proposal creates regulatory flexibility for the shellfish industry.

Name of Agency Personnel Responsible for Drafting: Ned Therien, Airdustrial Center, Building 4, Tumwater, (360) 236-3326; Implementation and Enforcement: Jennifer Tebaldi, Airdustrial Center, Building 4, Tumwater, (360) 236-3325.

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: Creates a new commercial shellfish license classification with an annual fee of \$250. The harvester classification is proposed as a more limited classification. Harvesters will be required to follow the NSSP standards but will not be on the interstate shippers list. The classification is designed to include as harvesters those shellfish operations exempt from the new hazard analysis critical control point (HACCP) regulations that became effective December 18, 1997. The proposed rule creates a new option for very small shellfish operations that do not intend to ship interstate.

Proposal Changes the Following Existing Rules: Adds a new commercial shellfish license category in addition to the existing shellstock shippers and shucker-packers.

A small business economic impact statement has been prepared under chapter 19.85 RCW.

Small Business Economic Impact Statement, Significant Legislative Rule Analysis, and Economic Impact Analysis

Background: The Office of Shellfish Programs of the Department of Health regulates commercial molluscan shellfish operations in Washington state. There are currently two main types of shellfish license distinguished by the types of activities allowed: Shellstock shippers and shucker-packers. Shellstock shippers grow, harvest, buy, or sell shellstock. Shucker-packers may shuck and pack shellfish in addition to the activities of a shellstock shipper. Some in the industry have requested another more limited regulatory class for small shellstock shippers.

Both shellstock shippers and shucker-packers are required to follow the national shellfish sanitation program (NSSP) guidelines, a national consensus code developed by the Interstate Shellfish Sanitation Conference (ISSC). This allows all Washington licensees to be placed on the interstate shippers list and allows their shellfish to be exported to all states and countries participating in the ISSC.

In December 1997 regulations of the Food and Drug Administration (FDA) regarding hazard analysis critical control point (HACCP) plans became effective. These new regulations require commercial shellfish operations that store or process shellfish to write and implement special food safety plans. This new requirement poses a large regulatory burden for many very small shellfish operations and has caused some confusion in the industry as to exactly who must implement a HACCP plan. A license category for small shellfish operations has been requested because the activities of small shellfish operations are within a much narrower scope than other shellstock shippers and, therefore, need less oversight.

In response to the industry requests for a new classification and for clarification of who must have a HACCP plan, the Office of Shellfish Programs proposes amending WAC 246-282-990 to include a harvester license category with an annual fee of \$250. The harvester classification is proposed as a more limited class than the shellstock shipper class. Harvesters will be required to follow the NSSP standards but will not be on the interstate shippers list. The classification is designed to include as harvesters those shellfish operations exempt from the new federal HACCP regulations that became effective in December of 1997.

A. Clearly state in detail the general goals and specific objectives of the statute that the rule implements.

Establishing a harvester license with associated fee implements two separate statutes. The first is chapter 69.30 RCW, Sanitary control of shellfish, and the other is RCW 43.20B.020 Fees for service.

The department has authority to regulate commercial shellfish operations under the rules of the State Board of Health. Chapter 69.30 RCW, Sanitary control of shellfish, was enacted to protect the public health through the control of

shellfish growing, harvesting and processing. RCW 69.30.005 Purpose, states, "Protection of the public health requires assurances that commercial shellfish are harvested only from approved growing areas and that processing of shellfish is conducted in a safe and sanitary manner." Further, RCW 69.30.030 Rules and regulations, directs the State Board of Health to "cause such investigations to be made as are necessary to determine reasonable requirements governing the sanitation of shellfish, shellfish growing areas, and shellfish plant facilities and operations, in order to protect public health and carry out the provisions of this chapter; and shall adopt such requirements as rules and regulations of the state board of health." This is the statute that authorizes the regulation of shellfish operations. The creation of license categories falls within this range of authority.

The second part of the new regulation sets and charges a fee for the created harvester class. The authority to charge fees comes from a statute separate from the general authority to regulate shellfish operations. RCW 43.20B.020 authorizes the department to charge fees to cover the entire cost of providing services. The intent is that people engaged in businesses that may pose a risk to the public health should bear the cost of regulating the activity.

B. Determine that the rule is needed to achieve the general goals and specific objectives stated under question A and analyze alternatives to rule making and the consequences of not adopting the rule.

The Office of Shellfish Programs has protected the public health adequately with the existing license classifications. The harvester class addition is not needed to address any public health risk. While the authority to regulate shellfish operations comes from chapter 69.30 RCW, it is not the basis for any need to create a new license.

In proposing the harvester class, the Department of Health is responding to industry requests. Also, the proposal will increase regulatory efficiency, flexibility and certainty, goals of the Administrative Procedure Act, chapter 34.05 RCW. Amending WAC 246-282-990 to establish a harvester classification will allow the department to implement chapter 69.30 RCW in a more efficient manner. Harvesters will require fewer regulatory resources because they will be limited in their activities. This will allow the department to focus resources on those operations engaged in activities that pose greater health risks. The industry benefits from a more flexible regulatory structure that gives them a wider range of options. In addition to flexibility, the industry will gain regulatory certainty because the creation of a harvester classification will clearly identify those shellfish operations which will have to comply with the federal HACCP regulations.

The fees assessed under RCW 40.20B.020 [43.20B.020] support a regulatory program with significant public health implications. The program activities include inspections, sanitary surveys, water quality testing, biotoxin testing, and technical assistance to the shellfish industry. The fees that will be charged to harvester operations will be less than those currently charged shellstock shippers. The fees are necessary to administer shellfish program activities.

Alternatives: No action - As mentioned before, if the department decides to take no action, there would probably be no public health consequences. Under this option, the

Office of Shellfish Programs will evaluate individual operations at the time of a relicensing inspection to determine if the activities performed by that particular operation require a HACCP plan. Without a harvester classification, all commercial shellfish operations will be required by the new NSSP model ordinance to conduct at least part of the steps necessary to develop and implement a HACCP plan. Taking no action increases the burden on department staff and creates unnecessary regulatory uncertainty for the regulated community.

C. Determine that the probable benefits of the rule are greater than its probable costs.

In general, the benefits of a Department of Health rule are considered in terms of the increase in public health protection or the decrease in public health risk associated with the rule. Costs are generally expressed as the added expense to the regulated community to comply with the rule. However, the creation of a harvester license does not fit easily into this general formula.

Benefits: Because the purpose of this rule is not to address a public health problem, but rather to increase regulatory efficiency, there are no benefits to be described in terms of increased public health protection. The Office of Shellfish Programs will realize benefits from the harvester classification because without this classification, the activities of individual shellfish operations would have to be considered to determine the need for a HACCP plan. The Office of Shellfish Programs estimates that there are approximately 100 questionable operations that would need to be evaluated by the program and that each evaluation would take approximately one hour. This is work that will most likely be performed by a Public Health Advisor 1 at \$19 an hour. By adopting this proposal the Office of Shellfish Programs could potentially save \$1,900 in time spent evaluating individual shellfish operations.

100 operations x 1 hr. each x \$19.00 = \$1,900

A segment of the shellfish industry will also benefit from the regulatory certainty of knowing that they are not expected to have a HACCP plan.

Costs: There are no costs associated with adopting the harvester classification. There is no reduction in public health protection. Harvesters will not engage in the most hazardous shellfish processing activities, such as the storage and processing of shellfish, which the federal HACCP rule is intended to control. Since there is no reduction in public health protection and the actual cost of implementing this rule will be less to the department and to industry members, the Office of Shellfish Programs finds no costs associated with adopting the harvester class.

Economic Impact Analysis: Department - The Office of Shellfish Programs conducts a wide array of program activities including, water quality testing, sanitary surveys, biotoxin testing, inspections, and technical assistance. Overall, fee revenue recovers only about 8% of program activity costs. The table below shows the projected costs for the different activity areas compared to the fee support for the activity.

PROPOSED

Program Activity Area	Projected Direct Costs for FY98	Fee Revenue for FY98
Licensing and Inspection	\$335,277	\$101,714
Biotoxin Testing/ Monitoring	\$206,344	—
Growing Area Monitoring	\$854,233	—
Total	\$ 1,395,854	\$101,714

The Office of Shellfish Programs anticipates that the harvester classification will reduce the resources necessary to regulate small operations. Harvesters will require only one inspection per year, as opposed to up to four for the other classifications. The \$250 fee will cover the majority of inspection and administrative costs of licensing the operations. However, it does not begin to cover the costs associated with monitoring growing areas or biotoxin testing.

The program estimates that approximately 100, about 1/3, of the current shellstock shipper licensees will qualify and choose to be classified as harvesters. These are operations currently paying \$260 for a shellstock shipper's license. Therefore, each represents a \$10 loss in revenue to the program. If the estimated 100 shellstock shippers become harvesters, there will be a reduction of about \$1,000 a year in fees collected by the Office of Shellfish Programs.

Industry - \$250 fee for license - This fee represents a \$10 reduction in the cost currently paid by small shellfish operations. It is anticipated that the NSSP model ordinance will require all shellstock shippers to at least perform the first part of a HACCP determination. Harvesters will be exempt by definition.

D. Determine after considering alternative versions of the rule and the analysis required under questions B and C, that the rule being adopted is the least burdensome alternative for those required to comply.

The proposed harvester classification represents a new, less burdensome alternative, for small shellfish operations. Additionally, the decision to change classifications will be purely optional for shellfish operations. No one will be required to change classification. However, without this new license classification, small shellfish operations will continue to pay the higher fee of a shellstock shipper and will have the extra burden, at least initially, of a HACCP evaluation.

E. Determine that the rule does not require those to whom it applies to violate the requirements of another state or federal law.

The new classification is designed to better coordinate HACCP regulations and the NSSP standards. It does not require the violation of any other state or federal laws.

F. Determine that the rule does not impose more stringent performance requirements on private than on public entities unless required to do so by federal or state law.

The proposed new classification will not impose more stringent performance requirements on private than on public entities.

G. Determine that if the rule differs from any federal regulation or statute applicable to the same activity or subject matter and, if so determine that the difference is justified.

The proposed rule will not differ from other state or federal regulations.

H. Coordinate the rule, to the maximum extent practicable, with other federal, state, and local laws applicable the same activity or subject matter.

The Department of Health has been coordinating the harvester classification with both the FDA and the ISSC to ensure that the new classification is consistent with the HACCP regulations and the anticipated NSSP model ordinance.

Small Business Economic Impact Statement

Chapter 19.85 RCW, the Regulatory Fairness Act, requires agencies to consider the impact of administrative regulations on small businesses. The proposed rule amendment is a response to the requests of small shellfish operators for a new shellfish license category that recognizes their limited activities. The harvester class will be an option that mitigates current fees. No further analysis of the impact to small businesses is necessary.

A copy of the statement may be obtained by writing to Ned Therien, P.O. Box 47824, Olympia, WA 98504, phone (360) 236-3326, or FAX (360) 236-2257.

RCW 34.05.328 applies to this rule adoption. The creation of a new license category is a significant rule under RCW 34.05.328. A significant analysis was prepared and can be obtained from Ned Therien, P.O. Box 47824, Olympia, WA 98504.

Hearing Location: Lacey Community Center, 6729 Pacific Avenue S.E., Lacey, WA, on May 6, 1998, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Jan Jacobs-Diment by April 30, 1998, TDD (800) 833-6388.

Submit Written Comments to: Ned Therien, P.O. Box 47824, Olympia, WA 98504, FAX (360) 236-2257, by May 6, 1998.

Date of Intended Adoption: May 15, 1998.

April 1, 1998
Bruce Miyahara
Secretary

AMENDATORY SECTION (Amending WSR 97-12-031, filed 5/30/97, effective 6/30/97)

WAC 246-282-990 Shellfish program certification fees. (1) Annual certificate fees ((~~shall be~~) are):

Type of Operation	Annual Fee
<u>Harvester</u>	<u>\$250.</u>
Shellstock Shipper	
0 - 49 Acres	\$260.
50 or greater Acres	\$415.
Shucker-Packer	
Plants with floor space < 2000 sq. ft.	\$470.

Type of Operation	Annual Fee
Plants with floor space > 2000 sq. ft. and < 5000 sq. ft.	\$570.
Plants with floor space > 5000 sq. ft.	\$1,040.

(2) Type of operations are defined as follows:

(a) "Shellstock shipper" shall mean shippers growing, harvesting, buying, or selling shellstock. Shellstock shippers are not authorized to shuck shellfish or to repack shucked shellfish.

(b) "Shucker-packer" shall mean shippers shucking and packing shellfish. A shucker-packer may act as a shellstock dealer.

(c) "Harvester" means a commercial shellfish operation with activities limited to harvesting shellstock, and shipping and selling it within Washington state to shellfish dealers licensed by the department. Harvesters do not shuck shellfish; repack shucked shellfish; repack shellstock; or store shellstock in any location other than the approved growing area where the shellstock was harvested.

(3) "Export certificate" means a certificate issued by the department to a licensed shucker-packer or shellstock shipper for use in the foreign export of a lot or shipment of shellfish. The fee for each export certificate shall be \$10.

PROPOSED



WSR 98-08-001
EXPEDITED ADOPTION
HIGHER EDUCATION
COORDINATING BOARD

[Filed March 18, 1998, 2:17 p.m.]

Title of Rule: WAC 250-61-060(3) Exemptions.

Purpose: Identify exempt conditions.

Statutory Authority for Adoption: Chapter 28B.85 RCW.

Statute Being Implemented: Chapter 28B.85 RCW, RCW 28B.85.020 and [28B.85.]040.

Summary: Requirement that degree-granting institutions operating in Washington obtain authorization from the Higher Education Coordinating Board, unless specifically exempted from the authorization requirement by the act.

Reasons Supporting Proposal: Clarifies WAC 250-61-060.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Cedric Page, Olympia, (360) 753-7821.

Name of Proponent: Higher Education Coordinating Board, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The conditions in WAC 250-61-060(3) are not clear regarding the need for an institution to meet all conditions [of] (3)(a), (b), (c), and (d). We propose that "and" be added to the end of (3)(a), (b), and (c).

Proposal Changes the Following Existing Rules: We propose that "and" be added at the end of (3)(a), (b), and (c) to indicate that these conditions are additive. This change clarifies the application of these conditions.

NOTICE

THIS RULE IS BEING PROPOSED TO BE ADOPTED USING AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS RULE BEING ADOPTED USING THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Susan Patrick, Higher Education Coordinating Board, 917 Lakeridge Way, P.O. Box 43430, Olympia, WA 98504-3430, AND RECEIVED BY May 30, 1998.

March 18, 1998

Susan Patrick
Director

AMENDATORY SECTION (Amending WSR 95-01-003, filed 12/8/94, effective 1/8/95)

WAC 250-61-060 Exemptions. The provisions of this chapter do not apply to:

(1) Honorary credentials clearly designated as such on the front side of the diploma or certificate and awarded by

institutions offering other educational credentials in compliance with state law.

(2) Any public college, public university, public community college, or public technical college or institute operating as part of the public higher education system of this state.

(3) Institutions that have received institutional accreditation from an agency recognized by the board, *Provided*:

(a) The institution has been continuously offering degree program(s) in Washington for fifteen years or more((-); and

(b) The institution was established originally within the state of Washington and has operated as the same organization continuously from that date until the present. An institution is considered to have operated as the same organization continuously if it has no significant alteration of primary location, ownership, or incorporation and no closure involving cessation of substantially all organized instructional and administrative activity((-); and

(c) The institution has been accredited as a degree-granting institution for ten years or more by an accrediting association recognized by the federal government, and maintains such accreditation status((-); and

(d) The institution maintains eligibility to participate in Title IV financial aid programs((-); and

(e) A branch campus, extension center, or off-campus facility operating within the state of Washington, which is affiliated with an institution domiciled outside this state, has continuously offered degree programs in Washington for fifteen years or more; has held separate institutional accreditation as a free-standing institution for ten years or more by a recognized accrediting association, and maintains such accreditation status; maintains eligibility to participate in Title IV financial aid programs.

(4) Institutions offering instruction on a federal enclave solely to federal employees and their dependents. If the institution offers instruction for other persons, the institution shall be subject to authorization.

(5) Tribally controlled Native American colleges.

(6) Institutions which offer program(s) of study whose sole stated objective is training in the religious beliefs of the controlling religious organization and/or preparation of students for occupations that are primarily church-related and are represented in an accurate manner in institutional catalogs and other official publications: *Provided*, That an institution's degree programs in title (e.g., bachelor of religious studies, master of divinity, doctorate of ministry), curriculum content, and objectives reflect the strictly religious nature of the institution. The following procedures shall be employed in the implementation of this subsection:

(a) The chief academic officer shall contact board staff and arrange for a preliminary conference to discuss the religious exemption standards and the application/review procedures.

(b) The chief academic officer shall forward to the board office a copy of the institution's catalog and/or any other official publications that describe the nature of the institution and its programs. This information shall be used by the executive director to verify the religious exempt status of the institution.

(c) A religious institution which is granted an exemption under this regulation shall place the following statement in a

prominent position on the front page of any catalog, general bulletins, and course schedules: "The Washington Higher Education Coordinating Board has determined that (name of institution) qualifies for religious exempt status from the Degree Authorization Act for the following programs: (List). Any person desiring information about the requirements of the act or the applicability of those requirements to the institution may contact the board at P.O. Box 43430, Olympia, WA 98504-3430."

(d) A religious institution which is granted a religious exemption is subject to biennial reporting, and maintenance of the conditions under which exemption is granted. Such institutions are prohibited from publicizing that they are accredited, unless they are accredited by an accrediting association recognized by the federal government.

(e) In the case of a religious institution that offers both religious and secular programs of instruction, the requirements of chapter 28B.85 RCW and this chapter shall pertain only to the secular programs of the institution.

(f) The executive director shall suspend or revoke an institution's religious exemption if it is found that:

(i) Any statement contained in the application for exemption is untrue.

(ii) The institution has failed to maintain the conditions under which the exemption was granted.

(iii) Advertising or representations made on behalf of and sanctioned by the institution are deceptive or misleading.

(iv) The institution has violated any provision of the religious exemption regulations.

(g) Suspension or revocation shall be made only after the institution has been informed in writing of its deficiencies and has been given a reasonable time to regain compliance.

(7) Institutions not otherwise exempt which offer only workshops and seminars lasting no longer than three calendar days and for which academic credit is not awarded.

WSR 98-08-002

EXPEDITED ADOPTION

HIGHER EDUCATION COORDINATING BOARD

[Filed March 18, 1998, 2:22 p.m.]

Title of Rule: WAC 250-61-090.

Purpose: Administrative requirements.

Statutory Authority for Adoption: Chapter 28B.85 RCW.

Summary: Identify additional conditions for administrators.

Reasons Supporting Proposal: Need additional criteria to ensure fair business practices.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Cedric Page, Olympia, (360) 753-7821.

Name of Proponent: Higher Education Coordinating Board, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Rule identifies four conditions that disqualify administrators of a degree-granting institution: (a) Conviction of a felony within the past ten years; (b) involuntary surrender of license to operate a school in Washington; (c) served with a cease and desist order for activities in violation of current WAC; (d) denied renewal of license because of violation of current WAC.

Proposal Changes the Following Existing Rules: This change protects consumers and students from potential losses of prepaid tuition and fees.

NOTICE

THIS RULE IS BEING PROPOSED TO BE ADOPTED USING AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS RULE BEING ADOPTED USING THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Susan Patrick, 917 Lakemridge Way, P.O. Box 43430, Olympia, WA 98504-3430, AND RECEIVED BY May 30, 1998.

March 18, 1998

Susan Patrick

Director

AMENDATORY SECTION (Amending WSR 95-01-003, filed 12/8/94, effective 1/8/95)

WAC 250-61-090 Administrative requirements. (1) Name. The official name of the institution shall be consistent with and appropriate to the program(s) of study offered.

(2) Purpose. The institution shall clearly define its purpose or mission in an official statement which describes its role in higher education. The statement shall reflect the practice of the institution.

(3) Administration and governance. The institution shall be governed by bylaws or policies defining a chain of authority and responsibility.

(a) Administrators shall normally be graduates of recognized accredited institutions and possess academic credentials and prior higher education administrative experience for their area of responsibility.

(b) The main campus of the institution shall have, as a minimum, a chief executive officer, an academic officer, a registrar, a business officer, a student services officer, a library director, and, if financial aid services are offered, a financial aid officer. These officers shall be accessible to students, faculty, and other personnel located at the main campus and at educational sites or centers in Washington.

(i) The chief executive and academic officers shall possess at least the master's degree and experience in college-level management, teaching, and academic administration, unless the institution can demonstrate that these are not the normally accepted standards for an institution offering the same level of instruction.

(ii) The registrar, business, and student services officers shall possess at least the baccalaureate degree and college-level experience in admissions/student records, accounting/managerial services, and student services respectively, unless the institution can demonstrate that these are not the normally accepted standards for an institution offering the same level of instruction.

(iii) The financial aid officer and library director shall possess at least the baccalaureate degree and experience in their assigned areas, unless the institution can demonstrate that these are not the normally accepted standards for an institution offering the same level of instruction.

(c) The institution shall specify an individual who will serve as the principal contact person for each educational site or academic center in Washington. This institutional representative shall be responsible for instructional program coordination and student services.

(d) The institution shall have policies and provisions for the involvement of faculty in the academic affairs, curriculum development, and governance of the institution. The institution also shall have policies and provisions for faculty selection, orientation, teaching load, supervision, evaluation, and professional development.

(4) The following conditions shall disqualify individuals as an administrator of a degree-granting institution:

(a) Conviction of a felony within the past ten years;

(b) Involuntary surrender of a license to operate a school in Washington;

(c) Having been served with a cease and desist order for activities in violation of the current *Washington Administrative Code*; or

(d) Denial of renewal of a license because of violation of the current *Washington Administrative Code*.

WSR 98-08-097

EXPEDITED ADOPTION

INSURANCE COMMISSIONER'S OFFICE

[Insurance Commissioner Matter No. R 98-10—
Filed April 1, 1998, 10:30 a.m.]

Title of Rule: Washington essential property insurance inspection and placement program.

Purpose: To update and clarify chapter 284-19 WAC, rules relating to the Washington essential property insurance inspection and placement program.

Statutory Authority for Adoption: RCW 48.02.060.

Statute Being Implemented: RCW 48.58.010.

Summary: As part of the commissioner's review of Title 284 WAC, the proposed amendments will update various WAC sections in chapter 284-19 WAC that have been identified as outdated, inefficient, unclear, or duplicative.

Reasons Supporting Proposal: The proposed amendments should make the code more efficient and improve the clarity of these rules.

Name of Agency Personnel Responsible for Drafting: Katie Allen Cort, Lacey, Washington, (360) 407-0730; Implementation and Enforcement: Dave Diehl, Olympia, Washington, (360) 664-2093.

Name of Proponent: Deborah Senn, Insurance Commissioner, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The proposal will update, clarify and repeal various sections of chapter 284-19 WAC. The affected sections include WAC 284-19-010, 284-19-020, 284-19-030 (repealed), 284-19-040, 284-19-050, 284-19-060, 284-19-070, 284-19-080, 284-19-090, 284-19-100, 284-19-110, 284-19-120, 284-19-130, 284-19-140, 284-19-150, 284-19-160, 284-19-170, and 284-19-180.

The result of updating and clarifying these sections assists in making the code clearer and more useful to consumers, FAIR plan administrators, insurers, and the Office of the Insurance Commissioner.

Proposal Changes the Following Existing Rules: The proposal will update, clarify and repeal various sections of chapter 284-19 WAC. The affected sections include WAC 284-19-010, 284-19-020, 284-19-040, 284-19-090, 284-19-100, 284-19-110, 284-19-120, 284-19-130, 284-19-150, 284-19-160, and 284-19-170, language/clarity improvements; 284-19-030 repeal of effective date and outdated references to federal program—no longer necessary and language/clarity improvements; 284-19-050, 284-19-060, and 284-19-070, language/clarity improvements and elimination of outdated subsection; 284-19-080 language/clarity improvements and elimination of outdated references and subsections; and 284-19-140, reorganized to improve clarity and language improvements; 284-19-180 reorganize to improve clarity.

NOTICE

THIS RULE IS BEING PROPOSED TO BE ADOPTED USING AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS RULE BEING ADOPTED USING THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Kacy Brandeberry, Office of the Insurance Commissioner, P.O. Box 40256, Olympia, WA 98504-0256, e-mail Kacyb@oic.wa.gov, FAX (360) 407-0186, AND RECEIVED BY May 30, 1998.

April 1, 1998

Greg J. Scully

Chief Deputy Commissioner

AMENDATORY SECTION (Amending Order R-69-1, filed 1/28/69)

WAC 284-19-010 Title. These rules and regulations (~~shall be entitled~~) are titled the **Washington essential property insurance inspection and placement program** (~~hereinafter~~) referred to as the program).

AMENDATORY SECTION (Amending Order R-69-1, filed 1/28/69)

WAC 284-19-020 Purposes of program. The purposes of the program are:

- (1) To assure stability in the property insurance market of this state.
- (2) To encourage maximum use, in obtaining essential property insurance, of the available, normal insurance market provided by authorized insurers.
- (3) To make essential property insurance available where it cannot be obtained through the normal insurance market, subject to the conditions (~~(hereinafter)~~) stated in this chapter.
- (4) To encourage the improvement of the condition of properties located in the urban areas of the state of Washington and to further orderly community development (~~(generally)~~).
- (5) To establish a FAIR plan (fair access to insurance requirements), an industry placement facility and a joint reinsurance association for the equitable distribution and placement of risks among insurers in the manner and subject to the conditions (~~(hereinafter)~~) stated in this chapter.

AMENDATORY SECTION (Amending Order R-69-1, filed 1/28/69)

WAC 284-19-040 Participation. Participation in this program (~~(shall be)~~) is mandatory for all insurers and fraternal benefit societies authorized to engage in the property insurance business in this state, who have "premiums written," as defined in this chapter.

AMENDATORY SECTION (Amending Order R-73-2, filed 3/30/73)

WAC 284-19-050 Definitions. (1) "Insurer" means any insurance company or other organization licensed to write and engage in writing property insurance business, including the property insurance components of multiperil policies, on a direct basis, in this state.

(2) "Essential property insurance" means the coverage against direct loss to real and tangible personal property at a fixed location that is provided in the standard fire policy and extended coverage endorsement, and shall include also the perils of vandalism and malicious mischief and such additional lines of property insurance as may be designated by (~~(the secretary, or)~~) the commissioner. Essential property insurance specifically includes insurance against direct loss to property which is being constructed or rehabilitated (builder's risk coverage). It does not include automobile insurance (~~(, nor, unless designated by the secretary,)~~) or insurance on farm or manufacturing risks.

(3) "Industry placement facility" (~~(hereinafter)~~) referred to as the facility) means the organization formed by insurers to assist applicants in urban areas in securing essential property insurance and to administer the FAIR plan and the joint reinsurance association.

(4) "Inspection bureau" means the Washington Surveying and Rating Bureau.

(5) "Urban area" includes the following municipalities and counties and such additional counties, municipalities, and definitive political subdivisions (~~(therein)~~) as may be added (~~(from time to time)~~) by the commissioner (~~(or the secretary)~~):

Pasco	-	All
King County	-	All
Tacoma	-	All

(6) "Premiums written" means gross direct premiums (excluding that portion of premiums on risks ceded to the joint reinsurance association) charged during the second preceding calendar year with respect to property in this state on all policies of property insurance and property insurance components of all multiperil policies, as defined and computed by the facility, less return premiums, dividends paid or credited to policyholders, or the unused or unabsorbed portions of premium deposits.

(7) A "service insurer" (~~(shall be)~~) means any company designated by the facility and approved by the commissioner to issue policies under this program.

(8) "Commissioner" means the commissioner of insurance of the state of Washington.

(~~(9)~~) "~~Secretary~~" ~~means the Secretary, U.S. Department of Housing and Urban Development.~~

(10) "~~The act~~" ~~means the Urban Property Protection and Reinsurance Act of 1968, 82 Stat. 555, Public Law 90-448, as amended.~~)

AMENDATORY SECTION (Amending Order R-69-1, filed 1/28/69)

WAC 284-19-060 FAIR plan—Inspections and reports. (1) Any person having an insurable interest in real or tangible personal property at a fixed location in an urban area (~~(shall be)~~) is entitled (~~(, upon application therefor to the facility,)~~) to an inspection of the property by the inspection bureau at no cost (~~(to the applicant)~~), upon application to the facility. The inspection may be requested by the property owner (~~(or his representative)~~), a representative of the property owner, the insurer, or the insurance producer and need not be in writing. Requests for inspections shall be transcribed on a form approved by the facility. A deposit premium (~~(shall)~~) is not (~~(be)~~) required as a precondition to inspection.

(2) The owner of the building need not be present for a tenant to obtain an inspection, but the inspection bureau must be provided full access to the property for which insurance is sought.

(3) An inspection report shall be made for each property inspected. The report shall cover pertinent structural and occupancy features as well as the general condition of the building and surrounding structures. A representative photograph of the property may be taken during the inspection.

(4) During the inspection, the inspector shall point out features of structure and occupancy to the applicant or (~~(his)~~) a representative of the applicant, if present, and shall indicate those features which may result in condition charges if the risk is accepted. The inspector (~~(shall have)~~) has no authority

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to advise whether (~~any insurer~~) the facility will provide the coverage.

(5) (~~After the inspection a copy of the completed inspection report, and any photograph, indicating the pertinent features of building, construction, maintenance, occupancy and surrounding property shall be sent within five business days to the facility for distribution to a service insurer. The person requesting the inspection report may designate the service insurer to which the inspection report is to be referred.~~)

(6) ~~Included with~~) The report shall (~~be~~) include a rate make-up statement, including any condition charges or surcharges imposed by inspection or under the program, or under any substandard rating plan approved by the commissioner. A copy of the inspection report shall be made available to the applicant or (~~his~~) the applicant's agent upon request.

AMENDATORY SECTION (Amending Order R 79-3, filed 7/11/79)

WAC 284-19-070 FAIR plan business—Distribution and placement. (1) The facility (~~may~~) shall not require(~~as a precondition to the placement of business under the FAIR plan,~~) that the applicant (~~make a showing~~) demonstrates that he or she is unable to obtain insurance in the normal market, (~~but~~) as a precondition to the placement of business under the FAIR plan. The facility, however, may require an agent or broker to furnish (~~the facility with~~) copies of documents or information showing what effort was made by (~~such~~) the agent or broker to obtain insurance in the normal market(~~, and~~). The facility shall forward to the commissioner the names of (~~such~~) agents or brokers who fail to cooperate or who appear to fail to make reasonable efforts on behalf of applicants for insurance to obtain insurance in the normal market.

(2) (~~Thereafter, the facility, upon receipt of an application for coverage and the corresponding inspection report from the inspection bureau, shall assign such application to the service insurer designated by the applicant or by his agent, or if no service insurer is so designated, it shall assign the application to a service insurer, keeping the assignments evenly distributed, based on the volume of property insurance writings in this state of the various service insurers.~~)

(3) Assessments upon each insurer participating in this program shall be levied by the facility on the same percentage allocation basis as (~~such~~) the insurer's premiums written bears to the total of all premiums written by all insurers participating in the program.

(a) The maximum limit of liability (~~which~~) that may be placed through this program on any one property at one location is \$1,500,000. The facility (~~shall~~) undertakes the responsibility of seeking to place that portion of a risk (~~which~~) that exceeds \$1,500,000.

(b) The term "at one location" as used (~~herein~~) in this chapter refers to real and personal property consisting of and contained in a single building, or consisting of and contained in contiguous buildings under one ownership.

AMENDATORY SECTION (Amending Order R-69-1, filed 1/28/69)

WAC 284-19-080 Procedure after inspection and submission. (1) (~~Any service insurer to which a risk is referred by the facility shall,~~) Within three business days after receipt of the inspection report (~~and application, complete an action report and return the same to~~), the facility (~~advising that~~) shall notify the insured and the agent that:

(a) The risk is acceptable; or

(b) The risk will be acceptable if the improvements noted in the action report are made by the applicant and confirmed by reinspection; or

(c) The risk is not acceptable for the reasons stated in the action report.

(2) If the risk is accepted by the (~~designated service insurer~~) facility, and upon receipt of premium, the policy or binder shall be delivered within two business days. (~~No producer shall have authority to bind the facility or any service insurer for any risk eligible for this program until acceptance of the risk and payment of premium.~~) No coverage shall commence until the application is accepted and the premium paid to the facility.

(3) In the event a risk is declined because it fails to meet reasonable underwriting standards, the facility will so notify the applicant and the commissioner. Reasonable underwriting standards shall include(~~, but not be limited to,~~) the following:

(a) Physical condition of the property, such as its construction, heating, wiring, evidence of previous fires or general deterioration;

(b) Its present use or housekeeping, such as vacancy, overcrowding, storage of rubbish or flammable materials;

(c) Other specific characteristics of ownership, condition, occupancy or maintenance which are violative of public policy and result in unreasonable exposures to loss. Neighborhood or area location or any environmental hazard beyond the control of the property owner (~~shall not be deemed to be~~) is not an acceptable criterion for declining a risk.

(4) (~~In the event~~) If the risk is conditionally declined because the property does not meet reasonable underwriting standards, but can be improved to meet such standards, the facility shall promptly advise the applicant and the commissioner what improvements noted in the action report should be made to the property. Upon completion of the improvements by the applicant or property owner, the facility (~~when so notified,~~) will have the property promptly reinspected (~~and furnish the new inspection report to the previously designated service insurer~~).

(5) If the inspection of the property reveals that there are one or more substandard conditions, surcharges (~~may~~) shall be imposed in conformity with the substandard rating plan approved by the commissioner. In this event, the facility shall advise the applicant of what improvements, if any, (~~he~~) the applicant may make to bring (~~his~~) the property to insurable condition at unsurcharged rates.

(~~6~~) Any insurer, which is a member of a group of insurers under the same management or ownership, to which a referral is made under the program, may apply in behalf of the group for a combined distribution and placement quota under the program. Such group shall have the option of des-

ignating the insurer within the group to which the risk shall be referred.)

AMENDATORY SECTION (Amending Order R-69-1, filed 1/28/69)

WAC 284-19-090 Joint reinsurance association. (1) A joint reinsurance association (~~((hereinafter))~~) referred to as the association (~~((Is hereby))~~) is created consisting of all insurers.

(2) The association (~~((shall be))~~) is authorized to assume ~~and cede~~ reinsurance on behalf of insurers (~~((and cede reinsurance on behalf of insurers on))~~) for eligible risks written by insurers through the FAIR plan. The reinsurance assumed by the association (~~((shall be for))~~) is 100% of each risk written under this program under \$1,500,000.

(3) Each insurer (~~((shall))~~) participates in the total writings, expenses, profits and losses of the association in proportion to its premiums written.

(4) (~~((In the event))~~) If any reinsuring member fails, by reason of insolvency, to pay its proportion of any expense or of any loss as an assuming reinsurer incurred by the facility under the program, (~~((such))~~) the unpaid loss or expense shall be paid by the remaining members (~~((;))~~). Each ((contributing)) remaining member contributes in the manner provided for in the distribution of expenses and losses under the program, deleting (~~((therefrom))~~) the proportion of the defaulting member. The facility (~~((shall be))~~) is subrogated to the rights of the remaining members in any liquidation proceeding and (~~((shall have))~~) has full authority on their behalf to exercise such rights in any action or proceeding.

AMENDATORY SECTION (Amending Order R-69-1, filed 1/28/69)

WAC 284-19-100 Standard policy coverage—Coding. All policies issued shall be for essential property insurance on standard policy forms (~~((;))~~). The policies shall be separately coded (~~((;))~~) and (~~((shall be))~~) issued for a term of one year, at rates (~~((promulgated))~~) set by the inspection bureau under filings approved by the commissioner. Individual company deviation filings shall not apply to risks written under this program.

AMENDATORY SECTION (Amending Order R-69-1, filed 1/28/69)

WAC 284-19-110 Cancellation and nonrenewal under this program. (1) (~~((No insurer shall))~~) The facility shall not cancel or nonrenew a policy (~~((or binder))~~) issued under this program except (~~((for))~~):

(a) For cause which would have been grounds for nonacceptance of the risk under the program had (~~((such))~~) the cause been known to the insurer at the time of acceptance; or

(b) For nonpayment of premium; or

(c) With the approval of the governing committee.

(2) Notice of cancellation or nonrenewal, together with a statement of the reason (~~((therefor))~~), shall be sent to the insured (~~((with a copy sent to the facility))~~).

(3) Any cancellation or nonrenewal notice to the insured shall be accompanied by a statement that the insured has a

right of appeal as (~~((hereinafter))~~) provided in WAC 284-19-120.

AMENDATORY SECTION (Amending Order R-69-1, filed 1/28/69)

WAC 284-19-120 Right of appeal. (1) Any applicant or insurer (~~((shall have))~~) has a right of appeal to the committee, including the right to appear in person before the committee, if requested by the party seeking appeal.

(2) A decision of the committee may be appealed to the commissioner.

(3) Each denial of insurance under this program shall be accompanied by a statement setting forth the provisions of this section (~~((WAC 284-19-120))~~).

(4) Notification of appeal may be made to the committee through the manager of the facility or any member of the committee.

(5) All appeals to the committee or to the commissioner shall be in writing and must indicate in what respect the applicant feels aggrieved.

(6) (~~((Decisions of))~~) The committee shall make decisions in writing on appeals (~~((to it shall be reduced to writing and shall be rendered))~~) within (~~((at least))~~) 15 business days after notification of appeal is received, unless delayed by mutual consent. The majority of committee members (~~((3))~~) must concur in all decisions adverse to the party seeking appeal.

(7) Appeals to the commissioner under this program (~~((shall))~~), in all other respects not set forth (~~((herein))~~) in this chapter, shall be handled in accordance with chapters 48.04 and 34.04 RCW (Administrative Procedure Act).

AMENDATORY SECTION (Amending Order R-69-1, filed 1/28/69)

WAC 284-19-130 Commission. Commission under this program shall be 10 percent on the policy premium and (~~((shall be))~~) paid to the licensed producer designated by the applicant.

AMENDATORY SECTION (Amending Order R 79-3, filed 7/11/79)

WAC 284-19-140 Administration. (1) This program shall be administered by a governing committee (~~((hereinafter))~~) referred to as the committee of the facility, subject to the supervision of the commissioner, and operated by a manager appointed by the committee.

(2) (~~((On and after September 1, 1979;))~~) The committee (~~((shall))~~) consists of nine members, including five insurers, one of which (~~((shall be))~~) is elected from each of the following:

~~((American Insurance Association, Alliance of American Insurers, National Association of Independent Insurers, all other stock insurers, and all other nonstock insurers;))~~ (a) American Insurance Association;

(b) Alliance of American Insurers;

(c) National Association of Independent Insurers;

(d) All other stock insurers; and

(e) All other nonstock insurers.

A sixth member shall be ~~((the))~~ an insurer designated as the service insurer under the program ~~((or, if there be more than one service insurer, the sixth member shall be such service insurer as the commissioner designates as the member))~~. The commissioner shall designate a sixth member if there is more than one service insurer. The other three members ~~((shall be))~~ are individuals who are appointed by the commissioner to ~~((so))~~ serve, none of whom ~~((shall be interested, directly or indirectly))~~ have a direct or indirect interest in any insurer except as a policyholder. The individual members ~~((shall))~~ serve for a period of one year or until their successors are appointed. Not more than one insurer in a group under the same management or ownership shall serve on the committee at the same time. One of the six insurers on the governing committee shall be a domestic insurer.

~~(((3) The governing committee is hereby empowered to issue operating procedures and other directives to carry out the purposes of this plan, the act, and directives of the secretary and the commissioner pursuant thereto.))~~

~~(((4) Each person serving on the committee or any subcommittee thereof, each member of the facility, and each officer and employee of the facility shall be indemnified by the facility against all costs and expenses actually and necessarily incurred by him or it in connection with the defense of any action, suit, or proceeding in which he or it is made a party by reason of his or its being or having been a member of the committee, or a member or officer or employee of the facility except in relation to matters as to which he or it has been judged in such action, suit, or proceeding to be liable by reason of willful misconduct in the performance of his or its duties as a member of such committee, or a member or officer or employee of the facility. This indemnification shall not apply to any loss, cost, or expense on insurance policy claims under the program. Indemnification hereunder shall not be exclusive of other rights to which such member or officer may be entitled as a matter of law.))~~

(3) The governing committee may issue operating procedures and other directives to carry out the purposes of this plan and directives of the commissioner.

(4) Each person serving on the committee or any subcommittee, each member of the facility, and each officer and employee of the facility shall be indemnified by the facility against all costs and expenses actually and necessarily incurred in connection with the defense of any action, suit, or proceeding in which he or she is made a party by reason of being or having been a member of the committee, or a member or officer or employee of the facility except in relation to matters as to which he or she has been judged in such action, suit, or proceeding to be liable by reason of willful misconduct in the performance of duties as a member of the committee, or a member or officer or employee of the facility. This indemnification does not apply to any loss, cost, or expense on insurance policy claims under the program. Indemnification is not exclusive of other rights to which such member or officer may be entitled as a matter of law.

AMENDATORY SECTION (Amending Order R-69-1, filed 1/28/69)

WAC 284-19-150 Annual and special meetings. (1) There shall be an annual meeting of the insurers on a date fixed by the committee. The three ~~((aforementioned))~~ associations ~~((WAC 284-19-140(2)))~~ shall designate or elect their representatives to the committee. The two nonassociation groups of companies shall elect their respective representatives by a majority vote counted on a weighted basis in accordance with each insurer's premiums written and the aggregate premiums written for all insurers in the respective groups of companies. Representatives on the committee shall serve for a period of one year or until successors are elected or designated.

(2) A special meeting may be called at ~~((such))~~ a time and place designated by the committee or upon the written request to the committee of any ten insurers, not more than one of which may be a group under the same management or ownership.

(3) Twenty days' notice of ~~((such))~~ the annual or special meeting shall be given in writing by the committee to the insurers. A majority of the insurers ~~((shall))~~ constitutes a quorum. Voting by proxy ~~((shall be))~~ is permitted. Notice of any meeting shall be accompanied by an agenda for ~~((such))~~ the meeting.

(4) Any matter, including amendment of this program, may be proposed and voted upon by mail, provided ~~((such))~~ the procedure is unanimously authorized by the members of the committee present and voting at any meeting of the committee. If ~~((so))~~ approved by the committee, notice of any proposal ~~((shall be))~~ is mailed to the insurers not less than twenty days prior to the final date fixed by the committee for voting ~~((thereon))~~.

(5) At any regular or special meeting at which the vote of the insurers is or may be required on any proposal, including amendment to this program, or any vote of the insurers which may be taken by mail on any proposal, such votes shall be cast and counted on a weighted basis in accordance with each insurer's premiums written. A proposal ~~((shall))~~ becomes effective when approved by at least two-thirds of the votes cast on ~~((such))~~ the weighted basis, except amendments to this program ~~((which))~~ that will require administrative action by the commissioner.

AMENDATORY SECTION (Amending Order R-69-1, filed 1/28/69)

WAC 284-19-160 Duties of the committee. (1) The committee shall meet as often as may be required to perform the general duties of the administration of the program or on the call of the commissioner. Three insurers of the committee shall constitute a quorum.

(2) The committee ~~((shall be empowered to))~~ may appoint a manager ~~((, who shall serve at the pleasure of the committee,))~~ to budget expenses, levy assessments, disburse funds and perform all other duties provided ~~((herein))~~ in this chapter or necessary or incidental to the proper administration of the program. The manager serves at the pleasure of the committee. The adoption of or substantive changes in pension plans or employee benefit programs ~~((shall be))~~ is sub-

ject to approval of the insurers. Assessments upon each insurer shall be levied on the basis of its premiums written.

(3) Annually the manager (~~shall~~) prepares an operating budget (~~which shall be~~) that is subject to approval of the committee. (~~Such~~) The budget shall be furnished to the insurers after approval. Any contemplated expenditure in excess of or not included in the annual budget (~~shall~~) requires prior approval by the committee.

(4) The committee (~~shall~~) furnishes to all insurers and to the commissioner a written report of operations annually in (~~such~~) a form and detail as the committee may determine.

AMENDATORY SECTION (Amending Order R 77-1, filed 3/24/77)

WAC 284-19-170 Public education and notices required. (1) All insurers shall undertake a continuing public education program in cooperation with producers and others, to assure that the (~~essential property insurance inspection and placement~~) program receives adequate public attention.

(2) All insurers terminating a property insurance policy shall give any policyholder eligible for coverage under this program (~~(30 days)~~) notice of cancellation or refusal to renew (~~(except in the case of nonpayment of premium or evidence of incendiarism, and)~~) as required under chapters 48.18 and 48.53 RCW. The insurers shall explain the procedure for making application under this program in or accompanying (~~such~~) the notice.

AMENDATORY SECTION (Amending Order R-69-1, filed 1/28/69)

WAC 284-19-180 Statistics, records and reports. (1) **Statistics.** The facility shall maintain separate statistics on business written in accordance with this plan (~~, and~~). The facility shall make (the following quarterly report to the commissioner and to the secretary, and such additional reports as may be required by the commissioner):

(a) A quarterly report to the commissioner including:
 (i) Number of requests for inspections,
 (~~(b)~~) (ii) Number of risks inspected,
 (~~(c)~~) (iii) The number of risks accepted, total and average premiums charged, high and low premiums,
 (~~(d)~~) (iv) The number of risks declined, and
 (~~(e)~~) (v) The number of reinspections made on conditionally declined risks.

(b) Additional reports as required by the commissioner.

(2) **Records.** (~~In addition to statistics,~~) The facility shall maintain complete and separate records of all business transactions, including copies of all policies and endorsements issued in accordance with this plan.

(3) **Reports to members.** Regular reports of the facility's operations shall be submitted to all members by the committee (~~, such~~). The reports (~~to~~) shall include (~~, but not necessarily to be limited to, premiums written and earned, losses, including loss adjustment expense, paid and incurred, all other expenses incurred and~~):

(a) Premiums written and earned;

(b) Losses, including loss adjustment expense, paid and incurred;

(c) All other expenses incurred; and

(d) Outstanding liabilities.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 284-19-030

Effective date.

WSR 98-08-098

EXPEDITED ADOPTION

INSURANCE COMMISSIONER'S OFFICE

[Insurance Commissioner Matter No. R 98-11—

Filed April 1, 1998, 10:32 a.m.]

Title of Rule: Regulations pertaining to form filings.

Purpose: To update and clarify chapter 284-58 WAC, regulations pertaining to form filings.

Statutory Authority for Adoption: RCW 48.02.060.

Statute Being Implemented: RCW 48.18.100.

Summary: As part of the commissioner's review of Title 284 WAC, the proposed amendments will update various WAC sections in chapter 284-58 WAC that have been identified as outdated, inefficient, unclear, or duplicative.

Reasons Supporting Proposal: The proposed amendments should make the code more efficient and improve the clarity of these rules.

Name of Agency Personnel Responsible for Drafting: Kacy Brandeberry, Lacey, Washington, (360) 407-0729; Implementation and Enforcement: Dave Diehl, Olympia, Washington, (360) 664-2093.

Name of Proponent: Deborah Senn, Insurance Commissioner, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The proposal will update, clarify and repeal various sections of chapter 284-58 WAC. The affected sections include WAC 284-58-010 and 284-58-020, language/clarity improvements; WAC 284-58-250, authorize companies to submit electronic filings, delete unnecessary and confusing language; WAC 284-58-260, amended to eliminate certification process; and WAC 284-58-270 and 284-58-280, repeal certification process eliminated.

The result of updating and clarifying these sections assists in making the code clearer and more useful to consumers, insurers, and the Office of the Insurance Commissioner.

Proposal Changes the Following Existing Rules: WAC 284-58-010 and 284-58-020, language/clarity improvements; WAC 284-58-250, authorize companies to submit electronic filings, delete unnecessary and confusing language; WAC 284-58-260, amended to eliminate certification process; and WAC 284-58-270 and 284-58-280, repeal certification process eliminated.

The result of updating and clarifying these sections assists in making the code clearer and more useful to consumers, insurers, and the Office of the Insurance Commissioner.

NOTICE

THIS RULE IS BEING PROPOSED TO BE ADOPTED USING AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS RULE BEING ADOPTED USING THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Kacy Brandeberry, Office of the Insurance Commissioner, P.O. Box 40256, Olympia, WA 98504-0256, e-mail Kacyb@oic.wa.gov, FAX (360) 407-0186, AND RECEIVED BY May 30, 1998.

April 1, 1998

Greg J. Scully

Chief Deputy Commissioner

AMENDATORY SECTION (Amending Order R 82-5, filed 11/5/82)

WAC 284-58-010 Title and purpose. (1) This chapter, WAC 284-58-010 through ~~((284-58-280))~~ 284-58-260, shall be known and may be cited as the Washington state form filing requirements.

(2) The purpose of this chapter is to:

(a) Establish the necessary contents of a form filing, including the documents to be used in connection with a form filing ~~((-to))~~;

(b) Designate the types of policy forms which may not be filed by certification ~~((pursuant to))~~ under RCW 48.18.100(2)(~~(:)~~); and ~~((:))~~;

(c) With respect to disability insurance, ~~((to))~~ establish the filing requirements with respect to manuals of classification, manual of rules and rates, and modifications thereof.

~~((3) The fees for filing both forms and rates, and the definitions of such filings for purposes of determining the proper filing fees, are set forth in WAC 284-14-010-))~~

AMENDATORY SECTION (Amending Order R 82-5, filed 11/5/82)

WAC 284-58-020 Scope ~~((and general contents))~~. (1) This regulation applies to all insurers and to all forms required to be filed with the commissioner ~~((pursuant to))~~ under RCW 48.18.100, and to all manuals of classification, manuals of rules and rates and modifications ~~((thereof))~~ required to be filed with respect to disability insurance ~~((pursuant to))~~ under RCW 48.19.010(2).

(2) RCW 48.18.100 establishes ~~((two))~~ three basic types of form filings. The first type contemplates the approval of the commissioner. The second type contemplates a filing containing a certification, which permits the insurer to use the form without approval, immediately after the filing. The third type, for commercial property casualty forms, permits the insurer to use forms thirty days before filing. The first, or

approval, type of filing requires the commissioner to act within ~~((fifteen days))~~ thirty (or ~~((thirty))~~ forty-five days, if extended ~~((pursuant to))~~ under RCW 48.18.100(3), and, if the form has not been either approved or disapproved during such time period, the form is deemed approved and may be used by the insurer. In either case, the commissioner may subsequently withdraw approval or stop the use of a form for cause.

~~((3) This chapter is divided into the following parts:~~

(a) ~~The general contents of a life or disability insurance form filing and the reporting documents to be used are set forth in WAC 284-58-030 through 284-58-060.~~

(b) ~~Designations of the types of life and disability insurance forms which may and may not be filed by the "certification" procedure are found in WAC 284-58-070 through 284-58-180.~~

(c) ~~Procedures and forms for the certification of life and disability insurance forms and rates begin with WAC 284-58-190.~~

(d) ~~The general contents of a form filing for property and casualty or kinds of insurance other than life and disability, required to be made pursuant to RCW 48.18.100, are set forth in WAC 284-58-250.~~

(e) ~~Designation of the types of forms for insurances other than life and disability which may not be filed by the "certification" procedure is set forth in WAC 284-58-260.~~

(f) ~~The form to be used for the certification of forms for insurances other than life and disability is set forth in WAC 284-58-280-))~~

AMENDATORY SECTION (Amending Matter No. R 96-1, filed 5/2/96, effective 6/2/96)

WAC 284-58-250 General contents of a form filing for property and casualty insurance and kinds of insurance other than life and disability. (1) Each nonelectronic format form filing for property and casualty insurance or kinds of insurance other than life and disability ~~((, whether for approval or by certification, shall))~~ must be submitted with the filing transmittal forms prescribed by and available from the commissioner. ~~((In addition, the filing shall include, if applicable, a completed certification form as prescribed in WAC 284-58-270 and the printed form or forms, in duplicate. Use of a standardized transmittal form makes it easier for the commissioner to identify filings, issuers, and other important identifying information; permits more efficient tracking of filings; and makes it less difficult to provide status reports of filings to persons outside the office. The form will include the name of the filing entity, its address, identification number, the type of filing being submitted, the form name or group name and number, and other relevant information-))~~ The transmittal forms must be completed according to the instructions provided by the insurance commissioner.

(2) Each electronic format form filing for property and casualty insurance of kinds of insurance other than life and disability must be submitted by the method and format prescribed by the commissioner.

(3) Each form must have a unique identifying number and a way to distinguish new editions.

(4) If a form being filed is a revision or replacement of any existing form, the filing shall specify the change and provide the reason for the change.

(5) Separate filings must be submitted for each line of insurance. However, forms properly used for more than one line of insurance may be submitted in one multipurpose filing.

(6) Form filings must be submitted separately from rate and rule filings.

(7) Filings are considered filed the date they are received by the insurance commissioner. Incomplete filings will be returned to the filer and will not be regarded as filed.

AMENDATORY SECTION (Amending Order R 82-5, filed 11/5/82)

WAC 284-58-260 Designation of forms for insurances ((other than life and disability)) which may not be filed by certification. ~~((1) Except as provided in subsection (2) of this section, every property or casualty insurance policy form and endorsement pertaining to the following types of insurance must be filed for approval and may not be filed through the certification process:~~

- ~~(a) Fire and allied lines;~~
- ~~(b) Farmowners multiple peril;~~
- ~~(c) Homeowners multiple peril;~~
- ~~(d) Commercial multiple peril;~~
- ~~(e) Inland marine;~~
- ~~(f) Professional liability;~~
- ~~(g) Earthquake;~~
- ~~(h) Private passenger automobile;~~
- ~~(i) Commercial automobile;~~
- ~~(j) General liability;~~
- ~~(k) Glass;~~
- ~~(l) Crime coverage;~~
- ~~(m) Boiler and machinery; and~~
- ~~(n) Credit.~~

~~(2) Whenever a policy form or endorsement identified in subsection (1) of this section has been filed by a rating organization with, and approved by, the commissioner, a form with identical substantive wording may be filed by an individual insurance company by the certification process.)~~
Forms may not be filed by certification for the types of insurance defined by RCW 48.11.040 through 48.11.100.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- | | |
|----------------|---|
| WAC 284-58-270 | Certification form to be used for property and casualty insurance. |
| WAC 284-58-280 | Form to be used for certification of property or casualty insurance form filings. |

WSR 98-08-003
PERMANENT RULES
HIGHER EDUCATION
COORDINATING BOARD

[Filed March 18, 1998, 2:24 p.m.]

Date of Adoption: March 18, 1998.

Purpose: Rule sets goal for participation of women in intercollegiate athletics.

Citation of Existing Rules Affected by this Order: Amending WAC 250-71-050.

Statutory Authority for Adoption: Chapter 28B.85 RCW.

Adopted under notice filed as WSR 97-22-068 on November 4, 1997.

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 1, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

March 18, 1998

Susan Patrick

Deputy Director

Government Affairs

AMENDATORY SECTION (Amending WSR 90-24-023, filed 11/29/90, effective 12/30/90)

WAC 250-71-050 Intercollegiate athletics. Institutions which provide intercollegiate athletics shall do so with no disparities based on gender, according to the following standards:

(1) No sports may be excluded or treated separately for purposes of meeting any of the requirements of this section.

(2) Institutions shall provide equitable opportunities for participation for males and females in intercollegiate athletics:

(a) Intercollegiate athletics shall include all sports recognized by the NCAA, NAIA, and NWAACC, plus the sport of crew.

(b) Consistent with RCW 28B.15.460, satisfactory progress toward the goal of equitable opportunity, as of July 1, 1994, will be assumed if, by that date, the number of opportunities for participation in athletics for female students meets or exceeds the approximate rate (~~((39%))~~ 42%) at which high school girls participated in interscholastic athletics in the state of Washington in (~~((4990))~~ 1995-96).

(c) After 1994, institutions shall show continuing progress toward the goal of providing numbers of opportunities for participation in athletics for male and female students proportional to their respective undergraduate enrollments at the institutions.

(3) If any benefits, services, or facilities are provided, they shall be made available proportionally, across the athletic program considered as a whole. Institutions which provide higher levels of support to some sports than to others shall ensure that male and female athletes experience the benefits of such enhanced support in an equal proportion to their participation rates. Examples of such benefits include:

(a) Equipment, supplies, laundry services

(b) Medical care, services, and insurance

(c) Scholarships and all other forms of financial aid or benefits from any source related to the students' status as an athlete

(d) Opportunities to receive coaching and instruction, including academic tutoring

(e) Conditioning programs

(f) Opportunities for competition, including pre- and post-season opportunities and levels of competition

(g) Transportation and per diem allowances

(h) Assignment of game officials

(i) Scheduling of games and practice times, including use of courts, gyms, and pools.

(j) Publicity and awards

(k) Showers, lockers, toilets, training room facilities.

WSR 98-08-004
PERMANENT RULES
HIGHER EDUCATION
COORDINATING BOARD

[Filed March 18, 1998, 2:27 p.m.]

Date of Adoption: March 18, 1998.

Purpose: Revise chapter 250-18 WAC to reflect legislative changes, WAC 250-18-020 and 250-18-060.

Citation of Existing Rules Affected by this Order: Amending WAC 250-18-020 and 250-18-060.

Statutory Authority for Adoption: RCW 28B.15.015.

Other Authority: RCW 28B.15.0131.

Adopted under notice filed as WSR 98-01-101 on December 16, 1997.

Changes Other than Editing from Proposed to Adopted Version: For tuition and fee purposes, home tuition program participants and qualified members of specific American Indian tribes are classified as residents of Washington.

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 2, 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 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 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

March 18, 1998

Susan Patrick

Deputy Director

Government Affairs

AMENDATORY SECTION (Amending WSR 93-20-004, filed 9/22/93, effective 10/23/93)

WAC 250-18-020 Student classification. (1) For a student to be classified as a "resident" for tuition and fee purposes, he or she shall:

(a)(i) Have established a bona fide domicile in the state of Washington primarily for purposes other than educational for the period of one year immediately prior to commencement of the first day of the semester or quarter for which he or she has registered at any institution; and

(ii) Be financially independent; or

(b) Be a dependent student, with one or both of whose parents or legal guardians have maintained a bona fide domicile in the state of Washington for at least one year immediately prior to commencement of the semester or quarter for which the student has registered at any institution; or

(c) Any student who has spent at least seventy-five percent of both his or her junior and senior years in high school in this state, whose parents or legal guardians have been domiciled in the state for a period of at least one year within the five-year period before the student graduates from high school, and who enrolls in a public institution of higher education within six months of leaving high school, for as long as the student remains continuously enrolled for three quarters or two semesters in any calendar year; ~~((or))~~

(d) Be the spouse or dependent of an active duty military person stationed in the state of Washington;

(e) Be a student of an out-of-state institution of higher education who is attending a Washington state institution of higher education pursuant to a home tuition program agreement under RCW 28B.15.725; or

(f) Be a student domiciled for one year in one or a combination of the following states: Idaho, Montana, Oregon, or Washington, and be a member of one of the following American Indian tribes:

(i) Colville Confederated Tribes;

(ii) Confederated Tribes of the Chehalis Reservation;

(iii) Hoh Indian Tribe;

(iv) Jamestown S'Klallam Tribe;

(v) Kalispel Tribe of Indians;

(vi) Lower Elwha Klallam Tribe;

(vii) Lummi Nation;

(viii) Makah Indian Tribe;

(ix) Muckleshoot Indian Tribe;

(x) Nisqually Indian Tribe;

(xi) Nooksack Indian Tribe;

(xii) Port Gamble S'Klallam Community;

(xiii) Puyallup Tribe of Indians;

(xiv) Quileute Tribe;

(xv) Quinault Indian Nation;

(xvi) Confederated Tribes of Salish Kootenai;

(xvii) Sauk Suiattle Indian Nation;

(xviii) Shoalwater Bay Indian Tribe;

(xix) Skokomish Indian Tribe;

(xx) Snoqualmie Tribe;

(xxi) Spokane Tribe of Indians;

(xxii) Squaxin Island Tribe;

(xxiii) Stillaguamish Tribe;

(xxiv) Suquamish Tribe of the Port Madison Reservation;

(xxv) Swinomish Indian Community;

(xxvi) Tulalip Tribes;

(xxvii) Upper Skagit Indian Tribe;

(xxviii) Yakama Indian Nation;

(xxix) Coeur d'Alene Tribe;

(xxx) Confederated Tribes of Umatilla Indian Reservation;

(xxxi) Confederated Tribes of Warm Springs;

(xxxii) Kootenai Tribe; and

(xxxiii) Nez Perce Tribe.

(2) A student shall be classified as a "nonresident" for tuition and fee purposes if he or she does not qualify as a resident student under the provisions of subsection 1 of this section. A nonresident student shall include a student if he or she:

(a) Will be financially dependent for the current year or was financially dependent for the calendar year prior to the year in which application is made and who does not have a parent or legally appointed guardian who has maintained a bona fide domicile in the state of Washington for one year immediately prior to the commencement of the semester or quarter for which the student has registered at an institution;

(b) Attends an institution with financial assistance provided by another state or governmental unit or agency thereof wherein residency in that state is a continuing qualification for such financial assistance, such nonresidency continuing for one year after the completion of the quarter or semester for which financial assistance is provided. Such financial assistance relates to that which is provided by another state, governmental unit[,], or agency thereof for direct or indirect educational purposes and does not include retirements, pensions, or other noneducational related income. A student loan guaranteed by another state or governmental unit or agency thereof on the basis of eligibility as a resident of that state is included within the term "financial assistance;"

(c) Is not a citizen of the United States of America, unless such person holds permanent or temporary resident immigration status, "refugee - parolee," or "conditional entrant" status or is not otherwise permanently residing in the United States under color of law and further meets and complies with all applicable requirements of WAC 250-18-030 and 250-18-035.

(3) A person does not lose a domicile in the state of Washington by reason of residency in any state or country while a member of the civil or military service of this state or

of the United States, nor while engaged in the navigation of the waters of this state or of the United States or of the high seas if that person returns to the state of Washington within one year of discharge from said service with the intent to be domiciled in the state of Washington.

(4) Any resident dependent student who remains in this state when such student's parents or legal guardians, having theretofore, been domiciled in this state for a period of one year immediately prior to commencement of the first day of the semester or quarter for which the student has registered at any institution, move from this state, shall be entitled to continued classification as a resident student so long as such student is continuously enrolled during the academic year.

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

AMENDATORY SECTION (Amending WSR 93-20-004, filed 9/22/93, effective 10/23/93)

WAC 250-18-060 Exemptions from nonresident status. In accordance with RCW 28B.15.014, certain nonresidents may be exempted from paying the nonresident tuition and fee differential. Exemption from the nonresident tuition and fee differential shall apply only during the term(s) such persons shall hold such appointments or be so employed. To be eligible for such an exemption, a nonresident student must provide documented evidence that he or she does reside in the state of Washington, and:

(1) Holds a graduate service appointment designated as such by an institution involving not less than twenty hours per week;

(2) Is employed for an academic department in support of the instructional or research programs involving not less than twenty hours per week;

(3) Is a faculty member, classified staff member, or administratively exempt employee who resides in the state of Washington and is holding not less than a half-time appointment, or the spouse or dependent child of such a person;

(4) Is an active duty military person stationed in the state of Washington;

(5) Is an immigrant having refugee classification from the U.S. Immigration and Naturalization Service or the spouse or dependent child of such refugee, if the refugee (a) is on parole status, or (b) has received an immigrant visa, or (c) has applied for United States citizenship; or

(6) ~~((Is a domestic exchange student participating under 28B.15.725 RCW; or~~

~~(7)))~~ Is a dependent of a member of the United States Congress representing the state of Washington.

WSR 98-08-005
PERMANENT RULES
HIGHER EDUCATION
COORDINATING BOARD
 [Filed March 18, 1998, 2:28 p.m.]

Date of Adoption: March 18, 1998.

Purpose: Repeal of WAC 250-61-150.

Citation of Existing Rules Affected by this Order: Repealing WAC 250-61-150.

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 2.

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.

Adopted under preproposal statement of inquiry filed as WSR 97-20-088 on September 29, 1997.

Effective Date of Rule: Thirty-one days after filing.

March 18, 1998

Susan Patrick

Deputy Director

Government Affairs

WSR 98-08-006
PERMANENT RULES
HIGHER EDUCATION
COORDINATING BOARD

[Filed March 18, 1998, 2:29 p.m.]

Date of Adoption: March 18, 1998.

Purpose: Repeal WAC 250-10-010 through 250-10-170.

Citation of Existing Rules Affected by this Order: Repealing WAC 250-10-010 through 250-10-170.

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 [20].

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.

Adopted under preproposal statement of inquiry filed as WSR 97-20-089 on September 29, 1997.

Effective Date of Rule: Thirty-one days after filing.

March 18, 1998

Susan Patrick
Deputy Director
Government Affairs

WSR 98-08-007

**PERMANENT RULES
HIGHER EDUCATION
COORDINATING BOARD**

[Filed March 18, 1998, 2:30 p.m.]

Date of Adoption: March 18, 1998.

Purpose: WAC 250-16-001 through 250-16-060, federal program repealed rules no longer necessary.

Citation of Existing Rules Affected by this Order: Repealing WAC 250-16-001 through 250-16-060.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed [7]; Federal Rules or Standards: New 0, Amended 0, Repealed [7]; 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.

Adopted under preproposal statement of inquiry filed as WSR 97-20-090 on September 29, 1997.

Effective Date of Rule: Thirty-one days after filing.

March 18, 1998

Susan Patrick
Deputy Director
Government Affairs

WSR 98-08-008

**PERMANENT RULES
HIGHER EDUCATION
COORDINATING BOARD**

[Filed March 18, 1998, 2:31 p.m.]

Date of Adoption: March 18, 1998.

Purpose: Repeal of WAC 250-12-010 through 250-12-070, the federal program referred to no longer exists.

Citation of Existing Rules Affected by this Order: Repealing WAC 250-12-010 through 250-12-070.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 7; Federal Rules or Standards: New 0, Amended 0, Repealed 7; 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.

Adopted under preproposal statement of inquiry filed as WSR 97-20-091 on September 26 [29], 1997.

Effective Date of Rule: Thirty-one days after filing.

March 18, 1998

Susan Patrick
Deputy Director
Government Relations

WSR 98-08-009

**PERMANENT RULES
HIGHER EDUCATION
COORDINATING BOARD**

[Filed March 18, 1998, 2:32 p.m.]

Date of Adoption: March 18, 1998.

Purpose: Repeal WAC 250-55-010 through 250-55-220.

Citation of Existing Rules Affected by this Order: Repealing WAC 250-55-010 through 250-55-220.

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.

Adopted under preproposal statement of inquiry filed as WSR 97-20-092 on September 29, 1997.

Effective Date of Rule: Thirty-one days after filing.

March 18, 1998

Susan Patrick
Deputy Director
Government Affairs

WSR 98-08-011
PERMANENT RULES
GAMBLING COMMISSION

[Filed March 18, 1998, 3:49 p.m., effective July 1, 1998]

Date of Adoption: March 13, 1998.

Purpose: Housekeeping, this rule was last amended when the manufacturer and distributor rules package passed in September 1997. The commission voted to delete a more specific exception to the prohibition against exclusive contracts in subsection (2)(b). This amendment deletes this specific exception.

Citation of Existing Rules Affected by this Order: Amending WAC 230-12-330.

Statutory Authority for Adoption: RCW 9.46.070(11).

Adopted under notice filed as WSR 98-03-069 on January 20, 1998 with a publication date of February 4, 1998.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: July 1, 1998.

March 18, 1998

Soojin Kim

Rules and Policy Coordinator

AMENDATORY SECTION (Amending WSR 97-20-026, filed 9/22/97, effective 1/1/98)

WAC 230-12-330 Availability of gambling equipment and related products and services—Prices—Contracts—Discounts—Restrictions—Exceptions. Manufacturers and distributors shall make their products and services available to all licensees without discrimination. Except as authorized by this section, gambling equipment, devices, related paraphernalia or supplies, and services shall be offered to any licensee wishing to purchase such, for the same price and terms. The following restrictions, procedures, and exceptions apply to prices and terms related to sales of gambling-related products or services:

What are the restrictions on prices of gambling products and services?

(1) Discriminatory prices are prohibited. Prices are considered discriminatory when identical or similar items or services are offered to different persons for a different price or under different terms or conditions: *Provided*, That prices set

under the following criteria shall not be considered discriminatory:

(a) Prices that are established in advance and available for review by the commission and customers prior to accepting a sales order utilizing such. For purposes of this section, prices are deemed to be established and available when they have been mailed or transmitted by facsimile to the commission at least forty-eight hours prior to completing sales transactions or accepting orders for products or services;

(b) Separate and different price schedules established by manufacturers or distributors for transactions conducted with licensees at different marketing levels when such prices are progressively lower at each marketing level above the operator level;

(c) Prices that are based upon the delivery location of an item or service. If the price of an item or service is based upon "free on board" (FOB) terms at a specific location, such price may be varied based upon delivery at a different location, if such is justified by objective evidence. The burden of proof regarding such price differentiation is borne by the seller. Such prices are subject to all other requirements of this section; and

(d) Short-term price reductions or "sales" by manufacturers or distributors are authorized when every licensee is afforded an opportunity to participate. For purposes of this section licensees will be deemed to have been afforded an opportunity to participate when:

(i) All prices and terms are clearly posted at all sales outlets for the benefit of operators and provided to all customers serviced by mobile sales representatives;

(ii) Manufacturers provide full details of the sale to all licensed distributors, including prices and terms, at least forty-eight hours prior to accepting orders for products or services being offered at a sale price. Such notice shall be by mail or telephone facsimile; and

(iii) Any limitations or conditions of the sale are clearly stated in advertisements or notices for such sale.

Can licensees enter into contracts that either require or restrict use of gambling-related products or services?

(2) Except as set forth in WAC 230-12-230, licensees shall not enter into contracts that directly or indirectly restrict the distribution or use of gambling equipment, devices, paraphernalia, supplies, or services: *Provided*, That holders of proprietary rights to products or services that have been gained through patents, copyrights, trademarks, or other similar rights bestowed by state or federal law or by courts shall be allowed to enter into license agreements with manufacturers that restrict the ability to manufacture or distribute products or services if all other requirements of this section are met. The following transactions are prohibited:

(a) An operator or distributor shall not agree to deal in, purchase, sell, lease, or operate any particular brand or brands of gambling device or equipment to the exclusion of any other brand of gambling device or equipment;

(b) A manufacturer or distributor, or licensed representative or employee thereof, shall not sell or offer to sell, lease, or loan any gambling-related product, service, or merchandise if such is contingent upon the purchase or order of another product, service, or merchandise (~~—Provided, That a~~

~~manufacturer may offer for sale in the state of Washington, pull tab dispensing devices that are designed to use specifically developed pull tab series if the manufacturer has a patent or other exclusive right to protect its distribution)); and~~

(c) Except as set forth in this subsection, no person shall enter into any agreement, express or implied, that prohibits a person from selling or providing any gambling-related product or service within a particular geographic area: *Provided, That -*

(i) Licensed manufacturers, distributors, and service suppliers may enter into such agreements with its licensed representative; and

(ii) An operator may enter into an agreement with a licensed service supplier that is supplying only management or consulting services when such agreement only restricts the service supplier from supplying the same or similar services to other operators within a specified geographic area.

Are discounts allowed?

(3) Manufacturers and distributors may offer discounts of base prices that are authorized by this section when such discounts are nondiscriminatory. For purposes of this title, discounts will be deemed to be nondiscriminatory when:

(a) Offered to all licensees on the same terms;

(b) The scheme upon which the discount is based is in writing and submitted to the commission at least forty-eight hours prior to being offered;

(c) The discount applies only to a single sales transaction and does not relate to a level of sales made over a period of time; and

(d) The level of a discount is based only upon any of the following criteria:

(i) The amount of product sold or the dollar value of the sale;

(ii) Whether the purchaser makes full payment in cash at time of sale;

(iii) Whether the purchaser makes final payment for a transaction within a predetermined time period for sales made under "trade account" terms; and

(iv) Any other structure or terms, subject to preapproval by the director. The manufacturer shall pay for the approval process and any additional requirements necessary to assure compliance with this section.

Can manufacturers or distributors elect to limit their sales to a specific market level?

(4) A licensed manufacturer or distributor may elect to limit sales of products and services to licensees at any marketing level. For purposes of this section, marketing levels are defined as manufacturer, distributor, and operator. If a manufacturer or distributor elects to make sales to any licensee at a marketing level, sales must be made to all licensees at the same level: *Provided, That* transactions between a manufacturer and distributor, when both are owned and operated by the same persons, are considered internal to that business. For purposes of this section, internal transactions are not considered sales at a different marketing level. All other restrictions of this section apply to such sales. For example:

(a) A licensed manufacturer may elect to sell or provide products and services only to distributors; or

(b) A licensed distributor may elect to sell or provide products and services only to operators.

Can manufacturers or distributors establish minimum purchase requirements?

(5) Manufacturers or distributors shall not set minimum purchase requirements for any product or service, except as authorized below:

(a) Minimum purchase requirements are not allowed for purchases made under prepaid or cash on delivery (COD) terms: *Provided, That* manufacturers may establish and charge a reasonable fee for services to handle an order for products or services below a specified level, if such policy is in writing and provided to distributors prior to accepting orders;

(b) Minimum purchase restrictions may be set for transactions between manufacturers and distributors that are conducted using trade account terms, as authorized by WAC 230-12-340;

(c) Discounts may be set based upon a minimum purchase amount as authorized by subsection (3) of this section; and

(d) Minimum purchase restrictions may be placed on products being offered for a bargain or "sale" price if a bargain or "sale" price is established for any and all levels of purchases under such terms.

Are there restrictions on the sale of nongambling products or services sold to licensees by manufacturers or distributors?

(6) A manufacturer or distributor shall not grant licensees, nor shall such licensees accept, more favorable prices, credit terms, or other arrangements than those extended to nonlicensed persons purchasing identical or similar nongambling goods or services. The price of nongambling goods or services sold to licensees shall be in conformity with the open market price in the locality where sold. The terms of such sales shall not exceed those normally granted in accordance with the customary business practice of the particular trade in the locality where such sales are made.

Do the restrictions set forth in this section apply to class III transactions?

(7) This section shall not apply to transactions conducted with tribal governments operating class III casinos under tribal/state compacts or with management companies operating such casinos on the behalf of tribal governments.

WSR 98-08-013
PERMANENT RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION

[Order 98-05—Filed March 18, 1998, 3:50 p.m.]

Date of Adoption: March 18, 1998.

Purpose: To make changes to the special education safety net process for the 1997-98 school year.

Citation of Existing Rules Affected by this Order: Amending WAC 392-140-601, 392-140-602, 392-140-605, 392-140-616, 392-140-625, 392-140-640, 392-140-656, 392-

140-660, 392-140-665, 392-140-675, 392-140-680, and 392-140-685.

Statutory Authority for Adoption: RCW 28A.150.290 and section 507(8), chapter 149, Laws of 1997.

Adopted under notice filed as WSR 98-04-036 on January 29, 1998.

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 1, Amended 12, 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.

March 18, 1998

Dr. Terry Bergeson
Superintendent of
Public Instruction

AMENDATORY SECTION (Amending Order 96-15, filed 9/18/96, effective 10/19/96)

WAC 392-140-601 Special education safety net—Authority. The authority for WAC 392-140-600 through 392-140-685 is:

(1) Section ((508 of the 1995-97)) 507, chapter 149, Laws of 1997, the Biennial Operating Appropriations Act; and

(2) RCW 28A.150.290(1).

AMENDATORY SECTION (Amending Order 96-15, filed 9/18/96, effective 10/19/96)

WAC 392-140-602 Special education safety net—Eligible applicants. (1) An individual school district of the state of Washington is eligible to apply for special education safety net moneys on behalf of its resident students. Resident students include those defined as resident pursuant to WAC 392-137-115, those enrolled through choice (RCW 28A.225.225) and those from nonhigh districts (RCW 28A.225.210). Resident students exclude those residing in another district and enrolled as part of an interdistrict cooperative program (RCW 28A.225.250).

(2) An interdistrict cooperative of at least fifteen districts in which all excess cost services for special education students of the districts are provided by the cooperative is eligible to apply for special education safety net moneys. The cooperative and the participating school districts shall be treated as a single school district for the purposes of this

chapter. Participating school districts are not eligible to apply for safety net moneys individually.

(3) The Washington state school for the deaf and the Washington state school for the blind are eligible to apply for high cost individual students under WAC 392-140-616.

AMENDATORY SECTION (Amending Order 96-15, filed 9/18/96, effective 10/19/96)

WAC 392-140-605 Special education safety net—Safety net application—Basis, certification, worksheets. Application for safety net funding shall be made on Form SPI 1381 published by the superintendent of public instruction as follows:

(1) School districts may make application for safety net funding on the basis of one or more of the following:

(a) Maintenance of effort (state revenue only) hereafter referred to as MOESR. State safety net funding may be requested when a district shows a MOESR loss calculated by the superintendent of public instruction pursuant to WAC 392-140-620.

(b) Special characteristics and costs. State safety net funding may be requested by a school district with special education costs of providing services that are reasonable, but differ significantly from the assumptions contained in the state special education funding formula provided that the applicant school district meets the standards of WAC 392-140-613 and can demonstrate, pursuant to WAC 392-140-625 either of the following:

(i) The district's actual resident special education enrollment exceeds the district's funded resident special education enrollment, the district has adopted a plan of action to contain or eliminate any unnecessary, duplicative, or ineffective enrollment practices, and all available funding, including state, federal, and local if provided in the past, is insufficient to meet the expenditure level necessary for special education; or

(ii) The district's resident special education enrollment percentage is equal to the funded special education enrollment percentage and the district has incurred an adverse change in the demographics of its resident special education enrollment since the prior school year, and all available funding, including state, federal, and local if provided in the past, is insufficient to meet the expenditure level necessary for special education.

(c) High-cost individual student. A school district may submit ((not more than three)) applications ((in a school year)) for federal safety net funding for high-cost individual students meeting the standards in WAC 392-140-616.

(2) The school district making application for safety net funding shall certify that:

(a) The application complies with the respective safety net application standards of WAC 392-140-610, 392-140-613, or 392-140-616;

(b) The application provides true and complete information to the best of the school district's knowledge; and

(c) The district understands that safety net funding is not an entitlement, is subject to adjustment and recovery, may not be available in future years, state safety net funding must be expended in program 21 which impacts the amount that

must be maintained for the federal maintenance of effort test, and federal safety net funding must be expended in program 24.

(3) Worksheets included with the application shall demonstrate the need for safety net funding. School districts are encouraged and may be required to submit additional information designed to assist the state oversight committee in analyzing the application.

(a) MOESR applications pursuant to subsection (1)(a) of this section do not require any worksheets.

(b) Special characteristics and costs applications pursuant to subsection (1)(b)(ii) of this section require completion of the narrative and worksheets described in WAC 392-140-625.

(c) High-cost individual student applications shall include completed budget forms SPI F-1000B and SPI E-795B, and worksheets ("A," "B," "A" and "C" published in the safety net application.

AMENDATORY SECTION (Amending Order 96-15, filed 9/18/96, effective 10/19/96)

WAC 392-140-616 Special education safety net—Standards—High-cost individual student applications. For districts requesting safety net funding to meet the extraordinary needs of an eligible high-cost individual special education student, the district shall demonstrate at a minimum that:

(1) The IEP for the eligible special education student is appropriate, and properly and efficiently prepared and formulated.

(2) All of the following criteria apply to the high-cost individual student:

(a) Costs eligible for safety net consideration must be direct expenditures for services required in the IEP.

(b) In order to deliver appropriate special education to the student, the district must be providing services which incur additional costs which exceed available district annual average per-pupil revenues, including state, federal and local revenues, by seven thousand dollars. This threshold amount shall be adjusted downward by the portion of the year for which the individual student was actually enrolled. For example, for a student served and reported for only one-half the year, the threshold amount shall be reduced by one-half. The state safety net oversight committee may set a lower threshold for small school districts.

(c) The total cost of educational services must exceed ~~((the sum of any MOESR gain calculated pursuant to WAC 392-140-620 and))~~ any carryover of federal flow-through special education funding as of August 31 of the prior school year.

(d) The cost of providing special education services, as directed in the IEP, for this student would be detrimental to the school district's ability to provide necessary services to the other students being provided special education in the district.

(3) The state safety net oversight committee shall adapt the high cost individual student application as appropriate for applications prepared by the Washington state school for the blind and the Washington state school for the deaf.

AMENDATORY SECTION (Amending Order 96-15, filed 9/18/96, effective 10/19/96)

WAC 392-140-625 Special education safety net—Demonstration of special characteristics and costs. ~~((Special characteristics and costs))~~ Applications pursuant to WAC 392-140-605 (1)(b) must demonstrate ~~((adverse impacts. Instructions to the application narrative and worksheets shall be published by the superintendent of public instruction with the safety net application))~~ special characteristics and costs as provided in this section.

(1) ~~((Adverse enrollment impacts shall be demonstrated as follows:~~

~~((a))~~ Applications from districts with actual enrollment greater than funded enrollment pursuant to WAC 392-140-605 (1)(b)(i) must demonstrate, through the application narrative, that the district has adopted a plan of action to contain or eliminate any unnecessary, duplicative, or ineffective enrollment practices. Applicants shall cooperate with the special education program audit team and shall provide the team with any information required by the team to review and verify certifications made on the safety net application.

~~((b))~~ (2) Applications from districts with actual enrollment equal to funded enrollment pursuant to WAC 392-140-605 (1)(b)(ii) must demonstrate, through the application narrative and on application worksheet ("A," "A" and "B," an adverse change in resident special education enrollment characteristics and program costs since the prior school year.

~~((c))~~ (a) The application narrative completed by the school district shall provide any information and explanations related to special enrollment characteristics as required in the published instructions.

~~((d))~~ (b) Application worksheet "A" shall ~~((use enrollments reported by and/or for the district to the superintendent of public instruction and published by the superintendent of public instruction for this purpose and shall measure the resident special education enrollment difference by disability category. Differences shall be expressed as a headcount difference and as a percent of the district's current school year annual average full-time equivalent resident basic education enrollment calculated pursuant to WAC 392-121-133))~~ demonstrate a financial need by displaying the school district's special education expenditures, revenues, and special education enrollments for the prior and current school years. Application worksheet "B" shall display changes in staff services and staff-to-ratios between the prior and current school years.

~~((e))~~ (c) Cost differences between the current and prior school years ~~((resulting from the adverse enrollment impacts demonstrated pursuant to subsection (1) of this section))~~ shall be ~~((demonstrated))~~ explained in the application narrative. The application narrative shall detail cost differences in services to students which occurred between the current school year and the prior school year. Such details shall include costs and savings associated with each change in services.

~~((f))~~ (d) A fiscal need shall be demonstrated through the application narrative, on application worksheets "A" and "B," and other information available to the state oversight committee. Fiscal need shall be demonstrated as follows:

~~((g))~~ (i) The application narrative shall ~~((be completed by the school district and))~~ provide information and explana-

tions related to fiscal need pursuant to the published instructions.

~~((b))~~ (ii) Application worksheets "A" and "B" shall ~~((be completed by the school district and shall))~~ demonstrate a fiscal need in excess of the sum of:

~~((i))~~ (A) All current school year safety net awards to the district for MOESR or special characteristics and costs;

~~((ii))~~ ~~Any MOESR gain as calculated pursuant to WAC 392-140-620;~~

~~((iii))~~ (B) Any previous high cost individual safety net awards for the current school year; and

~~((iv))~~ (C) All other available revenue for special education including all carryover of federal special education revenue.

~~((4))~~ (iii) The school district shall provide additional information as requested by the state oversight committee.

NEW SECTION

WAC 392-140-630 Special education safety net—Special education program audit team—Purpose, procedures. The special education program audit team consists of staff of the state auditor's office funded in the Biennial Operating Appropriations Act to audit special education programs that exhibit unusual rates of growth, extraordinarily high costs, or other characteristics requiring the attention of the state safety net oversight committee. When reviewing a school district's special education program, the audit team shall review and verify any certifications and supporting information provided by the district in a safety net application. The audit team shall provide the results of the review to the state oversight committee. The results of the audit team's review may be considered by the oversight committee in determining, adjusting, or recovering safety net awards.

AMENDATORY SECTION (Amending Order 96-15, filed 9/18/96, effective 10/19/96)

WAC 392-140-640 Special education safety net—~~((Definition—))~~**State oversight committee—Membership, structure.** Membership of the state oversight committee shall consist of: Staff of the office of superintendent of public instruction, staff of the office of state auditor, staff of the office of financial management, one or more representatives from a school district(s), and one or more representatives from an educational service district.

(1) The state oversight committee members will be appointed by the office of superintendent of public instruction.

(2) The state director of special education shall serve as an ex officio, nonvoting committee member and act as the state oversight committee manager.

(3) Members of the state oversight committee from school districts and/or educational service districts will be appointed based on their knowledge of special education program service delivery and funding, geographical representation, size of district(s) served, and other demographic considerations which will guarantee a representative state committee.

(4) Alternate members shall be appointed. In the event a member is unable to attend a committee meeting, an alternate member shall attend.

(5) Membership appointments shall be made for a period of one year. The oversight committee manager may replace a portion of the committee each year in order to enhance representation.

AMENDATORY SECTION (Amending Order 96-15, filed 9/18/96, effective 10/19/96)

WAC 392-140-656 Special education safety net—~~((Safety net appeal—Procedures))~~ **Request for review and reconsideration.** ~~((While special education safety net funding is not an entitlement,))~~ An applicant district may ~~((appeal))~~ request review and reconsideration of an action of the state oversight committee made pursuant to WAC 392-140-646.

(1) The district shall ~~((appeal))~~ make the request in writing to the superintendent of public instruction within thirty days of the date that the state oversight committee's written determination notice is sent to the district pursuant to WAC 392-140-643(11).

(2) The applicant district shall request reconsideration of the state oversight committee's action on one or more of the following grounds:

(a) The action was outside the statutory authority of the committee;

(b) The action failed to follow prescribed procedures;

(c) The action erroneously interpreted or applied the law;

(d) The action was not supported by substantial evidence; or

(e) The action was inconsistent with the agency rules regarding safety net funding.

(3) If the superintendent of public instruction finds grounds for reconsideration pursuant to subsection (2) of this section, the superintendent shall request reconsideration of the action by the state oversight committee. The superintendent's request shall state the grounds for reconsideration supported by the facts considered by the superintendent.

AMENDATORY SECTION (Amending Order 96-15, filed 9/18/96, effective 10/19/96)

WAC 392-140-660 Special education safety net—Approved application—Initial state special education safety net allocation. The total amount allocated to school districts may not exceed the authorized appropriation.

(1) The initial special education safety net allocation of state moneys for applicants shall be the smaller of:

(a) The amount requested by the school district; or

(b) The amount authorized by the state oversight committee.

~~((The state oversight committee shall determine what portion, if any, of a special characteristics and costs application amount is to be credited against a MOESR gain determined pursuant to WAC 392-140-620.~~

~~((3))~~ The initial special education safety net allocation of state moneys for special characteristics applicants under WAC 392-140-605 (1)(b) shall be prorated if the state total

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year-to-date allocations for all safety net applications under WAC 392-140-605 (1)(a) and (b) exceed the authorized appropriation for that school year.

AMENDATORY SECTION (Amending Order 96-15, filed 9/18/96, effective 10/19/96)

WAC 392-140-665 Special education safety net—Approved application—Initial federal special education safety net allocation. If documented needs for federal discretionary funds exceed the appropriation the superintendent of public instruction may access additional federal funds.

(1) The state oversight committee shall determine what portion, if any, of a high cost individual application amount is to be credited against ~~((the sum of any MOESR gain determined pursuant to WAC 392-140-620 and))~~ any carryover of federal flow-through special education funding from the prior school year.

(2) The initial allocation amount of federal special education safety net moneys for a school district is the amount authorized by the state oversight committee and may be prorated if the total year-to-date allocations for such applications exceeds the authorized appropriation.

AMENDATORY SECTION (Amending Order 96-15, filed 9/18/96, effective 10/19/96)

WAC 392-140-675 Special education safety net—Adjusted special education safety net allocation. Safety net allocation amounts for a school district may be adjusted during the school year as follows:

(1) The initial state and federal special education safety net allocation amounts for a school district may be adjusted to reflect changes in factors for which additional or revised information becomes available after the awarding of the initial safety net allocation ~~((and such information results in the district being eligible for a lesser allocation))~~. This means:

(a) MOESR awards shall be reduced or nullified when a recalculation pursuant to WAC 392-140-620 results in a loss smaller than any loss previously calculated pursuant to WAC 392-140-620.

(b) Special characteristics and costs awards ~~((shall))~~ may be reduced or nullified when ~~((a recalculation pursuant to WAC 392-140-620 results in a gain which is larger than any previously calculated pursuant to WAC 392-140-620 and against which safety net applications are credited pursuant to WAC 392-140-660(2) and/or 392-140-665(1)))~~ the school district's actual revenues and expenditures for the school year differ significantly from the estimates on which the initial safety net award was based.

(c) A school district's safety net award may be adjusted by the safety net oversight committee based on the results of the review conducted by the special education program audit team pursuant to WAC 392-140-630.

(2) The initial special education safety net allocation of state moneys for special characteristics applicants under WAC 392-140-605 (1)(b) shall be subject to additional proration if total state allocations for all safety net applications under WAC 392-140-605 (1)(a) and (b) exceed the authorized appropriation for that school year.

AMENDATORY SECTION (Amending Order 96-15, filed 9/18/96, effective 10/19/96)

WAC 392-140-680 Special education safety net—Recovery of state allocations to school districts. State safety net funding is provided in revenue account 4121. Safety net funding:

(1) Shall be recovered or reduced for the following reasons:

(a) Unexpended account 4121 revenues are recovered in the subsequent school year pursuant to WAC 392-122-900.

(b) Any necessary adjustments pursuant to WAC 392-140-675 were not previously made.

(c) The periodic and/or final MOESR calculation performed by the superintendent of public instruction determines that a lesser amount is needed for maintenance of effort (state revenue only).

(d) The district did not use or failed to apply for available Medicaid or federal flow-through special education funding.

(e) The application contains a falsification or deliberate misrepresentation, including omission of a material fact.

(f) The state auditor's financial and legal compliance audit includes findings which materially affect the school district's safety net application.

(2) May be recovered or reduced for the following reasons:

(a) IEPs are determined at a later date through state audit or child count verification to be inappropriate or improperly prepared, ~~((have impacts material in nature to))~~ and appropriate and proper preparation would materially affect the justification or amount of need for safety net funding.

(b) The school district has carryover of federal flow-through special education funding from the previous school year.

(c) The state oversight committee finds grounds for adjustment in the special education program audit team's review pursuant to WAC 392-140-630.

AMENDATORY SECTION (Amending Order 96-15, filed 9/18/96, effective 10/19/96)

WAC 392-140-685 Special education safety net—Recovery of federal allocations to school districts. High cost individual student federal special education safety net allocations:

(1) Shall be recovered or awards reduced ((when)) for the following reasons:

~~((1))~~ (a) The application contains a falsification or deliberate misrepresentation, including omission of a material fact.

~~((2))~~ The school district has carryover of federal flow-through special education funding from the prior school year.

~~((3))~~ (b) The allocation is unexpended for the purpose allocated including but not limited to situations where the student leaves the district or has a change in services. For students who transfer to another Washington public school district, expenditures for specialized equipment purchased with these funds shall not be recovered provided the district transfers the equipment to the other school district.

~~((4))~~ (c) The IEP is determined at a later date, through state audit or child count verification, to be inappropriate or improperly prepared and ~~((impacts))~~ appropriate and proper preparation would materially affect the justification or amount of need for safety net funding.

~~((5) A recalculation pursuant to WAC 392-140-620 results in a gain larger than any previously calculated pursuant to WAC 392-140-620 and against which safety net applications are credited pursuant to WAC 392-140-665(1) and/or 392-140-675 (1)(b). This means MOESR adjustments are made first to state safety net awards and then to federal safety net awards.)~~ (2) May be recovered or awards reduced for the following reasons:

(a) The school district has carryover of federal flow-through special education funding from the school year for which the award was made.

(b) The district's actual revenues are significantly higher than estimated revenues on which the award was based or the district's actual expenditures are significantly lower than the estimated expenditures on which the award was based.

(c) The state oversight committee finds grounds for adjustment in the special education program audit team's review pursuant to WAC 392-140-630.

Recovery adjustments not made in the current school year shall be added to the amount calculated pursuant to WAC 392-140-616 (2)(c) for the following school year. Such amounts reduce federal safety net awards in the following year.

WSR 98-08-014

PERMANENT RULES

**INTERAGENCY COMMITTEE
FOR OUTDOOR RECREATION**

[Filed March 18, 1998, 4:30 p.m.]

Date of Adoption: March 12, 1998.

Purpose:

Title of Rule		Purpose and Citation of Existing Rules Affected by this Order	Statutory Authority for Adoption
1.	General, definitions	A routine "housekeeping" deletion of the definition for the term "local agencies" which is no longer applicable. WAC 286-04-010	RCW 43.99.080(2), 46.09.240(1)
2.	General, manuals	Modify text to explain that IAC's board adopts the program grant policies contained in agency manuals and that since not all agency manuals contain such policies, not all manuals are adopted by the board. WAC 286-04-060(2)	RCW 43.98A.060(1), 43.98A.070(5), 43.99.080(2), 46.09.240(1), 77.12.720
3.	Public records, indexes	A routine "housekeeping" deletion of a duplicate reference ("Summaries of committee staff meetings") and a reference to files not publicly available ("Payroll and personnel records"). WAC 286-06-065(3)	RCW 42.17.260
4.	General grant assistance rules, application review	Clarify that some IAC policy statements occur in formats other than agency manuals. For example, such is the case in newer programs like the National Recreational Trails Funding Act and Riparian Habitat program for which traditional manuals may not be written. WAC 286-13-030(2)	RCW 43.98A.060(1), 43.98A.070(5), 43.99.080(2), 46.09.240(1), 77.12.720
5.	General grant assistance rules, applications	Clarify that application deadlines for certain new programs, such as the National Recreational Trails Funding Act and Riparian Habitat grant programs, may be set at less than the typical four months before the funding meeting at which the project is first considered, and that the director may establish other deadlines to accomplish new or revised statutory direction. WAC 286-13-040(1)	RCW 43.98A.060(1)
6.	General grant assistance rules, plans	Simplify the application process by establishing consistency among each of IAC's grant programs where plans are required by extending the maximum plan eligibility period by one year, to a total of six years. WAC 286-13-040(2)	RCW 43.98A.060(1), 43.98A.070(5), 43.99.080(2), 46.09.240(1), 77.12.720

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Title of Rule		Purpose and Citation of Existing Rules Affected by this Order	Statutory Authority for Adoption
7.	General grant assistance rules, eligible matching resources	Clarify that where allowed, any agency or organization may match IAC grants with state moneys, so long as those moneys are not administered by IAC. WAC 286-13-045(2)	RCW 43.98A.060(1), 43.98A.070(5), 43.99.080(2), 46.09.240(1), 77.12.720
8.	General grant assistance rules, disbursement of funds	A routine "housekeeping" update that clarifies the type of documentation that IAC currently requires before approval of a reimbursement request. WAC 286-13-070	RCW 43.98A.060(1), 43.98A.070(5), 43.99.080(2), 46.09.240(1), 77.12.720
9.	General grant assistance rules, retroactive and increased costs	Clarify that IAC's director may approve certain noncapital project cost increases, just as the director may now approve certain capital and acquisition cost increases. Also, clarify the current parcel-by-parcel basis for land acquisition cost increases. WAC 286-13-085 (3)(d)	RCW 43.98A.060(1), 43.98A.070(5), 43.99.080(2), 46.09.240(1), 77.12.720
10.	General grant assistance rules, nonconformance and repayment	Clarify that nonconformance in expenditure of grant moneys can be related to any one of several factors (conflicts with statute, rules, manuals) and not necessarily all factors combined. WAC 286-13-100	RCW 43.98A.060(1), 43.98A.070(5), 43.99.080(2), 46.09.240(1), 77.12.720
11.	Nonhighway road and off-road vehicle funds, definitions	A routine "housekeeping" update clarifying that more than two agency manuals provide further nonhighway and off-road vehicle activities program information. WAC 286-26-020	RCW 46.09.240(1)
12.	Nonhighway and off-road vehicle funds, matching amounts and caps determined	A routine "housekeeping" modification clarifying that IAC may review and/or set fund request limits in all nonhighway and off-road vehicle activities programs; current WAC language implies that this is only done for acquisition and development projects. Also, eliminates an unnecessary requirement that IAC establish matching amounts and caps each year. If enacted, this would be done only when necessary to respond to changing fund availability scenarios. WAC 286-26-110	RCW 46.09.240(1)
13.	Washington wildlife and recreation program, planning requirements	Add text that clarifies that the planning requirements established in the 1997-1999 Capital Budget (section 329, chapter 235, Laws of 1997) for the riparian habitat program (RHP) differ from existing Washington wildlife and recreation program planning requirements. WAC 286-27-040(7)	RCW 43.98A.060(1)
14.	Washington wildlife and recreation program, deed of right	First, clarify that Washington wildlife and recreation program (WWRP) funds may be used to acquire land for both recreation and habitat conservation purposes. Second, clarify that in some cases, land may be acquired with grants from WWRP for terms other than "forever." WAC 286-27-055(1)	RCW 43.98A.060(1)
15.	Washington wildlife and recreation program; development projects	First, change the title of IAC's <i>habitat conservation plan</i> to <i>habitat plan</i> to avoid confusion with another plan of the same name. Also, delete a cross reference that is no longer applicable. WAC 286-27-065 (2)(iii)	RCW 43.98A.060(1)

Title of Rule		Purpose and Citation of Existing Rules Affected by this Order	Statutory Authority for Adoption
16.	Washington wild-life and recreation program; matching amounts and caps	Eliminates an unnecessary requirement that IAC establish matching amounts and caps each year. If enacted, this would be done only when necessary to respond to changing fund availability scenarios. WAC 286-27-075	
17.	Firearms range, matching amounts and caps determined	Add a section that allows IAC to set sponsor matching share requirements and fund request limits, as is the case with other IAC programs; this will allow IAC to respond to changing fund availability scenarios. (New WAC 286-30-050)	RCW 77.12.720
18.	Boating facilities program, matching requirements and caps	Eliminates an unnecessary requirement that IAC establish matching amounts and caps each year. If enacted, this would be done only when necessary to respond to changing fund availability scenarios. WAC 286-35-060	RCW 43.99.124

Citation of Existing Rules Affected by this Order: See Purpose above.

Statutory Authority for Adoption: See Purpose above.

Adopted under notice filed as WSR 98-04-079 on February 4, 1998.

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 17, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 17, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 17, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

March 13, 1998

Greg Lovelady

Rules Coordinator

AMENDATORY SECTION (Amending WSR 96-08-044, filed 3/29/96, effective 4/29/96)

WAC 286-04-010 Definitions. For purposes of Title 286 WAC, unless the context clearly indicates otherwise:

"Acquisition" means the gaining of rights of public ownership by purchase, negotiation, or other means, of fee or less than fee interests in real property.

"Applicant" means any agency or organization that meets qualifying standards, including deadlines, for submission of an application soliciting a grant of funds from the committee. Generally, a federal, state, local, tribal or special purpose government is an applicant.

"Application" means the form, including project information form, approved by the director for use by applicants in soliciting project funds administered by the committee.

"Chair" means the chair of the committee. See RCW 43.99.110.

"Committee" means the interagency committee for outdoor recreation, (IAC) created by RCW 43.99.110.

"Development" means the construction of facilities to enhance outdoor recreation or habitat conservation resources.

"Director" means the director of the committee or that person's designee. See RCW 43.99.130.

~~("Local agencies" mean those public bodies eligible to apply for and receive funds from the committee as defined by RCW 43.99.020, except for purposes of chapter 286-26 WAC.)~~

"Nonhighway and off-road vehicle activities (NOVA) program" means the grants and planning program administered by the committee under chapter 46.09 RCW.

"Manual(s)" mean a compilation of state and federal policies, procedures, rules, forms, and instructions that have been assembled in manual form and which have been approved by the committee for dissemination to agencies and organizations that may wish to participate in the committee's grant program(s).

"Preliminary expense" means project costs incurred prior to committee approval, other than site preparation/development costs, necessary for the preparation of a development project.

"Project" means the undertaking which is, or may be, funded in whole or in part with funds administered by the committee.

"Project agreement" means a project agreement, supplemental agreement, intergovernmental agreement, or project contract between the committee and a sponsor.

"Sponsor" means an applicant who has been awarded a grant of funds, and has an executed project agreement.

AMENDATORY SECTION (Amending WSR 96-08-044, filed 3/29/96, effective 4/29/96)

WAC 286-04-060 Manuals and waivers-guidance. (1) The committee shall adopt manuals that describe its general administrative policies for use by applicants, potential applicants, sponsors, and others. These manuals shall not have the force or effect of administrative code rules.

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(2) Committee policies, including those in the manuals shall be considered and approved by the committee in an open public meeting. Notice of such considerations will be given by distribution of the agenda for the meeting, press releases, formal meeting notice in the Washington State Register, or other such means.

(3) Project applicants, sponsors, or other interested parties may petition the director for a waiver or waivers of those items dealing with general administrative matters and procedures within the manuals. Determinations on petitions for waivers made by the director are subject to review by the committee at the request of the petitioner.

(4) Petitions for waivers of subjects dealing with committee policy, and those petitions that in the judgment of the director require committee review, shall be referred to the committee for deliberation. Such waivers may be granted after consideration by the committee at an open public meeting.

AMENDATORY SECTION (Amending WSR 94-17-095, filed 8/17/94, effective 9/17/94)

WAC 286-06-065 Indexes. (1) Through its public records officer, the committee shall maintain indexes for the records and files listed in subsection (2)(a) through (j) of this section. These indexes:

- (a) Provide identifying information as to its files and records;
- (b) Are available for public inspection and copying at its offices in the Natural Resources Building, Olympia, in the manner provided in this chapter for the inspection and copying of public records;
- (c) Are updated at least once a year and revised at appropriate intervals;
- (d) Are public records even if the records to which they refer may not, in all instances, be subject to disclosure.

(2) Indexes of the following records and files are available:

- (a) Archived files;
- (b) Equipment inventory;
- (c) Summaries and memoranda of committee meetings;
- (d) General committee policies and procedures;
- (e) Active project files;
- (f) Publications including grant program manuals, state-wide plans, technical assistance and special reports;
- (g) Final adjudicative proceeding orders entered after June 30, 1990, as defined in RCW 34.05.010(1) that contain an analysis or decision of substantial importance to the committee in carrying out its duties (each listed alphabetically by subject with a phrase describing the issue or issues and relevant citations of law);
- (h) Declaratory orders entered after June 10, 1990, that contain an analysis or decision of substantial importance to the committee in carrying out its duties (each listed alphabetically by case name with a phrase describing the issue or issues and relevant citations of law);
- (i) Interpretive statements as defined in RCW 34.05.010(8) (each indexed by the committee program);

(j) Policy statements entered after June 30, 1990, as defined in RCW 34.05.010(14) (also see grant program manuals).

(3) The following general records and files are available by reference to topic, and generally arranged alphabetically or chronologically within such topic. Due to volume, costs and complexity, however, no master index is maintained.

- (a) Administrative files;
- (b) Comprehensive park-recreation plans;
- (c) Summaries of committee staff meetings;
- (d) Closed/inactive project files;
- (e) General correspondence;
- (f) ~~((Summaries of committee staff meetings;~~
- ~~(g))~~ Attorney general opinions;
- ~~((h))~~ ~~(g)~~ Financial records(~~;~~
- ~~(i)~~ ~~Payroll and personnel records~~)).

(4) Before June 30, 1990, the committee maintained no index of:

- (a) Declaratory orders containing analysis or decisions of substantial importance to the committee in carrying out its duties;
- (b) Interpretive statements as defined in RCW 34.05.010(8);
- (c) Policy statements as defined in RCW 34.05.010(14).

AMENDATORY SECTION (Amending WSR 96-08-044, filed 3/29/96, effective 4/29/96)

WAC 286-13-030 Application review. (1) All applications for funding submitted to the committee will be referred to the director for review and recommendations. In reaching a recommendation, the director shall seek the advice and counsel of the committee's staff and other recognized experts, including those gathered at technical review and evaluation meetings or from other parties with experience in the field.

(2) The committee shall inform all applicants of the specific project application process and methods of review, including current evaluation tests and instruments, by delineating these items in the manuals or other publicly available formats.

AMENDATORY SECTION (Amending WSR 97-17-004, filed 8/7/97, effective 9/7/97)

WAC 286-13-040 Deadlines—Applications, plans, and matching resources. (1) Applications. To allow time for review, ~~((a))~~ applications must be submitted at least four calendar months ~~((prior to))~~ before the funding meeting at which the applicant's project is first considered. Applications must be completed in final form and on file with the committee at least one calendar month before this meeting. Excepted are applications for the National Recreational Trails Funding Act, Riparian Habitat, and Youth Athletic Facilities Programs, and programs where the director specifically establishes another deadline to accomplish new or revised statutory direction.

(2) Plans. For purposes of project evaluation, all non-highway and off-road vehicle program, park, recreation, or habitat plans required for participation in committee grant programs must be complete and on file with the committee at

least three calendar months before the funding meeting at which the applicant's project is first considered. On the director's acceptance of the plan, the applicant shall be granted eligibility to submit applications for a period of up to ~~((five))~~ six years.

(3) **Matches.** To allow time for development of funding recommendations, written assurance must be provided whenever matching resources are to be considered as a part of an application. This assurance must be provided by the applicant to the committee at least one calendar month before the meeting at which the project is to be considered for funding.

(4) **Project agreement.** An applicant has three calendar months from the date of the committee's mailing of the project agreement to execute and return the agreement to the committee's office. After this period, the committee or director may reject any agreement not signed and returned and reallocate the grant funds to another project(s).

(5) **Waivers.** Compliance with these deadlines is required for eligibility unless a waiver is granted by the director. Such waivers are considered based on several factors which may include:

- (a) When the applicant started the application/planning process;
- (b) What progress has been made;
- (c) When final plan adoption will occur;
- (d) The cause of the delay (procedural or content related, etc.);
- (e) Impact on the committee's evaluation process;
- (f) Equity to other applicants; and
- (g) Such other information as may be relevant.

AMENDATORY SECTION (Amending WSR 97-08-003, filed 3/20/97, effective 4/20/97)

WAC 286-13-045 Eligible matching resources. (1) Applicant resources used to match committee funds may include: Cash, local impact/mitigation fees, certain federal funds, the value of privately owned donated real estate, equipment, equipment use, materials, labor, or any combination thereof.

(2) ~~((Local))~~ Agencies and organizations may match with state funds so long as the state funds are not administered by the committee.

(3) Private donated real property, or the value of that property, must consist of real property (land and facilities) that would normally qualify for committee grant funding.

(4) State agency projects may be assisted by one hundred percent funding from committee sources *except* where prohibited by law.

(5) The eligibility of federal funds to be used as a match is governed by federal requirements and thus may vary with individual program policies.

AMENDATORY SECTION (Amending WSR 96-08-044, filed 3/29/96, effective 4/29/96)

WAC 286-13-070 Disbursement of funds. Except as otherwise provided herein, the director will authorize disbursement of project funds only on a reimbursable basis, after the sponsor has spent its own funds and has presented a bill-

ing showing satisfactory evidence of property rights acquired and/or compliance with partial or all provisions of the project agreement.

(1) **Reimbursement method.** Reimbursement must be requested on voucher forms authorized by the director and must include all documentation as detailed in the manual in effect at the time reimbursement is requested.

(2) **Reimbursement level.** The amount of reimbursement may never exceed the cash spent on the project.

(3) **Partial payment.** Partial reimbursements may be made during the course of a project on presentation of billings showing satisfactory evidence of partial acquisition or development.

(4) **Exceptions.**

(a) State agencies' Initiative 215 (Marine Recreation Land Act) appropriations. Prior to the 1995-1997 biennium (July 1, 1995,) state agencies were required to submit voucher forms with the supporting documentation specified in the manual in effect at the time of completion of project acquisition, relocation or development.

(b) **Direct payment.** Direct payment to escrow of the committee's share of the approved cost of real property may be made following committee approval of an acquisition project when the sponsor indicates a temporary lack of funds to purchase the property. Prior to release of the committee's share of escrow funds, the sponsor must provide the director with a copy of a binding sale agreement between the sponsor and the seller and evidence of deposit of the sponsor's share (if any) into an escrow account.

AMENDATORY SECTION (Amending WSR 97-08-003, filed 3/20/97, effective 4/20/97)

WAC 286-13-085 Retroactive and increased costs. See WAC 286-04-010 for definition of terms for the following section.

Under most conditions, eligible expenses may only be reimbursed for activities that occur within the period cited in the project agreement. This is known as the committee's prohibition on retroactivity. To avoid this prohibition, a waiver may be issued.

(1) **Retroactive land acquisition costs.**

The director may grant a waiver of retroactivity whenever an applicant asserts, in writing, that a condition exists which may jeopardize the project. When evidence warrants, the director may grant the applicant permission to proceed by issuing the written waiver. This waiver of retroactivity will not be construed as an approval of the proposed project. If the project is subsequently approved, however, the costs incurred will be eligible for assistance. If the project is to remain eligible for grant support from federal funds, the director shall not authorize a waiver of retroactivity to the applicant until the federal agency administering the federal funds has issued its own waiver of retroactivity as provided under its rules and regulations.

(2) **Retroactive development costs.** The only retroactive development costs eligible for reimbursement consideration are preliminary expenses (e.g., engineering costs).

However, solely in respect to WWRP projects on LEAP Capital Document 5, the director is authorized to grant a

waiver of retroactivity which establishes eligibility for future reimbursement of all appropriate development costs. Such applicants' retroactivity requests must be in writing, and provide sufficient justification. Reimbursement of expenditures is subject to the provisions of WAC 286-13-070. This authority shall be effective until the execution of a project agreement or June 30, 1997, whichever occurs first.

(3) Cost increases.

(a) Cost increases for approved projects may be granted by the committee if financial resources are available.

(b) Each cost increase request will be considered on its merits.

(c) If an approved project recommended for federal funding is denied by the appropriate federal agency, the sponsor may request that the committee increase assistance by an equivalent amount; such requests shall be considered on their merits.

(d) The director may approve a sponsor's acquisition, development, and/or noncapital project cost increase request so long as the total request does not exceed ten percent of the project's approved initial cost. ~~((The director may also approve land acquisition cost increase requests so long as the total request for each parcel does not exceed ten percent of both the committee approved initial cost and the appraised and reviewed value of each parcel for which a cost increase is requested.))~~ The director's approval of an acquisition project cost increase is limited to a parcel-by-parcel appraised and reviewed value.

AMENDATORY SECTION (Amending WSR 96-08-044, filed 3/29/96, effective 4/29/96)

WAC 286-13-100 Nonconformance and repayment.

Any sponsor expenditure of committee grant moneys deemed by the committee or director to conflict with applicable statutes, rules and/or related manuals must be repaid, upon written request by the director, to the appropriate state account. Such repayment requests may be made in consideration of an applicable report from the state auditor's office.

AMENDATORY SECTION (Amending WSR 96-08-044, filed 3/29/96, effective 4/29/96)

WAC 286-26-020 Definitions. For purposes of this chapter, the following definitions shall apply:

"Management" means the action taken in exercising control over, regulating the use of, and operation and maintenance of ORV trails and ORV areas.

"Nonhighway road" (NHR) as provided in RCW 46.09.020.

"Nonhighway vehicle" as provided in RCW 46.09.020.

"NOVA" means the committee's nonhighway and off-road vehicle activities program described in chapter 46.09 RCW, and ~~((NHR and ORV))~~ related policy manuals for ~~((the))~~ planning, acquisition, development and management of recreation areas and trails.

"NOVA advisory committee" means the panel of NHR recreationists, organized ORV recreational groups, and agency representatives chosen to advise the director in the development of the state-wide NOVA plan, the development

of a project priority rating system, the suitability and evaluation of NOVA projects submitted to the committee for funding, and other aspects of NOVA recreation as the need may arise, in accordance with chapter 46.09 RCW.

"Off-road vehicle" (ORV) as provided in RCW 46.09.020.

"ORV trail" as provided in RCW 46.09.020, and including, competition sites for two, three, or four-wheel ORVs, and four-wheeled vehicles over forty inches width which are equipped with four-wheel drive or other characteristics such as nonslip drive trains and high clearance. Such courses will be designed to include ORV trail or area characteristics such as sharp turns, jumps, soft tread material, dips, or other obstacles found in more natural settings. Race courses which are paved and designed primarily for other vehicles, such as go-karts and formula cars, are not eligible for NOVA funds.

"ORV use area" as provided in RCW 46.09.020.

AMENDATORY SECTION (Amending WSR 96-08-044, filed 3/29/96, effective 4/29/96)

WAC 286-26-110 Matching amounts and caps determined. ~~((Each year))~~ The committee will establish NOVA program sponsor matching share requirements and ~~((acquisition-development))~~ fund request limits. ~~((This))~~ Any changes will normally be done at a committee meeting six months before program funding consideration.

AMENDATORY SECTION (Amending WSR 97-08-003, filed 3/20/97, effective 4/20/97)

WAC 286-27-040 Planning requirements. To be eligible for grant consideration under this chapter, applicants must complete a plan in accordance with WAC 286-13-040(2). At minimum the plan must include:

- (1) A statement of the applicant's long-range goals and objectives;
- (2) An inventory, or description of the planning area;
- (3) An analysis of demand and need, that is, why actions are required;
- (4) A description of how the planning process gave the public ample opportunity to be involved in development of the plan;
- (5) A current capital improvement program of at least five years;
- (6) Evidence that this plan has been approved by the applicant's governing entity most appropriate to the plan's scope. For example, a city or county-wide plan must be approved at the council or commission level. Plans with a different scope will be approved by department heads, district rangers, regional managers/supervisors, etc.;

(7) Excepted are riparian zone habitat protection projects under RCW 43.98A.040 (1)(d), where planning requirements in section 329(6), chapter 235, Laws of 1997, shall apply rather than those listed in subsections (1) through (6) of this section.

AMENDATORY SECTION (Amending WSR 96-08-044, filed 3/29/96, effective 4/29/96)

WAC 286-27-055 Acquisition projects—Deed of right, conversions, leases and easements. For acquisition projects, sponsors must execute an instrument or instruments which contain:

(1) For fee, less-than-fee, and easement acquisition projects:

- (a) A legal description of the property acquired;
- (b) A conveyance to the state of Washington of the right to use the described real property (~~forever~~) for habitat conservation and/or outdoor recreation purposes in perpetuity unless a term is specified in the project agreement; and
- (c) A restriction on conversion of use of the land. That is, without prior approval of the committee, a facility acquired with money granted by the committee shall not be converted to a use other than that for which funds were originally approved. The committee shall only approve such a conversion under conditions which assure the substitution of other land of at least equal fair market value at the time of conversion, and of as nearly as feasible equivalent usefulness and location.

(2) For lease acquisition projects, a binding agreement which contains a legal description of the property and rights acquired and which meets the following criteria. The interest:

- (a) Must be for at least fifty years unless precluded by state law;
- (b) May not be revocable at will;
- (c) Must have a value supported through standard appraisal techniques;
- (d) Must be paid for in lump sum at initiation;
- (e) May not be converted, during the lease period, to a use other than that for which funds were originally approved, without prior approval of the committee.

AMENDATORY SECTION (Amending WSR 96-08-044, filed 3/29/96, effective 4/29/96)

WAC 286-27-065 Development projects—Conversion to other uses. (1) Without prior approval of the committee, a facility developed with money granted by the committee, to state, county, municipality or native American tribal government sponsors, shall not be converted to a use other than that for which funds were originally approved.

(2) The committee shall only approve such a conversion under conditions which assure that:

- (a) All practical alternatives to the conversion have been evaluated and rejected on a sound basis;
- (b) A new development, in the spirit of WAC 286-13-080 ("...aid through the committee is intended to supplement the existing capacity of sponsor..."), will serve as a replacement which:
 - (i) Is of reasonably equivalent recreation utility and location;
 - (ii) Will be administered by the same political jurisdiction as the converted development;
 - (iii) Will satisfy need(s) identified in the sponsor's outdoor recreation or habitat (~~conservation~~) plan (see WAC 286-27-040 (~~and 286-27-050~~)); and

(iv) Includes only elements eligible under the committee's program from which funds were originally allocated.

AMENDATORY SECTION (Amending WSR 96-08-044, filed 3/29/96, effective 4/29/96)

WAC 286-27-075 Matching amounts and caps determined. Consistent with RCW 43.98A.060(4) and 43.98A.070(4), (~~each year~~) the committee will establish sponsor matching share requirements and acquisition-development fund request limits. (~~This~~) Any changes will normally be done at a committee meeting six months before program funding consideration.

AMENDATORY SECTION (Amending WSR 96-08-044, filed 3/29/96, effective 4/29/96)

WAC 286-35-060 Matching requirements and caps determined. (~~Each year~~) The committee will establish sponsor matching share requirements and acquisition-development fund request limits. (~~This~~) Any changes will normally be done at a committee meeting six months before project funding consideration.

NEW SECTION

WAC 286-30-050 Matching requirements and caps determined. The committee will establish sponsor matching share requirements and fund request limits. Any changes will normally be done at a committee meeting six months before project funding consideration.

WSR 98-08-021

PERMANENT RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed March 19, 1998, 4:16 p.m.]

Date of Adoption: March 19, 1998.

Purpose: To amend WAC 388-290-010, 388-290-020, 388-290-025, 388-290-035, 388-290-050, and 388-290-090 in order to clarify and improve the operation of the working connections child care (WCCC) program for clients and field staff.

Citation of Existing Rules Affected by this Order: Amending WAC 388-290-010, 388-290-020, 388-290-025, 388-290-035, 388-290-050, and 388-290-090.

Statutory Authority for Adoption: RCW 74.04.050, 74.13.0903, and Public Law 104-193, Sections 407 and 605.

Adopted under notice filed as WSR 98-03-083 on January 21, 1998.

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 6, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 6, 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.

March 19, 1998

Edith M. Rice, Chief
Office of Legal Affairs

AMENDATORY SECTION (Amending WSR 97-20-130, filed 10/1/97, effective 11/1/97)

WAC 388-290-010 Subsidized child care—Purpose and income limit. The purpose of this program is to provide child care services necessary to assist families with dependent children to become or remain employed. The department may provide subsidized child care services to families with gross incomes at or below one hundred seventy-five percent of the Federal Poverty Level (FPL) adjusted for family size.

AMENDATORY SECTION (Amending WSR 97-20-130, filed 10/1/97, effective 11/1/97)

WAC 388-290-020 Subsidized child care—Definitions. Except as specified in this chapter, terms used under chapter 388-290 WAC shall have the same meaning as in the WorkFirst and TANF programs.

"**Able**" means an adult physically ~~((or))~~, mentally, and emotionally capable of caring for a child in a responsible manner.

"**Adjusted earned income**" means the gross earned income minus the average payroll and income tax paid at that income level.

"**Available**" means an adult able to provide care due to not participating in an approved WorkFirst activity and/or employment during the time child care is needed.

"**Consumer**," for the purposes of this chapter, means:

(1) A child's parent; or ~~((guardian who))~~

(2) Relative in WAC 388-215-1080 (Living in the home of a relative of specified degree—Nonparental relative defined), who:

(a) Has parental control; and

(b) Applies for, or receives subsidized child care services funded by the department.

"**In-home/relative provider**" means an unlicensed child care provider who is:

(1) One of the following adult relatives providing care in either the child's or relative's home:

(a) An adult sibling living outside the child's home; or

(b) A grandparent, aunt, uncle, first cousin, or great-grandparent, great-aunt, or great-uncle; and

(c) Not the child's biological, adoptive, or stepmother or stepfather.

(2) An adult friend or neighbor providing care in the child's own home; or

(3) An adult extended tribal family member as defined under chapter 74.15 RCW (Care of children, expectant mothers, developmentally disabled) who is providing care.

"**Parent**" for the purposes of this chapter, means a parent by blood, marriage, or adoption, or a legal guardian).

"**Subsidy unit**" for the purposes of this chapter, means child care assistance unit.

"**Total income**," for the purposes of this chapter, means the sum of adjusted earned income ~~((, self-employment income,))~~ and unearned income.

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

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

AMENDATORY SECTION (Amending WSR 97-20-130, filed 10/1/97, effective 11/1/97)

WAC 388-290-025 Subsidy units and copayments.

(1) Only individuals residing in the same household can be included in subsidy unit size.

(2) The minimum copayment is assessed for minor parents who are:

(a) Receiving TANF and living independently;

(b) The TANF head of household;

(c) Part of another TANF grant.

(3) The department can assess copayments above the minimum for:

(a) Related adults, other than spouses, and their respective child(ren). These are each separate subsidy units.

(b) Unmarried parents with a mutual child(ren). This is a single subsidy unit.

(c) Married parents with or without a mutual child(ren). This is a single subsidy unit.

(d) Married or unmarried parents and their mutual and nonmutual children, if there is at least one mutual child. This is a single subsidy unit.

~~((d))~~ (e) Unmarried adults without a mutual child(ren). These are each separate subsidy units.

~~((e))~~ (f) A non-TANF minor parent living independently. This is a single subsidy unit.

~~((f))~~ (g) A child or minor parent living with a legally nonresponsible caretaker. This is a separate subsidy unit.

(4) Eligibility for subsidized child care ends when the consumer fails to pay, or arrange payment for, required copayment fees.

(5) The department reinstates the subsidy unit's eligibility for subsidized child care when back copayment fees are paid or satisfactory arrangements are made to make full payments.

AMENDATORY SECTION (Amending WSR 97-20-130, filed 10/1/97, effective 11/1/97)

WAC 388-290-035 Providers eligible for payment under the subsidized child care program. (1) A licensed child care provider must be licensed as required by chapter 74.15 RCW and chapters 388-73, 388-155 (Minimum licensing requirements for family child day care homes), ~~((and))~~ or 388-150 WAC (Minimum licensing requirements for child day care centers).

(2) Child care providers exempt from licensing but who must be certified by the department include:

- (a) Tribal child care facilities meeting the requirements of tribal law;
 - (b) Child care facilities on a military installation;
 - (c) Child care facilities operated on public school property by a school district.
- (3) In-home/relative providers are exempt from licensing and certification, but must be registered with the department and meet the requirements of WAC 388-15-170.

AMENDATORY SECTION (Amending WSR 97-20-130, filed 10/1/97, effective 11/1/97)

WAC 388-290-050 Eligible children and consumers under the subsidized child care program. (1) To be eligible for subsidized child care, the consumer must:

- (a) Be a caretaker of one or more children; and
- (b) Not care for their own child(ren) during the time child care is authorized, if the consumer is an employee of the child care facility to which the department has authorized payment.

(2) The department may authorize subsidized child care for a child between thirteen and nineteen years old if the child is:

- (a) Under court supervision;
- (b) Physically, mentally or emotionally incapable of self-care. This must be verified by a licensed medical practitioner or masters-level or above mental health professional.

(3) The department may authorize special needs child care for children under thirteen years old if the conditions in subsection (2)(b) of this section are met.

(4) TANF consumers in sanction are not eligible for subsidized child care unless child care is necessary to:

- (a) Obtain or maintain employment;
- (b) Enroll in, or maintain enrollment in, an approved WorkFirst activity; or
- (c) Remove the sanction.

~~((4))~~ (5) The child(ren) for whom the consumer applies must be a citizen or legally residing in the country.

AMENDATORY SECTION (Amending WSR 97-20-130, filed 10/1/97, effective 11/1/97)

WAC 388-290-090 Subsidized child care—Income eligibility ~~((and))~~, copayments rates, and when to calculate copayments. (1) The department determines income eligibility for subsidized child care as follows:

(a) By using the best available ~~((documentation))~~ evidence of the subsidy unit's current and expected income, except for income types in WAC 388-290-090 (1)(c):

(b) By counting:

(i) The military family's housing and food allowance as adjusted earned income:

(ii) A consumer's in-kind income as adjusted earned income.

(c) By exempting:

(i) Income types in WAC 388-218-1200 (Exempt income types), except for SSI income, which is counted, WAC 388-218-1210 (Exempt and disregarded income—educational assistance), 388-218-1220 (Disregarded income—Native American benefits), and 388-218-1230 (2) through (7) (Disregarded income types):

(ii) The earned income of a child, unless otherwise indicated in WAC 388-290-025(3); and

(iii) The TANF grant for the first three consecutive calendar months after the TANF consumer starts a new job. The first calendar month is the month in which the consumer starts employment. This exemption can be applied once every six months.

(2) All consumers contribute to the subsidized child care cost by making monthly copayments, as follows:

(a) Ten dollars for subsidy units with total income at or below seventy-four percent of the Federal Poverty Level (FPL);

(b) Twenty dollars for subsidy unit with total income above seventy-four percent and up to one hundred percent of the FPL;

(c) Subsidy units with total income over one hundred percent of the FPL pay the greater of:

- (i) Twenty dollars; or
- (ii) Forty-seven percent of total income exceeding one hundred percent of the FPL.

(3) The department ~~((shall))~~ calculates copayments:

(a) At the time of the initial eligibility determination or authorization;

(b) At least every six months, starting from the first month of eligibility;

(c) When monthly income increases one hundred dollars or more;

(d) When monthly income decreases, except as indicated in subsection (4) of this section; or

(e) When subsidy unit size ~~((increases or decreases))~~ changes.

(4) A consumer's copayment cannot decrease because of a reduction in the TANF grant due to a sanction.

(5) The department authorizes subsidized child care for up to six months at a time.

~~((5))~~ The military family's housing and food allowance is counted as unearned income for the purposes of subsidized child care.

WSR 98-08-024

PERMANENT RULES

PERSONNEL RESOURCES BOARD

[Filed March 20, 1998, 9:56 a.m., effective May 1, 1998]

Date of Adoption: March 12, 1998.

Purpose: The purpose of these rules is to remove any possible conflict between state laws or the Americans with Disabilities Act of 1990 and the Personnel Resources Board rules.

Citation of Existing Rules Affected by this Order: Amending [new] WAC 356-06-120 and 251-04-170.

Statutory Authority for Adoption: RCW 41.06.150.

Adopted under notice filed as WSR 97-24-037 on November 26, 1997.

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: May 1, 1998.

March 17, 1998

Dennis Karras

Secretary

NEW SECTION

WAC 356-06-120 Americans with Disabilities Act of 1990—Federal and state preemption. Agencies shall comply with the personnel resources board rules (Title 356 WAC) unless doing so would cause them to violate state laws, chapter 49.60 RCW, or the federal Americans with Disabilities Act of 1990.

NEW SECTION

WAC 251-04-170 Americans with Disabilities Act of 1990—Federal and state preemption. Institutions shall comply with the personnel resources board rules (Title 251 WAC) unless doing so would cause them to violate state laws, chapter 49.60 RCW, or the federal Americans with Disabilities Act of 1990.

WSR 98-08-025

PERMANENT RULES

PERSONNEL RESOURCES BOARD

[Filed March 20, 1998, 9:58 a.m., effective May 1, 1998]

Date of Adoption: March 12, 1998.

Purpose: This modification is to clarify the existing rule and to be in compliance with the federal Americans with Disabilities Act.

Citation of Existing Rules Affected by this Order: Amending WAC 251-19-105.

Statutory Authority for Adoption: RCW 41.06.150.

Adopted under notice filed as WSR 97-22-060 on November 3, 1997.

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: May 1, 1998.

March 17, 1998

Dennis Karras

Secretary

AMENDATORY SECTION (Amending WSR 96-05-026, filed 2/13/96, effective 4/1/96)

WAC 251-19-105 Accommodation due to disability. Each institution/related board shall develop and disseminate a procedure regarding reasonable accommodation of employees with disabilities in accordance with state and federal laws. In addition, the institution/related board shall be responsible for notifying the employee of steps to be followed should the employee request accommodation ((for essential job functions)). A copy of the procedure shall be provided to the employee. The institution/related board shall follow state and federal laws when considering and providing reasonable accommodations for employees with disabilities.

WSR 98-08-026

PERMANENT RULES

PERSONNEL RESOURCES BOARD

[Filed March 20, 1998, 10:00 a.m., effective May 1, 1998]

Date of Adoption: March 12, 1998.

PERMANENT

Purpose: This modification is to clarify the existing rule and to be in compliance with the federal Americans with Disabilities Act.

Citation of Existing Rules Affected by this Order: Amending WAC 251-19-100.

Statutory Authority for Adoption: RCW 41.06.150.

Adopted under notice filed as WSR 97-22-061 on November 3, 1997.

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: May 1, 1998.

March 17, 1998

Dennis Karras

Secretary

AMENDATORY SECTION (Amending WSR 96-19-078 [93-19-078], filed 9/14/93, effective 10/1/93)

WAC 251-19-100 Transfer—Lateral movement—Voluntary demotion. (1) The personnel officer for each institution shall develop a "transfer/lateral movement/ voluntary demotion procedure" to provide reasonable opportunity for employees desiring to transfer within class or to voluntarily demote or move laterally to vacant positions in classes where they have previously attained permanent status at the institution, or equivalent classes as determined by the personnel officer, when:

(a) The action is by employee request; or

(b) The employee's position is being reallocated upward and the employee is not appointed to the reallocated position ~~((; or)).~~

~~((c) The personnel officer determines that the employee seeking the action is no longer able to perform in the current class due to a medically verified physical, mental, or sensory disability. An employee is eligible to apply for appointment to a position under the provisions of this subsection if the employee meets the minimum qualifications and is able to perform the work of the position as confirmed by medical verification which provides adequate guidance to the employer.))~~

(2) Except as provided in subsection ~~((4))~~ (4) of this section, permanent employees who wish to be considered for appointment to classes in which they have not held permanent status with an equal or lower salary range maximum than their current class must apply. Such applications must

be in accord with institutional procedure, and employees must meet the minimum qualifications, pass the examination and be placed on the appropriate eligible list for the class.

(3) Former employees laid off from the institution, per WAC 251-10-030, who are on an institution-wide layoff list, also shall be included in the procedures developed per subsections (1)(a) and (2) of this section.

(4) In accordance with WAC 251-19-105, institutions shall provide for reasonable accommodation of employees. Employees who are no longer able to perform in the current position due to a medically verified disability may transfer, move laterally, or voluntarily demote to equivalent or lower positions for which they qualify. Such appointments shall not be subject to certification and referral provisions of WAC 251-18 in accordance with state and federal laws governing the reasonable accommodation of individuals with disabilities.

~~((4))~~ (5) Upon appointment via the provisions of this rule, the following shall apply:

(a) For voluntary demotion, the salary shall be determined by the personnel officer and the periodic increment date shall remain unchanged.

(b) For transfer within class or lateral movement, the salary and periodic increment date shall remain unchanged.

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

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

WSR 98-08-031

PERMANENT RULES

DEPARTMENT OF ECOLOGY

[Order 97-08—Filed March 23, 1998, 9:36 a.m.]

Date of Adoption: March 19, 1998.

Purpose: Chapter 173-162 WAC, Rules and regulations governing the regulation and licensing of well contractors and operators. The purpose of this regulation is to establish procedures for the examination, licensing, and regulation of well contractors and drillers.

Citation of Existing Rules Affected by this Order: Repealing WAC 173-162-170 Retaking examination; and amending WAC 173-162-010 What is the purpose of these regulations? WAC 173-162-020 To whom do these regulations apply? WAC 173-162-030 How are the words and phrases used in this chapter? WAC 173-162-040 How do I comply with the licensing requirements? WAC 173-162-050 Who is exempt? WAC 173-162-060 How do you qualify for each license? WAC 173-162-070 What application fees are required? WAC 173-162-080 What are the conditions and cost of renewing an operators license? WAC 173-162-140 What are the requirements to become an on-site testing advisor? WAC 173-162-190 What are the responsibilities of well contractors and their agents? WAC 173-162-200 What are the department of ecology's enforcement options? and WAC 173-162-210 Can I appeal enforcement actions?

Statutory Authority for Adoption: Chapter 18.104 RCW.

Other Authority: RCW 43.21A.080.

Adopted under notice filed as WSR 98-04-020 on January 28, 1998.

Changes' Other than Editing from Proposed to Adopted Version: What are the main differences between the proposed rule and the rule that is being adopted? The following section describes the main differences between the text of the proposed rule as published in the register and the text of the adopted rule, other than editing changes. A complete listing of all comments received and resulting text changes is found in the concise explanatory statement.

WAC 173-162-030 How are the words and phrases used in this chapter? Change: The definition of "test well" was rewritten to include the statement "A water right permit, preliminary permit, or temporary permit shall be obtained prior to constructing a test well unless the anticipated use of water is exempt as provided in RCW 90.44.050.

WAC 173-162-060 How do you qualify for each license? Change: Subsection on qualification requirements for a second license inserted as follows:

Individuals who received an operators license for either water well or resource protection well drilling after the effective date of these regulations are qualified to receive the other license if they:

(a) Currently hold a valid well operator's license under one of the categories in subsection (2) above. The license must have been issued by the department after the effective date of these regulations; and

(b) Submit a completed application to the department on forms provided by the department and pay a twenty-five dollar application fee; and

(c) Pass a written examination; and

(d) Pass an on-site examination if their field experience was gained in another state. The department may waive the on-site examination.

(e) Submit proof of at least six hundred hours of additional well drilling experience for the other type of license you wish to obtain. **EXAMPLE**-You currently hold a water well operators license that was issued by the department after the effective date of these regulations. You also wish to be licensed to construct resource protection wells. You will qualify to receive the resource protection operators license by making an application, paying the fee, and showing proof of 600 hours of resource protection well drilling experience, passing a written exam, and passing an on-site exam if your drilling experience was gained in another state. Proof of experience will consist of drilling reports showing you were the driller of record on at least fifteen resource protection wells, or other documentation showing experience approved by the department.

WAC 173-162-075 How often do I need to renew my license? Change: Training license extension was increased for twelve to twenty-four months to account for lay-offs, weather, or illness as follows:

WAC 173-162-080 What are the conditions and cost of renewing an operator's license? The drillers were concerned about renewing their licenses and having to show proof of experience.

The drillers who held a license prior to the adoption of these changes were licensed to drill both resource protection and water supply wells. The intent of this regulation was not to decrease the scope of those licenses.

Change: WAC 173-162-165 Grandfather clause, was rewritten and combined into WAC 173-162-080. All requirements for showing proof of experience to renew a license have been removed.

WAC 173-162-085 Continuing education. The continuing educational requirements were clarified. The regulation now includes the following subsections:

(6)(d) Continuing education will not be required to renew an operator's license prior to January 1, 2000.

(e) A person licensed for both water well and resource protection well construction need only obtain fourteen continuing educational units per renewal period.

(f) A person applying to receive both a water well and resource protection well drilling license need only meet the continuing education unit requirements for one license.

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 12, Repealed 1.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 4, Amended 5, 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 5, Amended 2, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 5, Amended 12, Repealed 1; 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.

March 19, 1998

Tom Fitzsimmons

Director

AMENDATORY SECTION (Amending Order 88-58, filed 4/6/88)

WAC 173-162-010 What is the purpose(+) of these regulations? These regulations are adopted (~~(pursuant to)~~) under chapter 18.104 RCW in order to establish procedures for the examination, licensing and regulation of well contractors and operators.

AMENDATORY SECTION (Amending Order 88-58, filed 4/6/88)

WAC 173-162-020 (~~General~~) To whom do these regulations apply? These regulations (~~(are applicable)~~) apply to all well contractors and operators who are contracting for well construction or constructing wells in the state of Washington.

NEW SECTION

WAC 173-162-025 What are the reasons for suspending or revoking an operator license? (1) In cases other than those relating to the failure of a licensee to renew a license, the director may suspend or revoke a license issued pursuant to this chapter for any of the following reasons:

- (a) For fraud or deception in obtaining the license;
- (b) For fraud or deception in reporting under RCW 18.104.050;
- (c) For violating the provisions of this chapter, or of any lawful rule or regulation of the department or the department of health.

(2) The director shall immediately suspend any license issued under this chapter if the department of social and health services has determined that the holder of the license is not in compliance with the support order or a residential or visitation order issued pursuant to chapter 74.20A RCW. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license shall be automatic upon the director's receipt of a release issued by the department of social and health services stating that the person is in compliance with the order.

(3) No license shall be suspended for more than six months, except that a suspension under subsection (2) of this section shall continue until the department receives a release issued by the department of social and health services stating that the person is in compliance with the order.

(4) No person whose license is revoked shall be eligible to apply for a license for one year from the effective date of the final order of revocation.

AMENDATORY SECTION (Amending Order 88-58, filed 4/6/88)

WAC 173-162-030 ((Definitions)) How are the words and phrases used in this chapter? ((As used in this chapter:

(1) "Constructing a well" or "construct a well" means and includes boring, digging, drilling, or excavating and installing casing, lining or well screens, whether in the installation of a new well or the alteration of an existing well.

(2) "Department" means department of ecology.

(3) "Director" means director of the department of ecology.

(4) "Drilled well" is a well which is usually excavated by mechanical means such as rotary, cable tool, or auger rigs.

(5) "Driven well" is a well constructed by joining a "drive point" to a length of pipe, then driving the assembly into the ground.

(6) "Dug well" is a well generally excavated with hand tools or by mechanical methods. The side walls may be supported by material other than standard weight steel casing.

(7) "Licensee" is any person licensed as a well contractor pursuant to the provisions of this act and these rules.

(8) "Liner" means any casing, screen, or other device inserted into a larger casing, screen, or bore hole as a means of sealing off undesirable material or maintaining the structural integrity of the well.

(9) "Landfill gas extraction well" is a well used to withdraw gas from an unsaturated zone.

(10) "Monitoring well" is a well designed to obtain a representative ground water sample and/or to measure the water level over the screened interval.

(11) "Observation well" is a well designed to measure the depth to the water table. An observation well is screened across the water table and usually is installed in unconfined aquifers.

(12) "Operator" is any person employed by a well contractor or self-employed as a contractor operator for the control and supervision of well construction and for the operation of well construction equipment.

(13) "Piezometer well" is a well designed to measure the hydraulic potential (water level elevation) at a specific point in the subsurface. A piezometer has a short screen that is positioned entirely beneath the water table.

(14) "Resource protection wells" mean monitoring wells, observation wells, piezometers and spill response wells, and eased geotechnical test borings.

(15) "Spill response well" is any well used to capture or recover any spilled or leaked fluid which has the potential to, or has contaminated the ground water.

(16) "Supervision" or "supervising" means being present at the site of well construction and responsible for proper construction at any and all times well construction equipment is being operated.

(17) "Water supply well" means any well that is used to withdraw, dewater, or recharge ground water.

(18) "Well" means and includes any excavation that is drilled, cored, bored, washed, driven, dug, jetted, or otherwise constructed when the intended use of an excavation is for the location, diversion, artificial recharge or withdrawal of ground water. Well includes water supply well and resource protection well. Well does not mean excavations excluded in WAC 173-160-010(3).

(19) "Well contractor" means any person, firm, partnership, copartnership, corporation, association, or other entity engaged in the business of constructing wells.

(20) "Well rig" is any power driven, percussion, rotary, boring, digging, jetting, or augering machine used in the construction of a well. (1) "Abandoned well" means a well that is unused, unmaintained, or is in such disrepair as to be unusable.

(2) "Access port" is a 1/2- to 2-inch tapped hole or tube equipped with a screw cap, which provides access to the inner casing, for measurement of the depth to water surface. An access port also means a removable wellcap.

(3) "Annular space" is the space between the surface or outer casing and the inner casing, or the space between the wall of the drilled hole and the casing.

(4) "Aquifer" is a geologic formation, group of formations, or part of a formation capable of yielding a significant amount of ground water to wells or springs.

(5) "Artesian well" is a well tapping an aquifer bounded above and below by confining or impermeable rock or soil layers, or rock or soil layers of distinctly lower permeability than the aquifer itself. The water will rise in the well above the point of initial penetration (above the bottom of the con-

fining or impermeable layer overlying the aquifer). This term includes both flowing and nonflowing wells.

(6) "Artificial gravel pack" is a mixture of gravel or sand placed in the annular space around the liner, perforated pipe, or well screen. A gravel pack is used to reduce the movement of finer material into the well and provide lateral support to the screen in unstable formations.

(7) "Artificial recharge" is the addition of water to an aquifer by activities of man, such as irrigation or induced infiltration from streams, or injection through wells, trenches, pits, and ponds.

(8) "Bentonite" is a mixture of swelling clay minerals, predominantly sodium montmorillonite.

(9) "Capped well" is a well that is not in use and has a watertight seal or cap installed on top of the casing.

(10) "Casing" is a pipe, generally made of metal or plastic, which is installed in the bore hole to maintain the opening.

(11) "Consolidated formation" means any geologic formation in which the earth materials have become firm and cohesive through natural rock forming processes. Such rocks commonly found in Washington include basalt, granite, sandstone, shale, conglomerate, and limestone. An uncased bore hole will normally remain open in these formations.

(12) "Constructing a well" or "construct a well" means:

(a) Boring, digging, drilling, or excavating a well;

(b) Installing casing, sheeting, lining, or well screens, in a well; or

(c) Drilling a geotechnical soil boring.

"Constructing a well" or "construct a well" includes the alteration of an existing well.

(13) "Contamination" has the meaning provided in RCW 90.48.020.

(14) "Continuing education unit" is one credit approved by the department for time spent participating in training or instruction in subject areas approved by the department.

(15) "Curbing" is a liner or pipe made of concrete, precast tile or steel installed in dug wells to provide an annular space between the well bore and the liner or pipe for sealing.

(16) "Decommissioning" means to fill or plug a well so that it will not produce water, serve as a channel for movement of water or pollution, or allow the entry of pollutants into the well or aquifers.

(17) "Department" means the department of ecology.

(18) "Dewatering well" means a cased or lined excavation or boring that is intended to withdraw or divert ground water for the purpose of facilitating construction, stabilizing a land slide, or protecting an aquifer.

(19) "Director" means director of the department of ecology.

(20) "Disinfection" or "disinfecting" is the use of chlorine, or other disinfecting agent or process approved by the department, in sufficient concentration and contact time adequate to inactivate coliform or other indicator organisms.

(21) "Domestic water supply" is any water supply which serves a family residence(s).

(22) "Draw down" is the measured difference between the static ground water level and the ground water level induced by pumping.

(23) "Drilled well" is a well in which the hole is usually excavated by mechanical means such as rotary, cable tool, or auger drilling equipment.

(24) "Driven well" is a well constructed by joining a "drive point" to a length of pipe, then driving the assembly into the ground.

(25) "Dug well" is a well generally excavated with hand tools or by mechanical methods. The side walls may be supported by material other than standard weight steel casing.

(26) "Filter pack" means clean, well rounded, smooth, uniform, sand or gravel, which is placed in the annulus of the well between the bore hole wall and the liner, perforated pipe, or well screen to prevent formation material from entering the well.

(27) "Formation" means an assemblage of earth materials grouped together into a unit that is convenient for description or mapping.

(28) "Geotechnical information" means subsurface engineering properties used for the purpose of designing structures such as bridges, buildings, highways, pipelines, or for assessing slope stability.

(29) "Geotechnical soil boring" or "boring" means an uncased well drilled for the purpose of obtaining soil samples to ascertain structural properties of the subsurface. Geotechnical soil boring includes auger borings, rotary borings, cone penetrometer probes and vane shear probes, or any other uncased ground penetration for geotechnical information.

(30) "Ground water" means and includes ground waters as defined in RCW 90.44.035.

(31) "Grout" is a fluid mixture of cement, bentonite, and water used to seal the annular space around or between well casings, or to decommission wells.

(32) "Impermeable" is a descriptive term for earth materials which have a texture or structure that does not permit fluids to perceptibly move into or through its pores or interstices.

(33) "Instrumentation well" means a well in which pneumatic or electric geotechnical or hydrological instrumentation is permanently or periodically installed to measure or monitor subsurface strength and movement. Instrumentation well includes bore hole extensometers, slope indicators, pneumatic or electric pore pressure transducers, and load cells.

(34) "Liner" means any device inserted into a larger casing, screen, or bore hole as a means of maintaining the structural integrity of the well.

(35) "Lysimeter" means a well used to withdraw soil water or pore samples from subsurface soil or rock above the water table for chemical, physical, or biological testing.

(36) "Monitoring well" means a well designed to obtain a representative ground water sample or designed to measure the water level elevations in either clean or contaminated water or soil.

(37) "Nested well" means the installation of more than one cased resource protection well in one bore hole. This does not preclude casing reductions.

(38) "Observation well" means a well designed to measure the depth to the water or water level elevation in either clean or contaminated water or soil.

(39) "Operator" means a person who:

(a) Is employed by a well contractor;

(b) Is licensed under this chapter; or

(c) Who controls, supervises, or oversees the construction of a well or who operates well construction equipment.

(40) "Permeability" is a measure of the ease of which liquids or gas move through a porous material.

(a) For water, this is usually expressed in units of centimeters per second or feet per day. Hydraulic conductivity is a term for water permeability.

(b) Soils and synthetic liners with a water permeability of 1×10^{-7} cm/sec or less may be considered impermeable.

(41) "Piezometer" means a well designed to measure water level elevation at a specific depth beneath the water table.

(42) "Pollution" has the meaning provided in RCW 90.48.020.

(43) "Pressure grouting" is a method of forcing grout into specific portions of a well for sealing purposes.

(44) "PTFE" means polytetrafluoroethylene casing materials such as teflon. The use of the term teflon is not an endorsement for any specific PTFE product.

(45) "Public water supply" is any water supply intended or used for human consumption or other domestic uses, including source, treatment, storage, transmission and distribution facilities where water is furnished to any community, collection or number of individuals, available to the public for human consumption or domestic use, excluding water supplies serving one single-family residence and a system with four or fewer connections all of which serve residences on the same farm.

(46) "PVC" means polyvinyl chloride a type of thermo-plastic casing.

(47) "Remediation well" means a well used to withdraw ground water or inject water, air (for air sparging), or other solutions into the subsurface for the purpose of remediating, cleaning up, or controlling potential or actual ground water contamination.

(48) "Resource protection well" means a cased boring used to determine the existence or migration of pollutants within an underground formation. Resource protection wells include monitoring wells, observation wells, piezometers, spill response wells, vapor extraction wells, and instrumentation wells.

(49) "Resource protection well contractor" means any person, firm, partnership, copartnership, corporation, association, or other entity, licensed and bonded under chapter 18.27 RCW, engaged in the business of constructing resource protection wells or geotechnical soil borings.

(50) "Spill response well" means a well used to capture or recover any spilled or leaked fluid which has the potential to, or has contaminated the ground water.

(51) "Static water level" is the vertical distance from the surface of the ground to the water level in a well when the water level is not affected by withdrawal of ground water.

(52) "Temporary surface casing" is a length of casing (at least four inches larger in diameter than the nominal size of the permanent casing) which is temporarily installed during well construction to maintain the annular space.

(53) "Test well" is a well (either cased or uncased), constructed to determine the quantity of water available for ben-

eficial uses, identifying underlying rock formations (lithology), and to locate optimum zones to be screened or perforated. If a test well is constructed with the intent to withdraw water for beneficial use, it must be constructed in accordance with the minimum standards for water supply wells, otherwise they shall be constructed in accordance with the minimum standards for resources protection wells. A water right permit, preliminary permit, or temporary permit shall be obtained prior to constructing a test well unless the anticipated use of water is exempt as provided in RCW 90.44.050. A "test well" is a type of "water well."

(54) "Tremie tube" is a small diameter pipe used to place grout, filter pack material, or other well construction materials in a well.

(55) "Turbidity" means the clarity of water expressed as nephelometric turbidity units (NTU) and measured with a calibrated turbidimeter.

(56) "Unconsolidated formation" means any naturally occurring, loosely cemented or poorly consolidated earth material including such materials as uncompacted gravel, sand, silt and clay. Alluvium, soil, and overburden are terms frequently used to describe such formations.

(57) "Vapor extraction well" means a well used to withdraw gases or vapors from soil, rock, landfill, or ground water or allow air or vapor to enter subsurface soil or rock for the purpose of remediating soil and/or ground water contamination.

(58) "Water well" means any excavation that is constructed when the intended use of the well is for the location, diversion, artificial recharge, observation, monitoring, dewatering or withdrawal of ground water.

(59) "Water well contractor" means any person, firm, partnership, copartnership, corporation, association, or other entity, licensed and bonded under chapter 18.27 RCW, engaged in the business of constructing water wells.

(60) "Well alterations" include(s), deepening, hydrofracturing or other operations intended to increase well yields or change the characteristics of the well. Well alterations does not include general maintenance, cleaning, sanitation, and pump replacement.

(61) "Well completion" means that construction has progressed to a point at which the drilling equipment has been removed from the site, or a point at which the well can be put to its intended use.

(62) "Well contractor" means a resource protection well contractor and a water well contractor.

(63) "Well driller(s)" or "driller(s)" is synonymous with "operator(s)."

(64) "Well" means water wells, resources protection wells, instrumentation wells, dewatering wells, and geotechnical soil borings. Well does not mean an excavation made for the purpose of obtaining or prospecting for oil, natural gas, geothermal resources, minerals, or products of mining, or quarrying, or for inserting media to repressure oil or natural gas bearing formations, or for storing petroleum, natural gas, or other products.

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 88-58, filed 4/6/88)

~~WAC 173-162-040 ((Compliance—Requirement for licensing-)) How do I comply with licensing requirements? ((1) A well construction operators license is required for all operators:~~

~~(2) A well construction operators license is required for all well contractors as follows:~~

~~(a) Every well contractor shall designate one official as "liaison representative" who shall have the full responsibility and authority to act as the contractor's agent in all its dealings with the department. The "liaison representative" shall be licensed:~~

~~(b) An owner-operator who enters contracts on his own behalf is a well contractor and must be licensed. He shall act as his own "liaison agent" in all dealings with the department.~~

~~(3) An architectural, engineering or other similar type professional consulting firm, general contractor or construction firm and highway or bridge construction firm need not have a licensed well construction operator in its employ; provided that all well construction associated with their various projects is conducted by a duly licensed well contractor.)) (1) A water well operator license is required for all operators engaged in constructing or decommissioning water wells.~~

~~(2) A water well operator training license is required for any trainee engaged in constructing or decommissioning water wells under the training program provisions of this chapter.~~

~~(3) A resource protection well operator license is required for all operators engaged in constructing or decommissioning resource protection wells and geotechnical soil borings.~~

~~(4) A resource protection well operator training license is required for any trainee engaged in constructing or decommissioning resource protection wells and geotechnical soil borings under the training program provisions of this chapter.~~

~~(5) General contractors, engineering firms, designers, consulting firms, or other entities need not have a licensed well operator in its employ; Provided, That all well construction and decommissioning associated with their various projects and/or contracts is conducted by a licensed well operator licensed under the provisions of this chapter except as provided in WAC 173-162-050.~~

AMENDATORY SECTION (Amending Order 88-58, filed 4/6/88)

~~WAC 173-162-050 ((Exemptions-)) Who is exempt? ((A well construction operators license shall not be required of:~~

~~(1) Any individual who personally drills a well on land which is owned or leased by him or in which he has a beneficial interest as a contract purchaser and is used by the individual for farm or noncommercial domestic use only:~~

~~(2) Any individual who performs labor or services for a well contractor in connection with the drilling of a well at the direction and under on-site supervision and control of a licensed operator.)) (1) No license under this chapter shall be required of:~~

(a) Any individual who personally constructs a well on land which is owned or leased by the individual, or in which the individual has a beneficial interest as a contract purchaser and is used by the individual for farm or single-family residential use only. Provided, the individual shall construct not more than one well every two years.

(b) An individual, except trainees, who performs labor or services for a well contractor in connection with the construction or decommissioning of a well at the direction and under the direct supervision and control of a licensed operator who is present at the construction site.

(c) A person licensed under the provisions of chapter 18.08 or 18.43 RCW if in the performance of duties covered by those licenses.

(2) An individual who constructs or decommissions a well without a license under this subsection shall comply with all other requirements of this chapter and rules adopted by the department. Those requirements include, but are not limited to:

(a) Well construction and decommissioning standards;

(b) Payment of well construction fees; and

(c) Notification of well construction required by RCW 18.104.048.

NEW SECTION

WAC 173-162-055 What types of operator licenses are available? Five types of drilling licenses are available:

(1) Water well operator training license.

(2) Resource protection well operator training license.

(3) Resource protection well operator license.

(4) Water well operator license.

(5) Conditional licenses for water or resource protection well drilling.

AMENDATORY SECTION (Amending Order 88-58, filed 4/6/88)

~~WAC 173-162-060 ((License required—Qualifications for licensing-)) How do you qualify for each license? ((A person shall be qualified to receive a license if he:~~

~~(1) Has made application to the department and has paid a twenty-five dollar application fee:~~

~~(2) Has passed a written examination, except that a person who can establish his illiteracy to the satisfaction of the department shall be entitled to an oral examination in lieu of a written examination:~~

~~(3) Has at least two years of field experience with a licensed well driller or one year of field experience and an equivalent of at least one school year of qualifying educational training. The qualifying educational training should include the following studies, in combination with field demonstration and experience for the minimum amount of hours shown:~~

~~(a) Ground water geology and hydrology—fifty-five hours;~~

~~(b) Well design and construction—fifty-five hours;~~

~~(c) Records and business basics—twenty-two hours;~~

~~(d) History of methods of drilling—twenty-two hours;~~

~~(e) Welding—one hundred ten hours; and~~

~~(f) Well drilling experience — four hundred fifty-nine hours.~~

~~These criteria must have official documentation by state or nationally approved institutions of higher learning.)) (1) **Training licenses.**~~

~~(a) You are qualified to receive either a water or a resource protection training license if you:~~

~~(i) Submit a completed application to the department on forms provided by the department and pay the department a twenty-five dollar application fee; and~~

~~(ii) Have completed at least six hundred hours of drilling experience working under the direct supervision of a licensed operator who has held a Washington state water and/or resource protection well drilling license for at least three years; and~~

~~(iii) Have obtained six continuing education units as approved by the department; and~~

~~(iv) Pass a written examination as provided for in RCW 18.104.080; and~~

~~(v) Pass an on-site examination by the department; and~~

~~(vi) Present a statement by a person or persons licensed under this chapter, other than a trainee, signed under penalty of perjury as provided in RCW 9A.72.085, verifying that:~~

~~(A) The applicant has acquired a minimum of six hundred hours of field experience required under this chapter; and~~

~~(B) The operator has assumed liability for any and all well construction activities of the applicant while the applicant was gaining his/her six hundred hours of field experience. The operator shall not be subject to any penalties or orders that may be issued for wells constructed by the applicant that were not the responsibility of the operator to have direct supervision and control over; and~~

~~(C) A licensed operator, except a trainee, who will sponsor the trainee, has been identified on the signed statement. The licensed operator who will be sponsoring the trainee, shall assume liability for any and all well construction activities of the trainee accomplished under the operator's control during the period of the trainee's license; and~~

~~(vii) In obtaining a statement from a well operator(s) under (a)(vi) of this subsection, an applicant who has gained drilling experience under more than one operator shall submit a statement from each operator. It is not necessary to accumulate all qualifying experience under one operator. Field experience for which a statement of verification and liability cannot be obtained, shall not be used as qualifying experience under this section.~~

~~All statements shall be entered on forms provided by the department.~~

~~**(b) Terms and conditions of a training license.**~~

~~(i) A person with either a resource protection or a water well training license may construct only those types of wells for which they are licensed without being under the direct supervision of a licensed operator provided:~~

~~(A) A licensed operator is available by radio, telephone, or other means of communication; and~~

~~(B) The licensed operator can reach the drill site within one hour.~~

~~(ii) A trainee shall maintain a daily drilling log identifying all work accomplished that day. The log shall remain in~~

the possession of the trainee at all times and shall be reviewed and initialed daily by the responsible licensed operator. The drilling log shall be available for review by department and county officials whose county has received delegated authority as provided in RCW 18.104.043.

(iii) The work documented and initialed in the drilling log may be used in your application for a license under the training program completed, licensing category of this chapter.

(iv) All verifiable work performed by a trainee under the control of a licensed operator may be carried over to subsequent operator(s) who assume liability for the trainee.

(v) A trainee may apply and qualify for only one type (resource protection or water well drilling) of training license at a time.

(2) Water well or resource protection well operator licenses.

A person shall be qualified to receive either a water or resource protection well operator license if you meet the requirements of one of the following categories:

(a) New applicant category.

(i) Applicants who have never held a well operator license and whose qualifying drilling experience was started after the effective date of this regulation qualify if they:

(A) Submit a completed application to the department on forms provided by the department and pay the department a twenty-five dollar application fee; and

(B) Submit proof that they have acquired five thousand four hundred hours of drilling experience under the direct supervision of a licensed well operator; and

(C) Submit proof that they have obtained thirty-two continuing education units; and

(D) Pass a written examination as provided for in RCW 18.104.080.

The department shall evaluate and approve all qualifying experience and educational training. If your qualifying drilling experience under (a)(i)(B) of this subsection is from another state, the department may require an on-site examination.

(ii) Applicants who have never held a well operator license and who have obtained at least twelve months of qualifying drilling experience before the effective date of this regulation qualify to receive a license if they:

(A) Submit a complete application to the department; and

(B) Pay a twenty-five dollar fee; and

(C) Pass a written exam; and

(D) Show proof that they have completed a total of twenty-four months of drilling experience under a licensed operator. Your proof must show that you started working towards a drilling license prior to the effective date of this regulation, and that you have been diligently and continuously working towards obtaining a drilling license since you started. Proof shall consist of tax records, pay statements, or other documentation showing that you were under the supervision of a licensed operator.

(E) The department shall evaluate and approve all qualifying drilling experience. If your drilling experience

under (a)(ii)(D) of this subsection is from another state, the department may require an on-site examination.

(iii) Individuals who have been working towards obtaining a drilling license but have acquired less than twelve months of qualifying drilling experience prior to the effective date of this chapter, may apply their education and experience towards the requirements of a training license.

(b) Training program completed category.

Applicants who have held a valid training license will be qualified to receive an operator license if they:

(i) Submit a completed application to the department on forms provided by the department and pay the department a twenty-five dollar application fee; and

(ii) Submit proof that they have worked as a licensed trainee under the provisions of this chapter for at least three thousand six hundred hours; and

(iii) Have obtained fourteen continuing education units while working under the training program.

(c) Licensed experience category.

(i) Applicants who have never held an operator license in Washington state qualify if they:

(A) Submit a completed application to the department on forms provided by the department and pay the department a twenty-five dollar application fee; and

(B) Hold a valid well operator license, or equivalent, in another state and can show proof that the license has been held for a period of at least three years. The department shall evaluate and approve all experience acquired by out-of-state licensed operators; and

(C) Have obtained thirty-two continuing educational units as approved by the department; and

(D) Pass a written examination as provided for in RCW 18.104.080; and

(E) Passed an on-site examination by the department. The on-site examination may be waived by the department.

(F) Proof of licensing under (c)(i)(B) of this subsection shall be submitted with the application for license. Proof of drilling experience may include drilling logs, federal or state tax records; employment records; or other records acceptable to the department.

(ii) Individuals, other than trainees, whose Washington operator license has been suspended, revoked, or whose license has expired may apply for a new license. These individuals qualify to receive a license if:

(A) The terms of the order of suspension or revocation have been met; and

(B) They submit a completed application to the department on forms provided by the department and pay the department a twenty-five dollar application fee; and

(C) They have obtained seven continuing educational units for each year or portion of a year the license has been revoked, suspended, or expired; and

(D) They pass a written examination as provided for in RCW 18.104.080; and

(E) They pass an on-site examination by the department.

(F) The written and/or on-site examination(s) under (c)(ii)(D) and (E) of this subsection may be waived by the department.

(3) Individuals who received an operator license for either water well or resource protection well drilling after the effective date of these regulations are qualified to receive the other license if they:

(a) Currently hold a valid well operator license under one of the categories in subsection (2) of this section. The license must have been issued by the department after the effective date of these regulations; and

(b) Submit a completed application to the department on forms provided by the department and pay a twenty-five dollar application fee; and

(c) Pass a written examination; and

(d) Pass an on-site examination if their field experience was gained in another state. The department may waive the on-site examination.

(e) Submit proof of at least six hundred hours of additional well drilling experience for the other type of license you wish to obtain. EXAMPLE - You currently hold a water well operator license that was issued by the department after the effective date of these regulations. You also wish to be licensed to construct resource protection wells. You will qualify to receive the resource protection operator license by making an application, paying the fee, and showing proof of six hundred hours of resource protection well drilling experience, passing a written exam, and passing an on-site exam if your drilling experience was gained in another state. Proof of experience will consist of drilling reports showing you were the operator of record on at least fifteen resource protection wells, or other documentation showing experience approved by the department.

(4) Conditional license.

(a) A conditional license may be issued to a former licensed operator for the sole purpose of authorizing the well operator to comply with an order to correct a problem with a well. The terms of the license shall detail the extent and limitations placed on the well operator. This may include limitations of work to be completed on a specific well, license expiration, and any other limitation set by the department.

(b) A conditional license cannot be issued to a person who has never held an operator license issued under the provisions of this chapter.

AMENDATORY SECTION (Amending Order DE 73-10, filed 6/29/73)

WAC 173-162-070 What application((s and)) fees((:)) are required? ((Applications for license or renewal of license shall be submitted on forms provided by the department:

~~(1) An application fee of twenty-five dollars made payable to the department must be submitted with each application for license.~~

~~(2) A renewal fee of ten dollars made payable to the department must be submitted with each application for renewal of license.)) Application fees are twenty-five dollars for each operator or training license.~~

NEW SECTION

WAC 173-162-075 How often do I need to renew my license? (1) Licenses issued under this chapter, except a training license, shall be renewed every two years.

(2) A training license shall be valid for a period of two years from the time it was originally issued. A training license cannot be renewed. However, a one-time extension may be granted upon show of good cause by the trainee. The limit of the extension shall be no longer than twenty-four months and will be evaluated on a case-by-case basis. A twenty-five dollar fee will be charged for the extension.

AMENDATORY SECTION (Amending Order DE 73-10, filed 6/29/73)

WAC 173-162-080 (~~(Examinations—Time and place.)~~) **What are the conditions and cost of renewing a drilling license?** (~~Examinations shall be held at such times and places as may be determined by the department, but not later than thirty days after a completed application with appropriate fee has been received and accepted by the department; provided that in the case where an application is received after an examination has been scheduled and there is either insufficient time for the department to duly notify the applicant of the time and place of the examination or the applicant is unable to take the examination at the scheduled time, the thirty day period will start from the scheduled examination date; provided further, however, that if an examination is not taken within ninety days after the initial receipt of the application in the department, the application shall be voided and the application fee forfeited.~~) (1) Between the 1993 legislation, Laws of 1997, chapter 387, and the adoption of these regulations implementing the legislation, the well operator licenses issued and renewed by the department met the requirements of the 1993 legislation and may be renewed for either a water well or resource protection well operator license or both as provided in subsection (2) of this section.

(2) A holder of a valid license may renew the license if they:

(a) Submit a completed application on forms provided by the department; and

(b) Except as provided in subsection (3) of this section, show proof that they successfully completed fourteen continuing education units during the past twenty-four months of the license term; and

(c) Pay a twenty-dollar renewal fee for each license they wish to renew.

(3) If you currently hold a valid operator license that was issued prior to the effective date of this regulation, you may renew that license and receive a water well operator license and/or a resource protection well operator license without meeting the requirements for continuing education until you apply for license renewal in the year 2000.

(4) If you fail to submit a completed application for renewal, the license shall expire at the end of its effective term. A complete application includes the submission of the renewal fee and proof of completion of the required continuing education.

(5) If your license has expired, you must apply for a new license as provided in this chapter.

(6) The department may refuse to renew a license if the license is currently suspended or revoked, or the licensee has not complied with an order issued by the department or has not paid a penalty imposed under RCW 18.104.155, unless the order or penalty is under appeal.

(7) Operators shall not construct or decommission a well after their license has expired.

NEW SECTION

WAC 173-162-085 Continuing education. Ecology, with the assistance of the technical advisory group created in RCW 18.104.190, shall develop and administer a program for continuing education for the purpose of ensuring continued professional growth and competency of licensed operators.

(1) What is continuing education?

Continuing education is your opportunity to gain additional knowledge into subjects that directly relate to the drilling profession. It is designed to enhance your drilling skills, keep you informed on technological advances, and keep you informed on current state and local regulations. The ultimate goal is to ensure the highest quality of professional drilling. Continuing education is required of every person applying for an operator license and for every driller renewing an operator license.

(2) How do I obtain the required continuing education credit?

(a) Continuing education may be obtained from a number of sources. The department as well as other state and local agencies may provide continuing education classes. Additionally, private organizations or individuals may also present approved classes for credit.

(b) The primary ways to receive credits will be:

(i) Attend and/or successfully complete classes, courses, workshops, or seminars that have been preapproved for credit; and/or

(ii) Have the class, course, workshop, or seminar you plan on attending or have attended evaluated by the technical advisory group and approved by the department for credit; and/or

(iii) Completion of correspondence courses will be considered and evaluated on a case-by-case basis.

(3) How will credit be assigned?

(a) The technical advisory group shall evaluate all courses, classes, workshops, or seminars and recommend assignment of continuing education credits. Their evaluation shall be reviewed by the department for approval.

(b) The following criteria shall be utilized to evaluate and assign credit:

(i) Course agenda and how well the subject relates to the business, technical, and/or regulatory aspects of well drilling and to the knowledge, skills, and abilities required in the well drilling profession.

(ii) Subject(s) difficulty.

(iii) Instructor qualifications.

(iv) Student course evaluations may be utilized to assign credit to courses.

(c) Course sponsors may have their courses preapproved by submitting a request to the department on forms provided by the department.

(d) Individuals planning on attending or who have attended classes, courses, workshops, or seminars that were not preapproved for credit must request a course evaluation and credit approval through the department on forms provided by the department.

(e) All courses, classes, workshops, or seminars must be open to anyone who wants to attend. This does not preclude a provider from imposing reasonable requirements for attendees such as fees and providing their own safety equipment.

(4) What types of general topics, workshops or seminars will be accepted?

(a) General subject areas include: Occupational health and safety; business and office skills; interpersonal skills; technical aspects associated with drilling; and other subject areas approved by the department.

(b) Workshops, seminars, classes, or courses conducted by professional associations, governmental agencies, private businesses, and individuals, may be accepted, provided the subject(s) meets the provisions of this chapter.

(5) How do I get credit for participating in a continuing education program?

(a) A person is qualified to receive continuing education credit upon showing proof of attendance at an approved class, course, workshop, or seminar.

(b) Proof includes: Certificates of completion; transcripts; attendance rosters; diplomas; or other documents approved by the department.

(6) General information on continuing education:

(a) Credits received during a renewal period that are in excess of the requirements cannot be used for any succeeding years. **EXAMPLE:** A driller earning 20 continuing educational credits during their two-year renewal period cannot apply the six credits towards a future renewal.

(b) Credits shall not be assigned to courses, workshops, classes, or seminars attended prior to July 1, 1993.

(c) It is the operator's/trainee's responsibility to track and maintain records of their continuing education credits.

(d) Continuing education units will **not be required to renew** an operator license prior to January 1, 2000.

(e) A person licensed for both water well and a resource protection well construction need only obtain fourteen continuing educational units per renewal period.

(f) A person applying to receive both a water well and resource protection well operator license need only meet the continuing education unit requirements for one license.

NEW SECTION

WAC 173-162-095 What should I know about the written and on-site examinations? The written and on-site examinations for licenses issued under this chapter are prepared, administered, and evaluated by the department.

(1) What subjects will the written exam cover? The examinations are prepared to test the knowledge and understanding of the following subjects:

(a) Washington state ground water laws as they relate to constructing and decommissioning wells;

(b) Sanitary standards for constructing wells;

(c) Types of well construction and decommissioning;

(d) Drilling techniques, tools and equipment;

(e) Geology (including soil and rock description) as it relates to well construction;

(f) Rules and regulations of the department relating to constructing a well, test pumping, and equipment maintenance;

(g) Preparation of intent forms, well reports, and requests for variances;

(h) Township and range location system as it relates to location of wells;

(i) Basic ground water hydraulics as it relates to well construction and protection of the resource; and

(j) Rules and regulations of the Washington state department of health relating to source approval and source protection of public drinking water systems.

(2) What subjects will the on-site test cover?

The on-site examination shall test the applicants field skills and knowledge in the following areas:

(a) Safety.

(b) General knowledge of equipment operation.

(c) Equipment maintenance.

(d) Drilling knowledge.

(e) Well development.

(f) Implementation of the construction standards under chapter 173-160 WAC.

(3) When and where are the written examinations given?

(a) Examinations will be held at such a time and place as may be determined by the department, but not later than thirty days after the department accepts the completed application package consisting of:

(i) A completed application form with appropriate fee; and

(ii) Proof of required continuing education; and

(iii) Proof of required drilling experience.

(b) Upon receipt of a completed application package, the department shall notify you of the date, time and place of the next scheduled written examination. You shall notify the department if you cannot meet the examination schedule. Your notice shall include the reason(s) why you cannot meet the schedule.

(c) If your application package is received after an examination has been scheduled and there is either insufficient time for the department to notify you of the time and place of the examination or you are unable to take the examination at the scheduled time, the thirty-day period will start from the scheduled examination date.

(4) When and where are the on-site examinations given?

(a) You must pass the written exam before you can take the on-site exam.

(b) If you are required to take an on-site examination you will receive an authorization form along with the confirmation of your written test results.

(c) Following the receipt of your test results, you will be responsible to select an authorized on-site advisor. The advisor will assist you and the department with coordinating the on-site examination. A list of the on-site advisors will be included with your test results.

(d) You, the advisor, and the department will schedule a mutually agreed upon time and place for the on-site exam. RCW 18.104.080 requires that examinations be held within thirty days after a completed application is filed with the department. If this is not practical, you must notify the department and request an extension to the testing schedule. Your request shall include:

(i) The reason(s) why you cannot meet the schedule.

(ii) Acceptable reasons for rescheduling exams may include: Weather; availability of advisors or department staff; or health problems.

(e) Failure to complete the on-site exam within ninety days may result in having to reapply and reschedule another on-site exam.

(f) You and the on-site advisor will arrange for all the equipment, materials, and location for the on-site examination.

(g) The department must be present during the on-site examination.

(5) When will I be notified of the results of my written and on-site examination?

The department shall notify you of your test results within ten days after each examination.

(6) If I fail an exam, may I take a retest?

(a) If you fail the written or on-site exam, you shall not be entitled to take the examination, or any parts of the examination for a period of thirty days from the date of your original examination.

(b) If you failed to pass the written exam, you are considered a new applicant in all respects.

(c) If you fail the on-site exam, you will be required to arrange a retest after a thirty-day waiting period. You will not be required to retake the written exam.

AMENDATORY SECTION (Amending Order 88-58, filed 4/6/88)

WAC 173-162-140 (~~((Licenses—Unconditional license.))~~) **What are the requirements to become an on-site testing advisor?** (~~((An applicant who has passed the basic general examination and all specialist categories shall be granted a well construction operators license without any restrictions or conditions.))~~) **(1) To qualify to be an on-site testing advisor you must:**

(a) Be a Washington state licensed operator in good standing; and

(b) Have held that Washington state operator license for a period of five years; and

(c) Not have been issued an order or penalty under chapter 18.104 RCW, except for failure to renew a license; and

(d) Pass a written evaluation of your drilling expertise and an oral interview provided by the department; and

(e) Enter a written agreement with the department which will describe the scope, duties, and responsibilities of the on-site testing advisor.

(2) All agreements will be evaluated on an annual basis and renewed upon approval of the department.

AMENDATORY SECTION (Amending Order 88-58, filed 4/6/88)

WAC 173-162-190 (~~((Well contractors—Responsibilities.))~~) **What are the responsibilities of well contractors and their agents?** (~~((The well contractor shall be responsible for appointment of a "liaison representative." Any change of "liaison representative" must be immediately reported to the department in order to assure continuity of communication.))~~)

(1) The well contractor shall be responsible for designating an agent to represent its dealing with the department.

(2) The agent must be a Washington state licensed operator other than a trainee.

(3) The agent shall notify the department of all licensed operators and trainees who are working for the well contractor.

(4) Notification shall be made within ninety days of enactment of this regulation.

(5) After the initial notification, the agent shall notify the department of all terminations and new hires within thirty days.

(6) The well contractor shall notify the department within thirty days of making any change of agent.

AMENDATORY SECTION (Amending Order 88-58, filed 4/6/88)

WAC 173-162-200 (~~((Enforcement.))~~) **What are the department of ecology's enforcement options?** In enforcement of this chapter, the department of ecology may impose (~~((such))~~) sanctions (~~((as))~~) that are appropriate under authorities vested in it, including (~~((but not limited to the))~~) issuance of regulatory orders under RCW 43.27A.190, civil penalties under RCW 90.03.600 and 18.104.155, and criminal penalties under RCW 18.104.160.

AMENDATORY SECTION (Amending Order 88-58, filed 4/6/88)

WAC 173-162-210 (~~((Appeals.))~~) **Can I appeal enforcement actions? Yes, you can appeal the department of ecology's decision to the pollution control hearings board.** All final written decisions of the department of ecology pertaining to permits, regulatory orders, and related decisions made (~~((pursuant to))~~) under this chapter shall be subject to review by the pollution control hearings board in accordance with chapter 43.21B RCW.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 173-162-170

Retaking examination.

PERMANENT

WSR 98-08-032
PERMANENT RULES
DEPARTMENT OF ECOLOGY

[Order 97-08—Filed March 23, 1998, 9:50 a.m.]

Date of Adoption: March 19, 1998.

Purpose: Chapter 173-160 WAC, Minimum standards for construction and maintenance of wells. The purpose of this regulation is to establish the minimum standards for the construction of all wells in Washington.

Citation of Existing Rules Affected by this Order: Repealing WAC 173-160-055 Well construction notification (start card), 173-160-065 Design and construction, 173-160-075 Design and construction—Sealing of casing—General, 173-160-085 Capping, 173-160-095 Relationship to other authorities, 173-160-105 Comparable construction standards, 173-160-115 Enforcement, 173-160-125 Appeals, 173-160-135 Regulation review, 173-160-205 Location of well site and access requirements, 173-160-215 Design and construction—Well completion—General, 173-160-225 Design and construction—Casing, 173-160-235 Recommended well diameters, 173-160-245 Design and construction—Sealing materials, 173-160-255 Design and construction—Sealing of consolidated formations, 173-160-265 Sealing of unconsolidated formations without significant clay beds, 173-160-275 Sealing of unconsolidated formations with clay beds, 173-160-285 Special sealing standards for artesian wells, 173-160-295 Artificial gravel-packed wells—General, 173-160-305 Sealing of artificial gravel-packed wells, 173-160-315 Sealing of dug wells, 173-160-325 Special standards for driven or jetted wells, 173-160-335 Upper terminal of well, 173-160-345 Testing of well, 173-160-355 Testing of well—Access port or pressure gage, 173-160-365 Disinfection, 173-160-375 Quality of drilling water, 173-160-385 Pump installation, 173-160-395 Explosives, 173-160-405 Chemical conditioning, 173-160-415 Abandonment of wells, 173-160-425 Abandonment of wells—Abandonment of drilled or jetted wells, 173-160-435 Abandonment of wells—Abandonment of gravel-packed wells, 173-160-445 Abandonment of wells—Abandonment of artesian wells, 173-160-455 Abandonment of wells—Abandonment of dug wells, 173-160-465 Abandonment of wells—Plugging of test wells, 173-160-475 Artificial recharge of ground-water bodies, 173-160-500 Design and construction—General, 173-160-510 Design and construction—Surface protective measures, 173-160-520 Design and construction—Casing, 173-160-530 Design and construction—Cleaning, 173-160-540 Design and construction—Well screen, filter pack, and development, 173-160-550 Design and construction—Well seals, and 173-160-560 Abandonment of resource protection wells; and amending WAC 173-160-010 What is the purpose of this regulation? WAC 173-160-020 When will this regulation be renewed? WAC 173-160-030 How does this regulation relate to other authorities? WAC 173-160-040 What are the departments enforcement options?

Statutory Authority for Adoption: Chapter 18.104 RCW.

Other Authority: RCW 43.21A.080.

Adopted under notice filed as WSR 98-04-020 on January 28, 1998.

Changes Other than Editing from Proposed to Adopted Version: What are the main differences between the proposed rule and the rule that is being adopted? The following section describes the main differences between the text of the proposed rule as published in the register and the text of the adopted rule, other than editing changes. A complete listing of all comments received and resulting text changes is found in the concise explanatory statement.

WAC 173-160-121 What should I know about drilling a well that requires a water right permit? The intent of this section is to state that any well that is not exempted from obtaining a water right can not be drilled until a water right permit has been issued by ecology.

Change: The first paragraph in this section has been rewritten to simply say that if a ground water withdrawal is not exempt under the law (RCW 90.44.050) then the well cannot be drilled until the owner obtains a water right permit from ecology.

WAC 173-160-131 Under what circumstances am I required to meter my water use? Several comments were received that expressed total disagreement with having a metering section within this regulation. The original proposal was changed to clarify that until ecology develops specific metering and reporting requirements, metering may be required for permitted wells or for specific wells or specific groundwater uses.

WAC 173-160-151 Does the department require prior notice and fees for constructing, reconstructing, or decommissioning wells? Subsection (5)(c) was rewritten to allow for telephonic notification within twenty-four hours of the decommissioning with follow-up written notice within seventy-two hours. This will allow the driller to decommission a "dry hole" without having to wait the normal seventy-two hours. It will save the property owner time and get an unusable well decommissioned quicker.

WAC 173-160-171 What are the requirements for the location of the well site and access to the well?

Change: Subsection (1) was rewritten to remove ". . . not subject to flooding" and insert ". . . not in the flood way." This was intended to clarify where well can be placed adjacent to surface water.

WAC 173-160-221 What are the standards for sealing materials? The change to this section establishes a performance standard that states the desired result. This will allow a broader basis for evaluation. In this section, the end results are seals free of voids, bridges, or organic polymers.

Change: Subsection rewritten to remove the reference to "tamping tool" and pour rates. Polymers are allowed if they do not promote growth of microorganisms.

WAC 173-160-231 What are the standards for surface seals? Subsection (7) in the proposed rule was intended to reduce the number of siting variance requests that fall between 75 and 100 feet from sources of contamination. The on-site sewage regulations (chapter 246-272 WAC) require maintenance of 100 feet between the drainfield/reserve area and the well. Allowing wells to be siting between 75 and 100 feet from drainfields or any other potential source of contamination would be inconsistent with chapter 246-272 WAC and confusing to the public and the drilling profession.

Change: Subsection (7) was removed.

WAC 173-160-291 What are the standards for the upper terminal of water wells?

Change: The draft rule required that only a licensed driller could replace any portion of a surface seal. This was contrary to opinion of pump installers who regularly remove small portions of the surface seal to install pitless adapters. The department agrees that anyone should be able to replace a small portion of a surface seal. The requirement to have a licensed driller replace a portion of a surface seal has been eliminated.

WAC 173-160-321 How do I test a well?

Change: This section was rewritten to prohibit bailer tests on public water supply wells.

A bailer cannot achieve a continuous rate of withdrawal. This will have an adverse impact on the accuracy of the test data.

WAC 173-160-331 How do I make sure my equipment and the well are free of contaminants? Subsection (5) was reworded to leave out the methodology and state only the desired result. The suggestion was to allow the use of disinfectants agents other than chlorine in subsection (4) and leave out methodology in subsection (5). Setting a performance standard of allowing the use of safe and nonpolluting disinfecting agents will be less limiting for the drillers while achieving the goal of disinfecting equipment and the well.

Change: The subsection was rewritten to allow the use of any disinfecting agent that is safe, nonpolluting, and that will not impair potability.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 7, Amended 0, Repealed 7.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 15, Amended 0, Repealed 44.

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 18, Amended 0, Repealed 44.

Number of Sections Adopted Using Negotiated Rule Making: New 41, Amended 6, Repealed 44; 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.

March 19, 1998

Tom Fitzsimmons
Director

~~((PART ONE GENERAL))~~ REQUIREMENTS

THAT APPLY TO ALL WELLS

AMENDATORY SECTION (Amending Order 88-58, filed 4/6/88)

WAC 173-160-010 ~~((Purpose.))~~ What is the purpose of this regulation? ~~((1))~~ These regulations are adopted pursuant to chapter 18.104 RCW, in order to establish minimum

standards for the construction of all wells in the state of Washington. These regulations establish minimum construction standards for two classes of wells; water supply wells and resource protection wells. Water supply wells include wells used to appropriate water for beneficial purposes, cased dewatering wells, and test wells. Resource protection wells include: Monitoring wells, observation wells, piezometers, geotechnical test borings, and spill response wells.

~~(2) Provisions of Part One shall apply to all wells. Provisions of Part Two shall apply to water supply wells. Provisions of Part Three shall apply to resource protection wells.~~

~~(3) The following are excluded from these regulations:~~

~~(a) Excavations that are not used to locate, divert, artificially recharge, or withdraw ground water.~~

~~(b) Post holes.~~

~~(c) Landfill gas extraction wells.~~

~~(d) An excavation for the purpose of obtaining or prospecting for oil, natural gas, minerals, products of mining, quarrying, inserting media to repressure oil or natural gas bearing formations, storing petroleum, natural gas, or other products, as provided in chapter 78.52 RCW.~~

~~(e) Injection wells, such as storm water disposal or recharge wells regulated in chapter 173-218 WAC.~~

~~(f) Cathodic protection wells.~~

~~(g) Unaged wells used for dewatering purposes in construction work, and other unaged excavations, such as unaged geotechnical test borings. However, the provisions of WAC 173-160-055, 173-160-010(4), and 173-160-420 shall apply.~~

~~(h) Infiltration galleries, trenches, ponds, pits, and sumps.~~

~~(4) Pursuant to chapter 90.48 RCW, those excavations excluded in subsection (3)(a) through (h) of this section shall be constructed and abandoned to ensure protection of the ground water resource and to prevent the contamination of that resource.)~~ (1) These regulations are adopted under chapter 18.104 RCW, to establish minimum standards for the construction and decommissioning of all wells in the state of Washington.

(2) The following are excluded from these regulations:

(a) Any excavation that is not intended to locate, divert, artificially recharge, observe, monitor, dewater, or withdraw ground water for agricultural, municipal, industrial, domestic, or commercial use except resource protection wells and geotechnical soil borings.

(b) Any excavation for the purpose of obtaining or prospecting for oil, natural gas, minerals, products of mining, quarrying, inserting media to repressure oil or natural gas bearing formations, storing petroleum, natural gas, or other products, as provided in chapter 78.52 RCW.

(c) Injection wells regulated in chapter 173-218 WAC.

(d) Infiltration or exfiltration galleries, trenches, ponds, pits, and sumps.

(3) Under chapter 90.48 RCW, those excavations excluded in subsection (2)(a) through (d) of this section shall be constructed, maintained, and decommissioned to ensure protection of the ground water resource and to prevent the contamination and waste of that resource.

AMENDATORY SECTION (Amending Order 88-58, filed 4/6/88)

WAC 173-160-030 ((Definitions:)) When will this regulation be reviewed? ((As used in this chapter:

(1) "Abandoned well" is a well which has been filled or plugged so it is rendered unproductive. A properly abandoned well will not produce water nor serve as a channel for movement of water.

(2) "Access port" is a 1/2- to 2-inch tapped hole or tube equipped with a screw cap, which provides access to the inner casing, for measurement of the depth to water surface.

(3) "Annular space" is the space between the surface or outer casing and the inner casing, or the space between the wall of the drilled hole and the casing.

(4) "Aquifer" is a geologic formation, group of formations, or part of a formation capable of yielding a significant amount of ground water to wells or springs.

(5) "Artesian well" is a well tapping an aquifer bounded above and below by impermeable beds or beds of distinctly lower permeability than the aquifer itself. The water will rise in the well above the point of initial penetration (above the bottom of the confining or impermeable layer overlying the aquifer). This term includes both flowing and nonflowing wells.

(6) "Artificial gravel pack" is a mixture of gravel and/or sand placed in the annular space around the well screen. A gravel pack is used to reduce the movement of finer material into the well, increase the well yield and provide lateral support to the screen in unstable formations.

(7) "Artificial recharge" is the addition of water to an aquifer by activities of man, such as irrigation or induced infiltration from streams, or injection through wells.

(8) "Bentonite" is a mixture of swelling clay minerals, predominantly sodium montmorillonite.

(9) "Capped well" is a well that is not in use and has a watertight seal or cap installed on top of the casing.

(10) "Casing" is a pipe, generally of metal or plastic, which is installed in the bore hole to maintain the opening.

(11) "Curbing" is a liner or pipe made of concrete, precast tile or steel installed in dug wells to provide a space between the well bore and the liner for sealing.

(12) "Consolidated formation" means any geologic formation in which the earth materials have become firm and coherent through natural rock forming processes. Such rocks commonly found in Washington include basalt, granite, sandstone, shale, conglomerate, and limestone. An uncased drill hole will normally remain open in these formations.

(13) "Contamination" is an impairment of natural ground water quality by biological, chemical, physical, or radiological materials which lower the water quality to a degree which creates a potential hazard to the environment, public health, or interferes with a beneficial use.

(14) "Department" means the department of ecology.

(15) "Disinfection" is the use of chlorine, or other disinfecting agent or process approved by the department, in sufficient concentration and contact time adequate to inactivate coliform or other indicator organisms.

(16) "Domestic water supply" is any water supply serving one or more single family residences.

(17) "Drawdown" is the measured difference between the static water level and the water level induced by pumping.

(18) "Drilled well" is a well in which the hole is usually excavated by mechanical means such as rotary, cable tool, or auger rigs.

(19) "Driven well" is a well constructed by joining a "drive point" to a length of pipe, then driving the assembly into the ground.

(20) "Dug well" is a well generally excavated with hand tools or by mechanical methods. The side walls may be supported by material other than standard weight steel casing.

(21) "Filter pack" means clean, well rounded, smooth, uniform, sand or gravel, which is placed in the annulus of the well between the borehole wall and the well screen to prevent formation material from entering the well.

(22) "Formation" means an assemblage of earth materials grouped together into a unit that is convenient for description or mapping.

(23) "Geotechnical test boring" means any temporary cased borehole completed primarily for the purpose of obtaining geologic, or geotechnical data about subsurface soil or rock conditions, and/or for determining ground water levels.

(24) "Grout" is a fluid mixture of cement, bentonite, and water used to seal the annular space around or between well casings, or to fill and seal abandoned wells.

(25) "Impermeable" is a descriptive term for earth materials which have a texture or structure that does not permit fluids to perceptibly move into or through its pores or interstices.

(26) "Licensee" is any person who is licensed as a well contractor pursuant to the provisions of this act and these rules.

(27) "Liner" means any casing, screen, or other device inserted into a larger casing, screen, or open hole as a means of sealing off undesirable material or maintaining the structural integrity of the well.

(28) "Landfill gas extraction well" is a well used to withdraw gas from an unsaturated zone.

(29) "Monitoring well" is a well designed to obtain a representative ground water sample and/or to measure the water level elevation over the screened interval.

(30) "Observation well" is a well designed to measure the depth to the water table. An observation well is screened across the water table and usually is installed in unconfined aquifers.

(31) "Operator" is any person employed by a well contractor or self-employed as a contractor-operator for the control and supervision of well construction or for the operation of well construction equipment.

(32) "Permeability" means the ease with which a porous material allows liquid or gaseous fluids to flow through it. For water, this is usually expressed in units of centimeters per second and termed hydraulic conductivity. Soils and synthetic liners with a permeability for water of 1×10^{-7} cm/sec or less may be considered impermeable.

(33) "Piezometer well" is a well designed to measure the hydraulic potential (water level elevation) at a specific point

in the subsurface. A piezometer has a short screen that is positioned entirely beneath the water table.

(34) "Pressure grouting" is a method of forcing grout into specific portions of a well for sealing purposes.

(35) "PTFE" means polytetrafluoroethylene casing materials (such as teflon) and is not an endorsement for any specific PTFE product.

(36) "Public water supply" is any water supply intended or used for human consumption or other domestic uses, including source, treatment, storage, transmission and distribution facilities where water is furnished to any community, collection or number of individuals, available to the public for human consumption or domestic use, excluding water supplies serving one single family residence.

(37) "Puddling clay" is a mixture of at least fifty percent bentonite and fine sand material which seals out or retards the movement of water.

(38) "PVC" means polyvinyl chloride a type of thermoplastic casing.

(39) "Resource protection wells" mean monitoring wells, observation wells, piezometers and spill response wells, and cased geotechnical test borings.

(40) "Spill response well" is any well used to capture or recover any spilled or leaked fluid which has the potential to, or has contaminated the ground water.

(41) "Static water level" is the vertical distance from the surface of the ground to the water level in a well when the water level is not effected by pumping or free flow.

(42) "Temporary surface casing" is a length of casing (at least four inches larger in diameter than the permanent casing) which is temporarily installed during well construction to maintain the annular space.

(43) "Test well" is a well (either cased or uncased), constructed to determine the quantity of water available for beneficial uses identifying underlying rock formations (lithology), and to locate optimum zones to be screened or perforated.

If a test well is constructed with the intent to withdraw water for beneficial use, it must be constructed in accordance with the minimum standards for water supply wells, otherwise they shall be constructed in accordance with the minimum standards for resource protection wells.

(44) "Tremie tube" is a small diameter pipe used to place grout, filter pack material, or other well construction materials in a well.

(45) "Unconsolidated formation" means any naturally occurring, loosely cemented or poorly indurated earth material including such materials as uncompacted gravel, sand, silt and clay. Alluvium, soil, and overburden are terms frequently used to describe such formations.

(46) "Water supply well" means any well that is used to withdraw, dewater, or recharge ground water.

(47) "Well" means and includes any excavation that is drilled, cored, bored, washed, driven, dug, jetted, or otherwise constructed when the intended use of an excavation is for the location, diversion, artificial recharge, or withdrawal of ground water. Well includes water supply well and resource protection well. Well does not mean excavations excluded in WAC 173-160-010(3).

(48) "Well contractor" means any person, firm, partnership, copartnership, corporation, association, or other entity engaged in the business of constructing wells.

(49) "Well driller" is synonymous with "operator."

(50) "Well rig" is any power driven, percussion, rotary, boring, digging, jetting or auguring machine used in the construction of a well.) (1) The department of ecology shall initiate review of the rules established in this chapter.

(a) When new information, changing conditions, or statutory modifications make it necessary to consider revisions; or

(b) When statutes require the review of this regulation, whichever comes first.

(2) The technical advisory group (TAG) established under chapter 18.104 RCW shall assist the department in the development and revision of rules.

AMENDATORY SECTION (Amending Order 91-27, filed 11/19/91, effective 12/20/91)

WAC 173-160-040 ((Permit.)) How does this regulation relate to other authorities? ((As provided in RCW 90.44.050, no well shall be constructed if a withdrawal of more than five thousand gallons a day or irrigation of more than one-half acre of noncommercial lawn and garden is contemplated, unless an application to appropriate such waters has been made to the department and a permit has been granted.

As provided in WAC 173-548-050, no wells shall be constructed for any purposes in subbasins closed in the Methow water resources regulation, including those exempt from permitting under RCW 90.44.050, unless written approval has been obtained from the department prior to beginning well construction.)) (1) Nothing in these regulations may be construed to waive any legal requirements of other state agencies or local governmental entities relating to well construction, nor may it preclude the adoption of more stringent minimum well construction standards by local government.

(2) Well contractors shall be familiar with all state and local well construction requirements for their job sites prior to initiating construction.

AMENDATORY SECTION (Amending Order 88-58, filed 4/6/88)

WAC 173-160-050 ((Records.)) What are the department's enforcement options? ((1) Every well contractor, within thirty days after completion of a well, is required to submit a complete record on the construction or alteration of the well to the department. This shall apply to all water supply and resource protection wells. The well record shall be made on a form provided by the department, or a reasonable facsimile, as approved by the department.

(2) The water supply and test well record shall include the following information, where applicable, as a minimum: Location of well to at least 1/4, 1/4 section or smallest legal subdivision; intended use of well; the depth, diameter, and general specifications of each well; the depth, thickness and character of each bed, stratum or formation penetrated by

each well; and the commercial specifications of all casing, also of each screen or perforated zone in the casing; the tested capacity of each well in gallons per minute; for each non-flowing well, the depth to the static water level, as measured below the land surface, and also the drawdown of the water level at the end of the well capacity test; for each flowing well, the shut-in pressure measured above the land surface, or in pounds per square inch at the land surface, and such additional factual information as reasonably may be required by the department.

(3) The well record shall be made on a form provided by the department, or a reasonable facsimile, as approved by the department. The resource protection well record shall include the following information as a minimum: Project name, if appropriate; location of well to at least 1/4, 1/4 section or smallest legal subdivision; land surface datum; well identification number; diameter; depth, and general specifications of each well; the depth thickness and character of each bed, stratum or formation penetrated by each well; and commercial specifications of all casing and screen; as built diagram; and additional information as required by the department.) The department may impose the sanctions that are appropriate under authorities vested in it, including:

(1) The issuance of regulatory orders under RCW 43.27A.190;

(2) Civil penalties under RCW 90.03.600 and 18.104.155; and

(3) Criminal penalties under RCW 18.104.160.

NEW SECTION

WAC 173-160-061 May I appeal the department's decision? (1) Yes. All final, written decisions of the department of ecology pertaining to permits, regulatory orders, and related decisions made under this chapter are subject to review by the pollution control hearings board in accordance with chapter 43.21B RCW.

(2) If you wish to appeal a decision of the department of ecology, you must appeal it before that board.

NEW SECTION

WAC 173-160-071 May I appeal decisions made by delegated authorities? (1) Yes. Any person who feels aggrieved by a decision made by a local health district or county under delegated authority may appeal the decision to the department of ecology.

(2) The appeal must be made within thirty days of receipt of the decision.

(3) An appeal to the department shall contain at least the following information:

(a) Name, address, and phone number of appealing party;

(b) Copy of the decision under appeal;

(c) A clear statement of what issues are disputed;

(d) A clear statement of what relief the appellant is seeking.

(4) The department will consider the appeal, and either affirm, reverse, or modify the decision of the delegated authority. A written response shall be provided to the appli-

cant and the delegated authority within thirty days of the department's receipt of the appeal.

(5) The department's decision is subject to review by the pollution control hearings board, in accordance with chapter 43.21B RCW.

PART ONE—GENERAL REQUIREMENTS FOR WATER WELL CONSTRUCTION

NEW SECTION

WAC 173-160-101 What are the general standards that apply to all water wells? The following minimum standards apply to all water wells constructed and decommissioned in the state of Washington. It is the responsibility and liability of the water well operator who constructs the well, the property owner, and the water well contractor, to take whatever measures are necessary to guard against waste and contamination of the ground water resources.

(1) It is necessary in some cases to construct and decommission wells with additional requirements beyond the minimum standards. Additional requirements may be necessary when the well is constructed or decommissioned in, or adjacent to a known, or potential source of contamination. Examples of sources, or potential sources of contamination are found in the well siting section, WAC 173-160-171.

(2) Nothing in these regulations limits the department's authority to approve comparable alternative specifications for well construction as technology in the industry develops, or new and comparable methods of construction become known to the department.

NEW SECTION

WAC 173-160-106 How do I apply for a variance on a water well? (1) When strict compliance with the requirements and standards of this chapter are impractical, any person may request a variance to the department from a regulation or regulations. The application for variance must propose a comparable alternative specification that will provide equal or greater human health and resource protection than the minimum standards. Application for a variance shall be made in writing and approved prior to the construction or decommissioning of the well.

(2) The variance application shall contain at least the following information:

(a) Name, address, and phone number of the person requesting the variance;

(b) Address of well site;

(c) 1/4, 1/4, section, township, range;

(d) The specific regulation(s) that cannot be followed;

(e) The comparable alternative specification;

(f) Justification for the request.

(3) The variance application will be evaluated, and a response will be given within fourteen days. In a public health emergency or other exceptional circumstance, verbal notification for a variance may be given. An emergency usually consists of a well failure resulting in a dry well or an unusable well. Driller convenience does not constitute an emergency.

(4) The emergency variance recipient must immediately follow up with a written notification to the department so that a permanent record is made of the variance.

(5) Local health districts or counties with delegated authority may grant variances under the provision chapter 18.104 delegated authority.

NEW SECTION

WAC 173-160-111 What are the definitions of specific words as used in this chapter? (1) "Abandoned well" means a well that is unused, unmaintained, or is in such disrepair as to be unusable.

(2) "Access port" is a 1/2- to 2-inch tapped hole or tube equipped with a screw cap, which provides access to the inner casing, for measurement of the depth to water surface. An access port also means a removable cap.

(3) "Annular space" is the space between the surface or outer casing and the inner casing, or the space between the wall of the drilled hole and the casing.

(4) "Aquifer" is a geologic formation, group of formations, or part of a formation capable of yielding a significant amount of ground water to wells or springs.

(5) "Artesian well" is a well tapping an aquifer bounded above and below by confining or impermeable rock or soil layers, or rock or soil layers of distinctly lower permeability than the aquifer itself. The water will rise in the well above the point of initial penetration (above the bottom of the confining or impermeable layer overlying the aquifer). This term includes both flowing and nonflowing wells.

(6) "Artificial gravel pack" is a mixture of gravel or sand placed in the annular space around the liner, perforated pipe, or well screen. A gravel pack is used to reduce the movement of finer material into the well and provide lateral support to the screen in unstable formations.

(7) "Artificial recharge" is the addition of water to an aquifer by activities of man, such as irrigation or induced infiltration from streams, or injection through wells, trenches, pits, and ponds.

(8) "Bentonite" is a mixture of swelling clay minerals, predominantly sodium montmorillonite.

(9) "Capped well" is a well that is not in use and has a watertight seal or cap installed on top of the casing.

(10) "Casing" is a pipe, generally made of metal or plastic, which is installed in the bore hole to maintain the opening.

(11) "Consolidated formation" means any geologic formation in which the earth materials have become firm and cohesive through natural rock forming processes. Such rocks commonly found in Washington include basalt, granite, sandstone, shale, conglomerate, and limestone. An uncased bore hole will normally remain open in these formations.

(12) "Constructing a well" or "construct a well" means:

(a) Boring, digging, drilling, or excavating a well;

(b) Installing casing, sheeting, lining, or well screens, in a well; or

(c) Drilling a geotechnical soil boring.

"Constructing a well" or "construct a well" includes the alteration of an existing well.

(13) "Contamination" has the meaning provided in RCW 90.48.020.

(14) "Curbing" is a liner or pipe made of concrete, pre-cast tile or steel installed in dug wells to provide an annular space between the well bore and the liner or pipe for sealing.

(15) "Decommissioning" means to fill or plug a well so that it will not produce water, serve as a channel for movement of water or pollution, or allow the entry of pollutants into the well or aquifer(s).

(16) "Department" means the department of ecology.

(17) "Dewatering well" means a cased or lined excavation or boring that is intended to withdraw or divert ground water for the purpose of facilitating construction, stabilizing a land slide, or protecting an aquifer.

(18) "Director" means director of the department of ecology.

(19) "Disinfection" or "disinfecting" is the use of chlorine, or other disinfecting agent or process approved by the department, in sufficient concentration and contact time adequate to inactivate coliform or other indicator organisms.

(20) "Domestic water supply" is any water supply which serves a family residence(s).

(21) "Draw down" is the measured difference between the static ground water level and the ground water level induced by pumping.

(22) "Drilled well" is a well in which the hole is usually excavated by mechanical means such as rotary, cable tool, or auger drilling equipment.

(23) "Driven well" is a well constructed by joining a "drive point" to a length of pipe, then driving the assembly into the ground.

(24) "Dug well" is a well generally excavated with hand tools or by mechanical methods. The side walls may be supported by material other than standard weight steel casing.

(25) "Filter pack" means clean, well rounded, smooth, uniform, sand or gravel, which is placed in the annulus of the well between the bore hole wall and the liner, perforated pipe, or well screen to prevent formation material from entering the well.

(26) "Formation" means an assemblage of earth materials grouped together into a unit that is convenient for description or mapping.

(27) "Ground water" means and includes ground waters as defined in RCW 90.40.035.

(28) "Grout" is a fluid mixture of cement, bentonite, and water used to seal the annular space around or between well casings, or to decommission wells.

(29) "Impermeable" is a descriptive term for earth materials which have a texture or structure that does not permit fluids to perceptibly move into or through its pores or interstices.

(30) "Liner" means any device inserted into a larger casing, screen, or bore hole as a means of maintaining the structural integrity of the well.

(31) "Permeability" is a measure of the ease of which liquids or gas move through a porous material.

(a) For water, this is usually expressed in units of centimeters per second or feet per day. Hydraulic conductivity is a term for water permeability.

(b) Soils and synthetic liners with a water permeability of 1×10^{-7} cm/sec or less may be considered impermeable.

(32) "Pollution" has the meaning provided in RCW 90.48.020.

(33) "Pressure grouting" is a method of forcing grout into specific portions of a well for sealing purposes.

(34) "PTFE" means polytetrafluoroethylene casing materials such as teflon. The use of the term teflon is not an endorsement for any specific PTFE product.

(35) "Public water supply" is any water supply intended or used for human consumption or other domestic uses, including source, treatment, storage, transmission and distribution facilities where water is furnished to any community, collection or number of individuals, available to the public for human consumption or domestic use, excluding water supplies serving one single-family residence and a system with four or fewer connections, all of which serve residences on the same farm.

(36) "PVC" means polyvinyl chloride, a type of thermoplastic casing.

(37) "Static water level" is the vertical distance from the surface of the ground to the water level in a well when the water level is not affected by withdrawal of ground water.

(38) "Temporary surface casing" is a length of casing (at least four inches larger in diameter than the nominal size of the permanent casing) which is temporarily installed during well construction to maintain the annular space.

(39) "Test well" is a well (either cased or uncased), constructed to determine the quantity of water available for beneficial uses, identifying underlying rock formations (lithology), and to locate optimum zones to be screened or perforated. If a test well is constructed with the intent to withdraw water for beneficial use, it must be constructed in accordance with the minimum standards for water supply wells, otherwise they shall be constructed in accordance with the minimum standards for resource protection wells. A water right permit, preliminary permit, or temporary permit shall be obtained prior to constructing a test well unless the anticipated use of water is exempt as provided in RCW 90.44.050. A "test well" is a type of "water well."

(40) "Tremie tube" is a small diameter pipe used to place grout, filter pack material, or other well construction materials in a well.

(41) "Turbidity" means the clarity of water expressed as nephelometric turbidity units (NTU) and measured with a calibrated turbidimeter.

(42) "Unconsolidated formation" means any naturally occurring, loosely cemented, or poorly consolidated earth material including such materials as uncompacted gravel, sand, silt and clay.

Alluvium, soil, and overburden are terms frequently used to describe such formations.

(43) "Water well" means any excavation that is constructed when the intended use of the well is for the location, diversion, artificial recharge, observation, monitoring, dewatering or withdrawal of ground water for agricultural, municipal, industrial, domestic, or commercial use.

(44) "Water well contractor" means any person, firm, partnership, copartnership, corporation, association, or other

entity, licensed and bonded under chapter 18.27 RCW, engaged in the business of constructing water wells.

(45) "Well alteration(s)" include(s): Deepening, hydrofracturing or other operations intended to increase well yields, or change the characteristics of the well. Well alteration does not include general maintenance, cleaning, sanitation, and pump replacement.

(46) "Well completion" means that construction has progressed to a point at which the drilling equipment has been removed from the site, or a point at which the well can be put to its intended use.

(47) "Well driller(s)" or "driller(s)" is synonymous with "operator(s)."

(48) "Well" means water wells, resources protection wells, instrumentation wells, dewatering wells, and geotechnical soil borings. Well does not mean an excavation made for the purpose of obtaining or prospecting for oil or natural gas, geothermal resources, minerals, or products of mining, or quarrying, or for inserting media to repressure oil or natural gas bearing formations, or for storing petroleum, natural gas, or other products.

NEW SECTION

WAC 173-160-121 What should I know about drilling wells that require water right permits? (1) Unless a ground water withdrawal is exempt from the permit requirements under RCW 90.44.050, a well cannot be drilled without the well owner first obtaining a water permit from the department authorizing the use of water from the well.

(2) The licensed operator must have a copy of the water right permit or certificate on site at all times.

(3) Every well that requires a permit shall be constructed to meet the provisions of that permit. Provisions may include:

- (a) Limitations on zones of completion.
- (b) Special sealing requirements.
- (c) Special casing and liner requirements.
- (d) Other specific construction and testing details.

(4) As provided in WAC 173-548-050, no water well may be constructed for any purpose in subbasins closed in the Methow water resources regulation:

- (a) Including those exempted from permitting under RCW 90.44.050;
- (b) Unless written approval has been obtained from the department prior to beginning well construction.

NEW SECTION

WAC 173-160-131 What should the well owner know about water metering? The department may require water users to measure the quantity of water withdrawn from wells, to record water use, and/or to report the water use information to the department. Until the department develops specific metering and reporting requirements, these requirements may be provided for in individual water permits or as otherwise ordered by the department for specific wells and ground water use.

NEW SECTION

WAC 173-160-141 What are the requirements regarding water well reports? (1) Anyone who constructs a well is required to submit a complete report on the construction, alteration, or decommissioning of the well to the department within thirty days after completion of a well, or after the drilling equipment has left the site.

(a) This applies to all water wells.

(b) The water well report must be made on a form provided by the department, or a reasonable facsimile of the form, as approved by the department.

(2) Where applicable the water well report must include, at least, the following information:

(a) Owner name; operator/trainee name; operator/trainee license number; contractor registration number, drilling company name;

(b) Tax parcel number;

(c) Well location address;

(d) Location of the well to at least 1/4, 1/4 section or smallest legal subdivision;

(e) Unique well identification tag number;

(f) Construction date;

(g) Start notification number;

(h) Intended use of well;

(i) The well depth, diameter, and general specifications of each well;

(j) Total depth of casing;

(k) Well head elevation;

(l) Drilling method;

(m) Seal material, seal location and type of placement used;

(n) Filter pack location; filter pack material used;

(o) The thickness and character of each bed, stratum or formation penetrated by each well, including identification of each water bearing zone;

(p) Casing gauge, diameter, stickup, type of material, and length, also of each screened interval or perforated zone in the casing;

(q) The tested capacity of each well in gallons per minute, and the test duration and draw down of the water level at the end of the capacity test;

(r) Recovery data;

(s) For each nonflowing well, the depth to the static water level, as measured below the land surface;

(t) For each flowing well, the shut-in pressure measured above the land surface, or in pounds per square inch at the land surface; and

(u) Such additional factual information as may be required by the department.

(3) The well report must show the license number and signature of the person who constructed the well. If this is an unlicensed person, exempted under RCW 18.104.180(2), the report shall show the license number and signature of the licensed operator who witnessed the drilling. Water well reports for wells constructed by trainees shall have the signature and license number of the trainee and the licensed operator.

(4) If a well report is missing, a new report may be generated. This report shall contain all physical components of

the well and report all available information in accordance with this section. The report shall be signed by the individual collecting the physical information of the well.

NEW SECTION

WAC 173-160-151 Does the department require prior notice and fees for well constructing, reconstructing, or decommissioning a water well? (1) Yes. The property owner, owner's agent, or water well operator shall notify the department of their intent to begin well construction, reconstruction-alteration, or decommissioning procedures at least seventy-two hours before starting work.

(2) The notice of intent is submitted on forms provided by the department and must contain the following:

(a) Well owner name;

(b) Well location; street address; county name, 1/4, 1/4 section, township, and range, and tax parcel number;

(c) Proposed use; (if the intended withdrawal requires a water right, the permit or certificate shall be attached to the notice of intent);

(d) Approximate start and completion dates;

(e) Contractor registration number;

(f) Operator/trainee name and license number; and

(g) Drilling company name.

(3) In an emergency, a public health emergency, or in exceptional instances, the department may allow verbal notification to the appropriate regional office, with a start card written notification follow-up and payment of fee submitted within twenty-four hours. An emergency situation may consist of a failing well, or water quality issues which could result in a public health or safety concern.

(4) The notice must be accompanied by the following fees which apply to all newly constructed or altered wells:

(a) The fee for one new water well, other than a dewatering well, with a top casing diameter of less than twelve inches is one hundred dollars.

(b) The fee for one new water well, other than a dewatering well, with a top casing diameter of twelve inches or greater is two hundred dollars.

(c) The combined fee for construction and decommissioning of a dewatering well system shall be forty dollars for each two hundred horizontal lineal feet, or portion of horizontal lineal feet, of the dewatering well system.

(d) There is no fee for decommissioning a water well.

(5) If drilling results in an unusable well (dry hole), there is no additional fee for a second attempt, provided:

(a) A subsequent attempt at constructing a new well is made immediately; and

(b) The unusable well(s) is properly decommissioned before drilling equipment leaves the well site; and

(c) The department is notified of all decommissionings; and

(d) A well report describing the decommissioning process is submitted to the department in accordance with this chapter.

(6) A new notice of intent and fee shall be required on all follow-up construction after the drilling equipment has left the drill site.

(7) A refund shall be made on any well that has not been constructed provided, a written request is made by the person who paid the fee and is submitted to the department within twelve months from the date the notice and fee were received by the department. A copy of the notice of intent receipt must accompany the request.

NEW SECTION

WAC 173-160-161 How shall each water well be planned and constructed? Every well must be planned and constructed so that it is:

- (1) Adapted to those geologic and ground water conditions known to exist at the well site to insure utilization of any natural protection available;
- (2) Not a conduit for contaminating the ground water nor a means of wasting water;
- (3) Capable of yielding, where obtainable, the quantity of water necessary to satisfy the requirements the user has stated are needed and for which the well water is intended to be used.

NEW SECTION

WAC 173-160-171 What are the requirements for the location of the well site and access to the well? (1) The proposed water well shall be located on high ground that is not in the floodway.

(2) It shall be protected from a one hundred year flood and from any surface or subsurface drainage capable of impairing the quality of the ground water supply.

(3) All wells shall not be located within certain minimum distances of known or potential sources of contamination.

(a) Some examples of sources or potential sources of contamination include:

- (i) Septic systems, including proposed and reserve sites under a valid septic design: *Provided*, That the design has been approved for installation by a health authority;
 - (ii) Manure, sewage, and industrial lagoons;
 - (iii) Landfills;
 - (iv) Hazardous waste sites;
 - (v) Sea-salt water intrusion areas;
 - (vi) Chemical and petroleum storage areas;
 - (vii) Pipelines used to convey materials with contamination potential;
 - (viii) Livestock barns and livestock feed lots.
- (b) Minimum set-back distances for water wells other than for public water supply are:

(i) Five feet from any building projection. Water wells shall not be located in garages or inhabited dwellings.

(ii) Fifty feet from a septic tank, septic holding tank, septic containment vessel, septic pump chamber, and septic distribution box.

(iii) Fifty feet from building sewers, collection and non-perforated distribution lines.

(iv) One hundred feet from the edge of a drainfield, proposed drainfield which has been approved by a health authority, and reserve drainfield areas.

(v) One hundred feet from all other sources or potential sources of contamination except for solid waste landfills.

(vi) One thousand feet from the property boundary of a solid waste landfill.

(c) All public water supply wells shall be located by the department of health or the local health authority.

(i) Before construction begins, site approval must be obtained from the department of health, or the local health authority.

(ii) The requirements of the state board of health regulation regarding public water supplies shall apply.

(iii) This regulation includes requirements for zones of protection, location of the well, accessibility features, and certain construction requirements.

(4) In siting a well, the driller shall consider:

- (a) All local and state water well construction regulations, policies, and ordinances;
- (b) Permeability of the soil or rock;
- (c) Adjacent land uses;
- (d) Local ground water conditions; and
- (e) End use of the well.

(5) When a well is located in an area of known or potential contamination, the water well casing and seal shall be impervious to the contaminants.

(6) Before construction, the water well operator should strongly emphasize to the well owner, the importance of retaining good accessibility to the well to permit future inspection, maintenance, supplementary construction, and decommissioning.

NEW SECTION

WAC 173-160-181 What are the requirements for preserving the natural barriers to ground water movement between aquifers? (1) In constructing a water well, care shall be taken to preserve the natural barriers to ground water movement between aquifers.

(2) Care shall be taken to seal aquifers or strata penetrated during drilling operations which might impair water quality or result in cascading water.

(3) Water wells may not interconnect aquifers.

(4) All sealing must be permanent and prevent movement of surface, or ground water into the annular space between the permanent casing and the bore hole.

(5) Sealing shall prevent the upward movement of artesian waters within the annular space around the well casing and prevent the contamination or wasting of ground water.

(6) Sealing shall prevent the movement of ground water either upward or downward from zones that were cased off.

NEW SECTION

WAC 173-160-191 What are the design and construction requirements for completing wells? (1) You may complete wells with screens, perforated liners or pipe, or open bottom completion. The well driller or designer shall advise the owner or the owner's representative of the most appropriate method of completion.

(2) All well components must be of sufficient strength to withstand the normal forces to which they are subjected during and after construction.

(3) Water wells must be completed in a manner which prevents the production of untreatable amounts of sand, silt, or turbid water which would render the well unusable.

(4) Open bottom completion is appropriate where the withdrawn waters are essentially free of sand, silt and turbidity.

(5) Perforated pipe completion is suitable for a coarse-grained, permeable aquifer where the withdrawn waters are free of sand, silt or turbidity.

(6) Perforations above the static water level are not permitted.

(7) In place perforations with Star, Mills knife, or similar type perforators are acceptable.

(8) Perforated pipe liners, either saw cut, torch cut, mill slotted, or punched are acceptable.

(9) The use of perforated casing for working casing as the hole is being drilled is prohibited, except in those cases where the contractor can, through personal experience in the particular area of drilling, attest to the sufficiency of the pre-perforated casing in all respects for the specific well being constructed.

(10) Pipe liners may be of steel, plastic or other suitable corrosion resistant material.

(11) All liners must be of sufficient strength to withstand normal forces exerted upon the liner material during installation and operation.

(12) Liners may be used in a natural development or gravel packed type construction.

(13) The installation of a liner without a gravel pack is prohibited when conditions exist that will result in excessively turbid water.

(14) Well screens and well points must be constructed of compatible corrosion resistant material.

(a) A neoprene, or grout seal shall be fitted to the top of the well screen assembly, if necessary.

(b) The bottom of the well screen shall be plugged or capped.

(c) The use of lead packers is prohibited.

(15) The alignment of the permanent casing or liner shall be sufficiently plumb and straight to allow the installation of screens, liners, pumps, and pump columns without binding or having adverse affects on the operation of the installed pumping equipment.

(a) Alignment of the well casing or bore hole shall not deviate from an alignment that would allow a twenty foot test section of pipe to be inserted to the bottom of the well without binding.

(b) The diameter of the test section of pipe shall be per Table 1 in WAC 173-160-201.

(c) For testing alignment in casing reductions, each section shall be tested separately.

NEW SECTION

WAC 173-160-201 What are the casing and liner requirements? (1) Proper casing must be installed in all water supply wells.

(2) The casing shall withstand normal forces which act upon it during and after installation. It shall be resistant to the

corrosive effects of the surrounding formations, earth, and water.

(3) All plastic casing for use in potable water supply wells must be manufactured to conform to National Sanitation Foundation (NSF) Standard 14-84, or the most recent revision.

(4) Unless prior approval is obtained from the department, materials for well casings must be either steel casing as shown in Table 1 or plastic casing as shown in Table 2.

(5) Minimum specifications for steel casing and pipe for water wells are shown in Table 1.

(6) Steel casing larger than twenty inches shall have a minimum wall thickness of 0.375 inches.

TABLE 1
Minimum Specifications for Steel Casing and Pipe

NOMINAL SIZE (inches)	OUTSIDE DIAMETER (inches)	WALL THICKNESS (inches)	WEIGHT PER FOOT (pounds)	TEST SECTION OUTSIDE DIAMETER (inches)
1.25	1.660	0.140	2.27	0.500
1.5	1.900	0.145	2.72	0.750
2.0	2.375	0.154	3.65	1.000
2.5	2.875	0.203	5.79	1.500
3.0	3.500	0.216	7.58	2.000
3.5	4.000	0.226	9.11	2.500
4.0	4.500	0.237	10.79	3.000
5.0	5.563	0.258	14.62	3.500
6.0	6.625	0.280	18.97	4.000
8.0	8.625	0.322	28.55	6.000
10	10.750	0.365	40.48	8.000
12	12.750	0.375	49.56	10.000
14	14.000	0.375	54.57	11.000
16	16.000	0.375	62.58	14.000
18	18.000	0.375	70.59	16.000
20	20.000	0.375	78.60	18.000
24	24.000	0.375	94.62	20.000
30	30.000	0.375	118.65	24.000

STEEL CASING

(7) All steel casing materials must be new or, in like new condition, and be structurally sound.

(a) Casing that has been exposed to a contaminant shall not be used in well construction unless the contamination can be entirely removed.

(b) When casing lengths are joined together, they must be connected by watertight weld or screw coupled joints.

(i) Welded joints must be at least as thick as the wall thickness of the well casing and be fully penetrating.

(ii) All steel well casing shall meet or exceed the minimum American Society for Testing and Materials (ASTM) A-53 A or B specification for steel pipe.

PLASTIC CASING

(8) Plastic, fiberglass, PVC, SR, ABS, or other type of nonmetallic well casing must be manufactured and installed

PERMANENT

to conform with ANSI/ASTM F 480-81, Standard Dimension Ratio (SDR) 21 or the most recent revision.

(a) SDR is calculated by dividing the outside diameter of the pipe by the wall thickness.

(b) SDR 21 is the minimum requirement; higher pressure rated pipe may be used.

(c) All plastic casing must be installed only in an oversized drill hole without driving. The oversized hole must be a diameter of at least 4 inches larger than the outside diameter of the plastic casing or coupling hubs, whichever is larger.

(d) All plastic casing must be new or, in like new condition and clearly marked by the manufacturer showing nominal size, type of plastic material, SDR, ASTM designation, and have a National Sanitation Foundation (NSF) seal of approval for use in potable water supplies.

(e) Casing that has been exposed to a contaminant shall not be used in well construction unless the construction can be entirely removed.

(f) Plastic casing joints must be watertight.

(i) Either "bell" type, threaded joints, or coupling hubs are approved.

(ii) Hub couplings must be of materials meeting the specifications for plastic casings as stipulated in subsection (2) of this section.

(iii) If joints are secured with solvent cement, it must be done in accordance with manufacturer's directions.

(g) Table 2 is the manufacturer's recommendations for specifications of plastic casing.

TABLE 2

Minimum Specifications for Plastic Casing

NOMINAL CASING DIAMETER (inches)	MINIMUM THICKNESS (inches)	SDR
2.0	0.13321	21
2.5	0.13721	21
3.0	0.16721	21
3.5	0.19021	21
4.0	0.21421	21
4.5	0.23621	21
5.0	0.26521	21
6.0	0.31621	21
8.0	0.41021	21
10	0.51121	21
12	0.60621	21

LINER PIPE

(9) Liner pipe must consist of steel, in new or like new condition, free of pits or breaks; or polyvinyl chloride (PVC), CPVC, type 1120, with SDR 21 (Class 200) or greater wall thickness. All PVC must be clearly marked to identify the type, class, and SDR.

(a) Liner pipe must be of sufficient strength to withstand breakage or collapse when the well is pumped and meet ASTM potable water standards.

(b) When installed, liner pipe shall extend or telescope at least two feet into the lower end of the well casing. If more than one string of liner pipe is installed, each string shall extend or telescope at least eight feet into the adjacent larger diameter liner pipe.

(c) Liner pipe may not be permanently fixed to a well casing below land surface.

CONCRETE CURBING

(10) The concrete used to make curbing must consist of clean, hard and durable aggregate with not less than five sacks (ninety-four pounds per sack) of portland cement per cubic yard of concrete.

(a) The maximum diameter of aggregate particles may not exceed 1 1/2 inches, but in any case may not exceed 1/5 the minimum width of the casing thickness.

(b) The ratio of coarse aggregate to fine aggregate (passing No. 4 U.S. Standard Sieve) must be approximately 1 1/2 to 1 by volume, but in any case, may not exceed 2 to 1 nor be less than 1 to 2.

(11) The curbing shall be at least six inches thick and free of voids. The walls shall be poured in one continuous operation.

(12) When concrete tile is used to line a well, the combined total wall thickness and seal shall be a minimum of six inches.

NEW SECTION

WAC 173-160-211 What are the recommended well diameters?

TABLE 3
Recommended Well Diameters

Anticipated Well Yield in gpm	Nominal Size of Pump Bowls in inches	Optimum Size of Well Casing in inches
Less than 100	4	6 ID
75 to 175	5	8 ID
150 to 350	6	10 ID
300 to 700	8	12 ID
500 to 1000	10	14 OD
800 to 1800	12	16 OD
1200 to 3000	14	20 OD
2000 to 3800	16	24 OD
3000 to 6000	20	30 OD

NEW SECTION

WAC 173-160-221 What are the standards for sealing materials? (1) Bentonite sealant:

PERMANENT

(a) Bentonite used to prepare slurries for sealing, or decommissioning shall be specifically designed for this purpose. At no time shall grout slurry contain materials that are toxic, polluting, develop odor or color changes, or serve as a micro-bacterial nutrient. All bentonite slurries shall be prepared and installed according to the manufacturer's instructions. All additives must be certified by a recognized certification authority such as NSF. Active solids content (bentonite) shall be twenty percent by weight or greater in all bentonite slurries. The active solids shall be checked by using the following formula:

$$\frac{\text{Weight of bentonite (lbs.)}}{\text{Weight of bentonite (lbs.)} + (\text{gallons of water} \times 8.33 \text{ lbs./gal})} \times 100 = \% \text{ solids}$$

Example: $\frac{105 \text{ lbs. of bentonite}}{105 \text{ lbs. bentonite} + (50 \text{ gallons of water} \times 8.33 \text{ lbs./gal})} \times 100 = 20\% \text{ solids}$

(b) Unhydrated bentonite—pelletized, granulated, powder, or chip bentonite may be used in the construction of seals or in decommissioning of wells. The bentonite material shall be specifically designed for sealing or decommissioning and be within the industry tolerances for dry western sodium bentonite. Polymer additives must be designed and manufactured to meet industry standards to be nondegrading and must not act as a medium which will promote growth of micro-organisms. All unhydrated bentonite used for sealing or decommissioning must be free of organic polymers. Placement of bentonite shall conform to the manufacturer's specifications and result in a seal free of voids or bridges.

(2) Cement sealants:

(a) Neat cement consists of either portland cement types I, II, III, or high-alumina cement mixed with not more than six gallons of potable water per sack of cement (ninety-four pounds per sack).

(b) Neat cement grout consists of neat cement with up to five percent bentonite clay added, by dry weight of the bentonite. Bentonite is added to improve flow qualities and compensate for shrinkage.

(c) Concrete sealants consist of clean, hard and durable aggregate with not less than five sacks (ninety-four pounds per sack) of portland cement per cubic yard of concrete sealant.

(i) The maximum diameter of aggregate particles may not exceed 1 1/2 inches, but in any case may not exceed 1/5 the minimum width of the casing thickness.

(ii) The ratio of coarse aggregate to fine aggregate (passing No. 4 U.S. Standard Sieve) must be approximately 1 1/2 to 1 by volume, but in any case, may not exceed 2 to 1 nor be less than 1 to 2.

(d) Expanding agents, such as aluminum powder, may be used at a rate not exceeding 0.075 ounce (1 level teaspoon) per sack (ninety-four pounds per sack) of dry cement. The powder may not contain polishing agents. High-alumina cement and portland cement of any type must not be mixed together.

(3) Sealing methods:

(a) When neat cement or neat cement grout is used in sealing, it shall be placed seventy-two hours before additional drilling takes place, unless special additives are mixed with the neat cement or neat cement grout that cause it to set in a shorter period of time.

(b) All hydrated sealing materials shall be placed by tremming the mixture from the bottom of the annular space to the surface in one continuous operation.

(4) This section may not preclude the use of new sealant materials which have been approved by the technical advisory group.

NEW SECTION

WAC 173-160-231 What are the standards for surface seals? (1) All water wells constructed shall have a surface seal which seals the annular space between the bore hole and the permanent surface casing.

(a) The seal shall be constructed to prevent surface contaminants from reaching the ground water.

(b) The surface seal must have a minimum diameter of four inches larger than the nominal size of the surface casing, to include the outside diameter of the bell, in bell and hub couplings.

(c) The surface seal must extend from land surface to a minimum depth of eighteen feet. Except, when the minimum surface seal requirements for driven, jetted, and some dug wells are less than eighteen feet. See the appropriate section for these wells for a detailed description of their sealing requirements.

(2) Sealing material must be placed in an open annular space that is a minimum of four inches greater in diameter than the nominal size of the permanent casing.

(3) The completed surface seal must fully surround the permanent casing, must be evenly distributed, free of voids, and extend to undisturbed or recompacted soil.

(4) After the permanent casing has been set in final position, the annular space shall be filled to land surface with bentonite or cement grout or neat cement. Leaving voids for future installation of equipment such as a pitless adapter is prohibited.

(5) A temporary casing with a minimum length of eighteen feet and a minimum nominal diameter of four inches greater than the permanent casing shall be used in all unconsolidated formations such as in gravels, sands, or other unstable conditions when the use of drilling fluid or other means of keeping the bore hole open are not employed.

(6) Whenever reconstruction involves permanent surface casing movement; or the existing surface seal is damaged; or a surface seal never existed; the driller shall repair, replace, or install a minimum of eighteen feet of surface seal around the permanent casing.

NEW SECTION

WAC 173-160-241 What are the requirements for formation sealing? (1) Unconsolidated formation sealing - Without significant clay beds or other confining formations - Drilled wells that penetrate an aquifer overlain by unconsolidated formations such as sand and gravel without significant clay beds (at least six feet thick) or other confining formations shall be sealed in accordance with the surface sealing requirements of WAC 173-160-231. See Figure 1.

(2) Unconsolidated formation sealing - With significant clay beds or other significant confining formations - Drilled

wells that penetrate an aquifer overlain by clay or other confining formations that are at least six feet thick, shall be sealed to prevent movement of water or contamination in the annular space between the permanent casing and the clay or other confining formation(s). One of the following methods shall be used to seal the annular space:

(a) A drill hole at least four inches greater in diameter than the nominal size of the permanent well casing shall extend from the land surface into the clay bed or other confining formation located directly above the aquifer to be developed. The annular space shall be filled with bentonite (slurry or unhydrated), cement grout, or neat cement to form a watertight seal between the casing and all significant confining formations encountered during drilling. If bentonite slurry, cement grout, or neat cement is used to seal the annular space it must be placed by either pumping or tremming the seal material from the lowest clay bed or other confining formation of significance encountered, to land surface. The drill hole shall be kept open through the use of a temporary casing or any other drilling method that stabilizes the bore hole wall. See Figure 1.

(b) An upper drill hole at least four inches greater in diameter than the nominal size of the permanent well casing shall extend to a minimum of eighteen feet from land surface. A temporary casing or other means of maintaining an open bore hole shall be utilized. All temporary casing will have an outside diameter of a minimum of four inches larger than the permanent casing (for example, a ten-inch temporary casing for a six-inch permanent casing). The upper drill hole shall always contain a minimum of nine feet of sealant throughout the advancement of the permanent casing. Except, if the temporary casing is removed or not utilized, the upper drill hole shall be kept full of sealant. See Figure 1.

(3) Consolidated formations - In drilled wells that penetrate an aquifer, either within or overlain by a consolidated formation, sealing of the casing shall conform with one of the following procedures.

(a) Procedure one - An upper drill hole at least four inches greater in diameter than the nominal size of the permanent well casing shall extend from land surface into a sound, unfractured, consolidated formation. Unperforated permanent casing shall be installed to extend to this same depth, and the lower part of the casing shall be driven and sealed into the consolidated formation to establish a watertight seal between the formation and the casing. The remainder of the annular space to land surface shall be filled with cement grout, neat cement, or bentonite.

(i) If the consolidated formation is encountered at a depth less than eighteen feet from land surface, the upper drill hole and permanent casing shall extend to a minimum of eighteen feet from land surface. See Figure 2.

(ii) If cement grout, neat cement, or bentonite slurry is placed by pumping to seal the entire annulus from the bottom up to land surface, the upper drill hole may be a minimum of two inches larger than the outside diameter of the permanent casing.

(b) Procedure two - An upper drill hole at least four inches greater in diameter than the nominal size of the permanent casing extends from land surface to a depth of at least eighteen feet. An unperforated permanent casing shall be

driven into the consolidated formation and sealed in a manner that establishes a watertight seal between the formation and the casing. Throughout the driving of the well casing to the consolidated formation, the annular space between the upper drill hole and the permanent casing shall be kept at least one-half full with unhydrated bentonite, or bentonite slurry. The remainder of the annular space to land surface shall be filled with cement grout, neat cement, or bentonite. See Figure 2.

(c) If temporary surface casing is used in either procedure (a) or (b) of this subsection, the casing must be a minimum of eighteen feet long and at least four inches larger in diameter than the permanent casing. If a consolidated formation is encountered within the first eighteen feet, the temporary casing may terminate at the interface of the consolidated formation. Withdrawal of the temporary casing must take place simultaneously with proper sealing of the annular space to land surface.

NEW SECTION

WAC 173-160-251 What are the special sealing standards for artesian wells? (1) When flowing artesian conditions are known or suspected, the operator shall have a written sealing plan prepared prior to initiation of construction. The plan shall identify the type of sealing material that will be used and the method for sealing. The plan shall also contain at least one alternative construction method for sealing and an emergency contingency section which will identify steps to be taken if the ground water flow cannot be controlled.

(2) When artesian water is encountered in the well, an unperforated well casing shall extend into the confining stratum overlying the artesian zone. The casing shall be sealed into the confining stratum to prevent surface and subsurface leakage from the artesian zone. If the well flows at land surface, it must be equipped with a control valve so that flow can be completely stopped.

(3) The well shall be completed with seals, packers or grout that eliminates leakage around the well casing. The driller shall not move the drilling rig from the well site until leakage is completely stopped, unless authority for temporary removal is granted by the department, or when loss of life or property is imminent.

NEW SECTION

WAC 173-160-261 How do I seal dug wells? The surface seal of all dug wells shall be constructed to effectively seal the annular space between the undisturbed native material of the upper well hole and the well curbing, which may consist of (concrete tile, steel pipe or liner). The seal depth shall be at least eighteen feet from land to surface or to within three feet of the bottom in dug wells that are less than twenty-one feet in depth. Dug wells may be sealed with cement, neat cement, bentonite, or cement grout. A cap shall be placed on all dug wells. Except during maintenance, the cap shall remain in place. The cap shall prevent entry of pollutants, insects, and mammals into the well. See Figure 3.

NEW SECTION**WAC 173-160-271 What are the special sealing standards for driven wells, jetted wells, and dewatering wells?**

(1) Driven wells - An upper hole at least four inches greater in diameter than the permanent casing shall extend a minimum of six feet below land surface. The annular space between the upper oversized drill hole and the permanent casing must be kept at least one-half full with bentonite or bentonite slurry throughout all driving of the pipe. The remaining annular space to land surface shall be filled with cement grout, neat cement, or bentonite. See Figure 4.

(2) Jetted wells - The surface seal in jetted wells shall be constructed to seal the annular space between the permanent casing and undisturbed native soil. An upper hole at least four inches greater in diameter than the permanent casing shall extend a minimum of six feet below land surface.

(3) Dewatering wells:

(a) Permanent dewatering wells shall be sealed to a depth of eighteen feet or within three feet of the bottom of the well for wells less than twenty-one feet deep. The minimum annular space requirements, sealing material, and decommissioning procedures of this chapter apply to all permanent dewatering wells.

(b) Temporary dewatering wells - Dewatering wells that are in place less than eighteen months and are less than eighteen feet deep are exempt from the sealing requirements of this chapter. Temporary wells that are installed over eighteen months and that are deeper than eighteen feet, must have a minimum of eighteen feet of surface seal and meet the minimum annular space requirements and sealing materials authorized under this chapter.

NEW SECTION

WAC 173-160-281 What are the construction standards for artificial gravel-packed wells? In gravel-packed wells, the gravel mixture shall be placed around the screen so that bridging or size separation does not occur. The gravel pack must be clean, and chemically stable. All gravel and water used must be disinfected with at least fifty parts per million (ppm) chlorine for a contact time of at least thirty minutes. Rinse water containing chlorine is a pollutant. Chlorine in the rinse water must be allowed to dissipate and the water must be discharged in a safe manner consistent with the intent of the Water Pollution Control Act, chapter 90.48 RCW. See Figure 5.

NEW SECTION

WAC 173-160-291 What are the standards for the upper terminal of water wells? (1) The watertight casing or curbing of any well shall extend at least six inches above the ground surface. Pit completion is prohibited.

(2) Where the site is subject to flooding, the top of the casing must be at least two feet above the estimated water level of a one hundred-year frequency flood.

(3) All wells shall be equipped with an access port that allows for the measurement of the depth to water surface, or with a pressure gage that indicates the shut-in pressure of a

flowing artesian well. See Figure 6. The access ports and pressure gages or other openings in the cover are sealed or capped to prevent entrance of surface water or foreign material into the well.

(4) Any vent opening, observation ports or air-line equipment shall extend from the upper end of the well by watertight piping to a point at least six inches above land surface. The terminals of these facilities shall be shielded or sealed to prevent entrance of foreign matter or pollutants.

(5) A pitless adapter, or similar device is permitted on water wells if it is made with fittings approved by the department of health. The connection must be above static water level.

(6) Any person who removes any part of a surface seal to install a pitless adaptor shall repair the seal so that it is brought up to land surface.

NEW SECTION

WAC 173-160-301 What are the requirements for temporary capping? (1) All wells which are not in use, or are temporarily out of service, must be securely capped so that no contamination can enter the well.

(2) Capping must be affixed by solid welds or equal seal to prevent unauthorized access to the well.

(3) Temporary capping alone will not satisfy the decommissioning requirements of this chapter.

NEW SECTION

WAC 173-160-311 What are the well tagging requirements? (1) It shall be the operator's responsibility to place a well identification tag with a unique identification number on every well that they construct, alter, or reconstruct.

(a) The alpha-numeric number shall be recorded on the drilling report in the space provided.

(b) The operator shall remove the well identification tag on all wells they decommission and shall attach the tag to the decommissioning well report.

(2) It shall be the well owner's responsibility to place a well identification tag with a unique identification number on every well they own.

(a) Upon request, the department shall furnish the well owner with a well tag and tagging instructions.

(b) The well owner shall tag their well(s) and submit a completed tagging report to the department.

(3) The well tag shall be permanently attached to the outer well casing or other prominent well feature and be visible above land surface.

(4) All well identification tags shall be supplied by the department.

(5) It is unlawful for a person to tamper with or remove a well identification tag except during well alteration.

NEW SECTION

WAC 173-160-321 How do I test a well? (1) Well authorized by appropriation permit - Before being put to use, each well shall be test pumped for yield and draw down.

Reports of the test pumping shall be submitted as required in chapter 90.44 RCW. The driller shall be familiar with and meet all testing procedures outlined in the water right permit. The well shall be test pumped at rates equal to, or greater than, are expected from the well during its normal usage. The test pump for public water supply wells shall be operated continuously for a minimum of four hours, or longer if required by the department of health. The yield and draw down shall be determined following at least four hours of stabilized water level observation. Periodic water level observation should be made during draw down and subsequent recovery periods. Periods of observation shall be more frequent during the onset of the draw down and may decrease in frequency as the draw down or recovery proceeds toward stabilization. A bailer test is not an acceptable substitute for testing wells under permit or for public water supply wells.

(2) Wells not requiring appropriation permit - Testing of a well that does not require an appropriation permit shall be conducted for a period of at least one hour. The last twenty minutes of the test shall be conducted at a constant rate of withdrawal to achieve a stabilized pumping level. Test pumping under this section can be either by bailer, air lift, or with a pump.

(3) Test data shall be reported to the department on the water well report.

NEW SECTION

WAC 173-160-331 How do I make sure my equipment and the water well are free of contaminants? (1) All tools, drilling equipment and materials shall be free of contaminants prior to beginning well construction. Contaminants include lubricants, fuel, bacteria that will reduce the well efficiency, and any other item(s) that will be harmful to public health and/or the resource or reduce the life of the water well.

(2) Every new or reconditioned water well, after completion of construction or repair, and before being placed in service, shall be cleared of all foreign materials, and free of contamination.

(3) The well casing shall be swabbed and cleaned to remove oil, grease or joint dope.

(4) All pumping equipment, sand or gravel used in gravel-packed water wells and the well casing shall be thoroughly sluiced with clean water and disinfected. The disinfecting agent shall be safe and not impair the potability of the ground water. All disinfectants shall be used in accordance with manufacturer's recommendations.

(5) Before the well is put to use, the standing water in the well shall be disinfected and flushed to remove all traces of disinfectant. A water sample may then be taken and tested for coliform bacteria or other items required by the state department of health or local health authority. Examples of other test items may include: Nitrates, dissolved solids, sodium, iron, pH, manganese, conductivity, hardness, and turbidity. If testing indicates a presence of coliform bacteria, more stringent disinfecting methods may be required by the department of health or local health authority.

If chlorine is used to disinfect the well water, sufficient chlorine will be added to the standing water to give a residual of fifty ppm free chlorine. The chlorine shall remain in the

well for a period of at least twenty-four hours. After twenty-four hours, a minimum of one ppm free chlorine residual shall remain in the water before the well is flushed free of chlorine and a sample taken. Other disinfectants placed in the ground water shall be used in quantities that are safe, non-polluting, and that are not a detriment to the potability of the ground water. All disinfectants used in ground water shall be used in accordance with manufacturer's recommendations.

(6) Chlorine and other disinfectants can pollute. Allow the chlorine or other disinfectants in the rinse water to dissipate before discharging the water to surface water. This water shall be discharged in a safe manner consistent with the intent of the Water Pollution Control Act, chapter 90.48 RCW.

NEW SECTION

WAC 173-160-341 How do I ensure the quality of drilling water? All water introduced into a well for drilling purposes and for mixing sealing materials shall be obtained from a potable water source and have a chlorine residual of not more than 1 ppm free chlorine.

NEW SECTION

WAC 173-160-351 What are the standards for pump installation? All pumps and pumping equipment and materials must be free of contamination and shall be installed in a manner consistent with the intent and purposes of these regulations.

NEW SECTION

WAC 173-160-361 Who may supervise the use of explosives? Explosives used for developing or reconditioning any water well must be used under the direct supervision of an individual licensed under chapter 70.74 RCW.

NEW SECTION

WAC 173-160-371 What are the standards for chemical conditioning? The use of detergents, chlorine, acids or other chemicals in wells for the purpose of increasing or restoring yield, shall be used according to manufacturer's recommendations. Except for routine maintenance and cleaning, a well drilling license is required for all chemical conditioning that alters the condition of the water well.

NEW SECTION

WAC 173-160-381 What are the standards for decommissioning a well? Any well which is unusable, abandoned, or whose use has been permanently discontinued, or which is in such disrepair that its continued use is impractical or is an environmental, safety or public health hazard shall be decommissioned. The decommissioning procedure (as prescribed by these regulations) must be recorded and reported as required by the department.

(1) Cased wells. Cased water wells that were not constructed in accordance with these regulations, or wells which are decommissioned to allow the placement of potential

sources of contamination within one hundred feet of the well, or for which a drilling report required under WAC 173-160-141 is missing, shall be decommissioned in one of the following ways:

(a) Perforate the casing from the bottom to within five feet of the land surface and pressure grout the casing.

(i) Perforations shall be at least four equidistant cuts per row, and one row per foot. Each cut shall be at least one and one-half inches long.

(ii) Apply enough pressure to force the sealing material through the perforations, filling any voids on the outside of the casing.

(iii) The remainder of the casing shall be filled with cement grout, neat cement, or bentonite slurry.

(b) Withdraw the casing and fill the bore hole with cement grout, neat cement, or bentonite as the casing is being withdrawn.

(2) If it can be verified through a field examination and review of the drilling report that a water supply well was constructed in accordance with these regulations, and it is not being decommissioned to allow the siting of potential sources of contamination within one hundred feet of the well, it shall be decommissioned by the casing removal, or casing perforation methods described in subsection (1)(a) or (b) of this section or by:

(a) Filling the casing from bottom to within five feet of land surface with bentonite, cement grout, or neat cement.

(b) The casing may be cut off at a maximum of five feet below land surface.

(3) Uncased wells - Backfill uncased wells with concrete, cement grout, neat cement, or bentonite.

(4) Dug wells - Remove all debris and obstructions that impede decommissioning or that may contaminate the aquifer from within the dug well. Install clean chlorinated sand or pea gravel to a point two feet above static water level. Fill the remainder of the well with concrete or bentonite to the land surface. Dug wells with static levels below twenty feet from land surface, may be decommissioned by placing chlorinated sand or pea gravel to the static level and then placing alternating layers of sealing material and chlorinated sand or pea gravel to within twenty feet of land surface. The alternating layers of sand or pea gravel must be a maximum of five feet thick. The minimum thickness of the sealing material layers must be five feet. The remainder of the dug well to a maximum of two feet below land surface shall be filled with bentonite, neat cement, cement grout, or concrete. Bentonite slurry shall not be used to decommission dug wells.

(5) Sealing material placed below the static water level shall be piped directly to the point of application or placed by means of a dump bailer or tremie tube. If cement, cement grout, or neat cement is used to seal below the static water level in the well, the material shall be placed from the bottom up by methods that avoid segregation or dilution of the material. When used to place grout, the discharge end of the tremie tube shall be submerged in the grout to avoid breaking the seal while filling the annular space. Sealing material may be hand poured above the static water level, provided the material does not dilute or segregate, and the resulting seal is free of voids.

NEW SECTION

WAC 173-160-390 Artificial recharge of ground water bodies. Approval must be obtained from the department before starting any project related to the artificial recharge of ground water bodies.

PART TWO—GENERAL REQUIREMENTS FOR RESOURCE PROTECTION WELL CONSTRUCTION AND GEOTECHNICAL SOIL BORINGS

NEW SECTION

WAC 173-160-400 What are the minimum standards for resource protection wells and geotechnical soil borings? The following minimum standards shall apply to all resource protection wells and geotechnical soil borings constructed in the state of Washington. It is the responsibility of the resource protection well operator, resource protection well contractor, and the property owner to take whatever measures are necessary to guard against waste and contamination of the ground water resource.

(1) It will be necessary in some cases to construct resource protection wells and geotechnical soil borings with additional requirements beyond the minimum standards.

(2) Nothing in this section limits the department's authority to approve comparable alternative specifications for construction as technology in the industry is developed, or new methods of construction become known to the department.

NEW SECTION

WAC 173-160-406 How do I apply for a variance on a resource protection well? (1) When strict compliance with the requirements and standards of this chapter are impractical, any person may submit a variance request to the department from a regulation or regulations. The application for variance must propose a comparable alternative specification that will provide equal or greater human health and resource protection than the minimum standards. Application for a variance shall be made in writing and approved prior to the construction or decommissioning of the well.

(2) The variance application shall contain at least the following information:

(a) Name, address, and phone number of the person requesting the variance;

(b) Address of well site;

(c) 1/4, 1/4, section, township, range;

(d) The specific regulation(s) that cannot be followed;

(e) The comparable alternative specification;

(f) Justification for the request.

(3) The variance application will be evaluated, and a response will be given within fourteen days. In a public health emergency or other exceptional circumstance, verbal notification for a variance may be given. An emergency usually consists of a drilling situation, which if left unaddressed, could harm the ground water resource. Driller convenience does not constitute an emergency.

(4) The emergency variance recipient must immediately follow up with a written notification to the department so that a permanent record is made of the variance.

(5) Local health districts or counties with delegated authority may grant variances under the provision of chapter 18.104 RCW delegated authority.

NEW SECTION

WAC 173-160-410 What are the specific definitions for words in this chapter? This section specifically defines words associated with resource protection wells and geotechnical soil borings. To find the definitions of other words, see WAC 173-160-111.

(1) "Geotechnical information" means subsurface engineering properties used for the purpose of designing structures such as bridges, buildings, highways, pipelines, or for assessing slope stability samples to ascertain structural properties of the subsurface.

(2) "Geotechnical soil boring" or "boring" means an uncased well drilled for the purpose of obtaining soil samples to ascertain structural properties of the subsurface. Geotechnical soil boring includes auger borings, rotary borings, cone penetrometer probes and vane shear probes, or any other uncased ground penetration for geotechnical information.

(3) "Instrumentation well" means a well in which pneumatic or electric geotechnical or hydrological instrumentation is permanently or periodically installed to measure or monitor subsurface strength and movement. Instrumentation well includes bore hole extensometers, slope indicators, pneumatic or electric pore pressure transducers, and load cells.

(4) "Lysimeter" means a well used to withdraw soil water or pore samples from subsurface soil or rock above the water table for chemical, physical, or biological testing.

(5) "Monitoring well" means a well designed to obtain a representative ground water sample or designed to measure the water level elevations in either clean or contaminated water or soil.

(6) "Nested well" means the installation of more than one cased resource protection well in one bore hole. This does not preclude casing reductions.

(7) "Observation well" means a well designed to measure the depth to the water or water level elevation in either clean or contaminated water or soil.

(8) "Piezometer" means a well designed to measure water level elevation at a specific depth beneath the water table.

(9) "Remediation well" means a well used to withdraw ground water or inject water, air (for air sparging), or other solutions into the subsurface for the purpose of remediating, cleaning up, or controlling potential or actual ground water contamination.

(10) "Resource protection well" means a cased boring used to determine the existence or migration of pollutants within an underground formation. Resource protection wells include monitoring wells, observation wells, piezometers, spill response wells, vapor extraction wells, and instrumentation wells.

(11) "Resource protection well contractor" means any person, firm, partnership, copartnership, corporation, association, or other entity, licensed and bonded under chapter 18.27 RCW, engaged in the business of constructing resource protection wells or geotechnical soil borings.

(12) "Spill response well" means a well used to capture or recover any spilled or leaked fluid which has the potential to, or has contaminated the ground water.

(13) "Vapor extraction well" means a well used to withdraw gases or vapors from soil, rock, landfill, or ground water for the purpose of remediating soil and/or ground water contamination.

(14) "Well driller" or "driller" means a resource protection well contractor or operator and a water well contractor or operator.

(15) "Well" means water wells, resources protection wells, instrumentation wells, dewatering wells, and geotechnical soil borings. Well does not mean an excavation made for the purpose of obtaining or prospecting for oil or natural gas, geothermal resources, minerals, or products of mining, or quarrying, or for inserting media to repressure oil or natural gas bearing formations, or for storing petroleum, natural gas, or other products.

AMENDATORY SECTION (Amending Order 88-58, filed 4/6/88)

WAC 173-160-420 (~~(Abandonment of uncased wells:)~~) **What are the general construction requirements for resource protection wells?** (~~(Uncased wells shall be backfilled with concrete, grout, puddled clay, or high solids bentonite:)~~) **(1) No resource protection well or soil boring excavation may be used for domestic, industrial, municipal, commercial, or agricultural purposes.**

(2) No resource protection well or soil boring excavation may interconnect aquifers.

(3) Nested resource protection wells are prohibited.

(4) Cuttings, development water, and other investigation derived waste from resource protection well construction or geotechnical soil borings shall be managed in a manner consistent with the intent and purposes of the Water Pollution Control Act, chapter 90.48 RCW, the Hazardous Waste Management Act, chapter 70.105 RCW, and implementing regulations.

(5) Well tagging:

(a) It shall be the driller's responsibility to place a well identification tag with a unique identification number on every resource protection well that they construct or alter. Uncased geotechnical soil borings are exempt from the tagging requirements of this chapter.

(i) The alpha-numeric number shall be recorded on the drilling report in the space provided.

(ii) The driller shall remove the well identification tag on all resource protection wells they decommission and shall attach the tag to the decommissioning well report.

(b) It shall be the well owner's responsibility to place a well identification tag with a unique identification number on every resource protection well they own and which was completed prior to the effective date of this regulation.

(i) Upon request, the department shall furnish the well owner with a well tag and tagging instructions.

(ii) The well owner shall tag their well(s) and submit a completed tagging report to the department.

(c) The well tag shall be permanently attached to the outer well casing and be visible above land surface for all wells which have been completed above land surface. For wells completed below land surface, the well tag shall be attached to the well casing or to any permanent and protected portion of the vault.

(d) All well identification tags shall be supplied by the department.

(e) It is unlawful for a person to tamper with or remove a well identification tag except during well alteration.

(6) All resource protection wells will be sealed in accordance with this chapter regardless of the method of installation. Except, resource protection wells that are properly decommissioned prior to the removal of any drilling equipment from the well location are exempted from the surface sealing requirements of this chapter. Provided the decommissioning process includes the removal of any conduit, tubing, probe, or other items inserted into the ground.

(7) All geotechnical soil borings shall be decommissioned under the terms of this chapter.

(8) Except as provided in RCW 18.104.180, all construction, alteration, reconstruction, and decommissioning of resource protection wells and geotechnical soil borings shall be done by an individual licensed under the provisions of chapter 173-162 WAC.

(9) A notice of intent to construct or decommission a resource protection well and a geotechnical soil boring shall be filed with the department a minimum of seventy-two hours prior to initiating construction or decommissioning of the well(s) or boring(s). A fee must accompany each notice of intent to construct a resource protection well. The fee for constructing, altering, or reconstructing each resource protection well is forty dollars. Geotechnical soil borings are EXEMPT from all fees. Under some circumstances, it may be necessary to construct more resource protection wells or geotechnical soil borings than originally anticipated. When additional resource protection wells are constructed on a site for which a notice of intent and fee were submitted, a second notice and fee shall be submitted within twenty-four hours after all wells have been completed or as soon as the final number of wells to be constructed is determined, whichever is sooner. When additional geotechnical soil borings are needed, the borings may be completed. A follow-up notice of intent shall be submitted to the department within twenty-four hours after all borings are constructed. Notification to construct multiple wells or geotechnical soil borings within the same quarter/quarter section, township, and range may be submitted on one notice form. A fee of forty dollars per well must be attached to each notice. Example: Six resource protection wells identified on one notice of intent would be submitted along with a two hundred forty dollar fee.

(9) Resource protection well and geotechnical soil boring drilling reports.

(a) Every well contractor is required to submit a complete report on the construction, alteration, or decommissioning of all resource protection wells and geotechnical soil bor-

ings they construct. Reports must be submitted to the department within thirty days after completion of construction, alteration, or decommissioning.

(b) This applies to all resource protection wells and geotechnical soil borings.

(c) The resource protection well and geotechnical soil boring report must be made on a form provided by the department, or a reasonable facsimile of the form, as approved by the department.

(d) Where applicable the report shall include the following information:

(i) Owner's name; operator/trainee name; operator/trainee license number; contractor registration number, drilling company name;

(ii) Tax parcel number;

(iii) Well location address;

(iv) Location of the well to at least 1/4, 1/4 section or smallest legal subdivision;

(v) Unique well identification tag number;

(vi) Construction date;

(vii) Start notification number;

(viii) Intended use of well;

(ix) The well depth, diameter, and general specifications of each well;

(x) Total depth of casing;

(xi) Well head elevation;

(xii) Drilling method;

(xiii) Seal material, seal location and type of placement used;

(xiv) Filter pack location; filter pack material used;

(xv) The thickness and character of each bed, stratum or formation penetrated by each well including identification of each water bearing zone;

(xvi) Casing gauge, diameter, stickup, type of material, and length, also of each screened interval or perforated zone in the casing;

(xvii) The depth to the static water level, as measured below the land surface; and

(xviii) Such additional factual information as may be required by the department.

(e) The well report must show the license number and signature of the person who constructed the well. If this is an unlicensed person, exempted under RCW 18.104.180(2), the report shall show the license number and signature of the licensed individual who witnessed the drilling. Resource protection well reports for wells constructed by trainees shall have the signature and license number of the trainee and licensed operator.

What are the surface protection requirements?

(10) All resource protection wells shall be capped and protected using one of the following methods:

(a) If the well is cased with metal and completed above the ground surface, you must attach a watertight cap with a lock to the top of the casing.

(b) If the well is not cased with metal and completed above the land surface, you must install a protective metal casing over and around the well. The protective casing shall extend at least six inches above the top of the well casing and be cemented at least two feet into the ground. A cap with lock shall be attached to the top of the protective casing.

(11) You shall protect the well(s) completed above ground from damage by:

(a) Cementing three metal posts, at least three inches in diameter, in a triangular array around the casing and at least two feet from it. Each post shall extend at least three feet above and below the land surface.

(b) A reinforced concrete pad may be installed to protect against and prevent frost heave. If installed, the concrete pad shall extend to a depth equal to anticipated frost depth. When a concrete pad is used, the well seal may be part of the concrete pad.

(12) If the well is completed below land surface, a watertight cap with a lock shall be attached to the top of the well casing. A metal monument or equivalent shall be installed over and around the well. The monument shall serve as a protective cover and be installed level with the land surface and be equipped with a waterproof seal to prevent the inflow of any water or contaminants. Drains will be provided, when feasible, to keep water out of the well and below the well cap. The cover must be designed to withstand the maximum expected loading.

(13) The protective measures may be waived or modified upon written approval from the department (a variance).

(14) If the well is damaged, the well protection measures and casing shall be repaired to meet the requirements of this chapter. If the well is damaged beyond repair, it shall be decommissioned in accordance with WAC 173-160-460.

NEW SECTION

WAC 173-160-430 What are the minimum casing standards? The casing may not effect or interfere with the chemical, physical, radiological, or biological constituents of interest. All resource protection well casing shall conform to ASTM Standards, or at least 304 or 316 stainless steel, PTFE, or Schedule 40 PVC casing.

NEW SECTION

WAC 173-160-440 What are the equipment cleaning standards? (1) When drilling in known or potential areas of contamination, steam clean the drill rig derrick and all drilling equipment on site before and after well construction. If the equipment is used to drill in radioactive areas, you must develop a decontamination plan and the department must approve that plan prior to the equipment being removed from the drill site.

(2) All well construction materials to include casing, screen(s), and filter pack material must be free of contaminants prior to installation.

NEW SECTION

WAC 173-160-450 What are the well sealing requirements? (1) All resource protection wells constructed shall have a continuous seal, which seals the annular space between the bore hole and the permanent casing. The seal shall be constructed to prevent interconnection of separate aquifers penetrated by the well, and shall provide casing stability. The seal shall have a minimum diameter of four inches

larger than the nominal size of the permanent casing, and shall extend from land surface to the top of the filter pack. See Figure 7.

(2) After the permanent casing has been set in final position, the filter pack (optional) and sealing material shall be placed in the open bore hole annular space that must be a minimum of four inches greater in diameter than the nominal size of the permanent casing. After installing the filter pack (optional) a layer of bentonite shall be placed on top of the filter pack to maintain separation between the seal material and the screened interval. Insure that placement will not disturb the filter pack. The remaining annular space shall be filled to land surface in a continuous operation with bentonite, neat cement, or cement grout. If a cement/bentonite slurry is used as the sealant, it shall be installed with a tremmie tube and pumped from the top of the bentonite plug (above the filter pack) to land surface. Use only potable water to hydrate the mixture.

(3) The completed annular space shall fully surround the permanent casing, be evenly distributed, free of voids, and extend from the permanent casing to undisturbed or recompact soil.

(4) All sealing materials used shall conform to one of the following minimum requirements:

(a) **Bentonite sealants:**

(i) Bentonite used to prepare slurries for sealing, or decommissioning shall be specifically designed for this purpose. At no time shall grout slurry contain materials that are toxic, polluting, develop odor or color changes, or serve as a micro-bacterial nutrient. All bentonite slurries shall be prepared and installed according to the manufacturer's instructions. All additives must be certified by a recognized certification authority such as NSF. Active solids content (bentonite) shall be twenty percent by weight or greater in all bentonite slurries.

(ii) Unhydrated bentonite—pelletized, granulated, powder, or chip bentonite may be used in the construction of seals or in decommissioning of resource protection wells. The bentonite material shall be specifically designed for sealing or decommissioning and be within the industry tolerances for dry western sodium bentonite. Polymer additives must be designed and manufactured to meet industry standards to be nondegrading and must not act as a medium which will support or promote the growth of micro-organisms. All unhydrated bentonite used for sealing or decommissioning must be free of organic polymers. Placement of bentonite shall conform to the manufacturer's specifications and result in a seal free of voids or bridges.

(b) **Cement sealants:**

(i) Neat cement consists of either portland cement types I, II, III, or high-alumina cement mixed with not more than six gallons of potable water per sack of cement (ninety-four pounds per sack).

(ii) Neat cement grout consists of neat cement with up to five percent bentonite clay added, by dry weight of the bentonite. Bentonite is to be added to improve flow qualities and compensate for shrinkage.

(iii) Concrete sealants consist of clean, hard and durable aggregate with not less than five sacks (ninety-four pounds

per sack) of portland cement per cubic yard of concrete sealant.

(A) The maximum diameter of aggregate particles may not exceed 1 1/2 inches, but in any case may not exceed 1/5 the minimum width of the casing thickness.

(B) The ratio of coarse aggregate to fine aggregate (passing No. 4 U.S. Standard Sieve) must be approximately 1 1/2 to 1 by volume, but in any case, may not exceed 2 to 1 nor be less than 1 to 2.

(iv) Expanding agents, such as aluminum powder, may be used at a rate not exceeding 0.075 ounce (1 level teaspoon) per sack (ninety-four pounds per sack) of dry cement. The powder may not contain polishing agents. High-alumina cement and portland cement of any type must not be mixed together.

(5) This section may not preclude the use of new sealant materials which have been approved by the technical advisory group.

NEW SECTION

WAC 173-160-460 What is the decommissioning process for resource protection wells? (1) Resource protection wells that were not constructed in accordance with these regulations, or for which a drilling report required under this section is missing shall be decommissioned in one of the following ways:

(a) Perforate the casing from the bottom to land surface and pressure grout the casing.

(i) Perforations shall be at least four equidistant cuts per row, and one row per foot. Each cut shall be at least one and one-half inches long.

(ii) Apply enough pressure to force the sealing material through the perforations, filling any voids on the outside of the casing.

(iii) The remainder of the casing shall be filled with cement grout, neat cement, or bentonite slurry.

(b) Withdraw the casing and fill the bore hole with cement grout, neat cement, or bentonite as the casing is being withdrawn.

(2) If it can be verified through a field examination and review of the drilling report that the resource protection well was constructed in accordance with these regulations, it shall be decommissioned by:

(a) Filling the casing from bottom to land surface with bentonite, cement grout, or neat cement; and

(b) Placing a cap on the casing.

NEW SECTION

WAC 173-160-990 Well construction illustrations.

Permanent

[52]

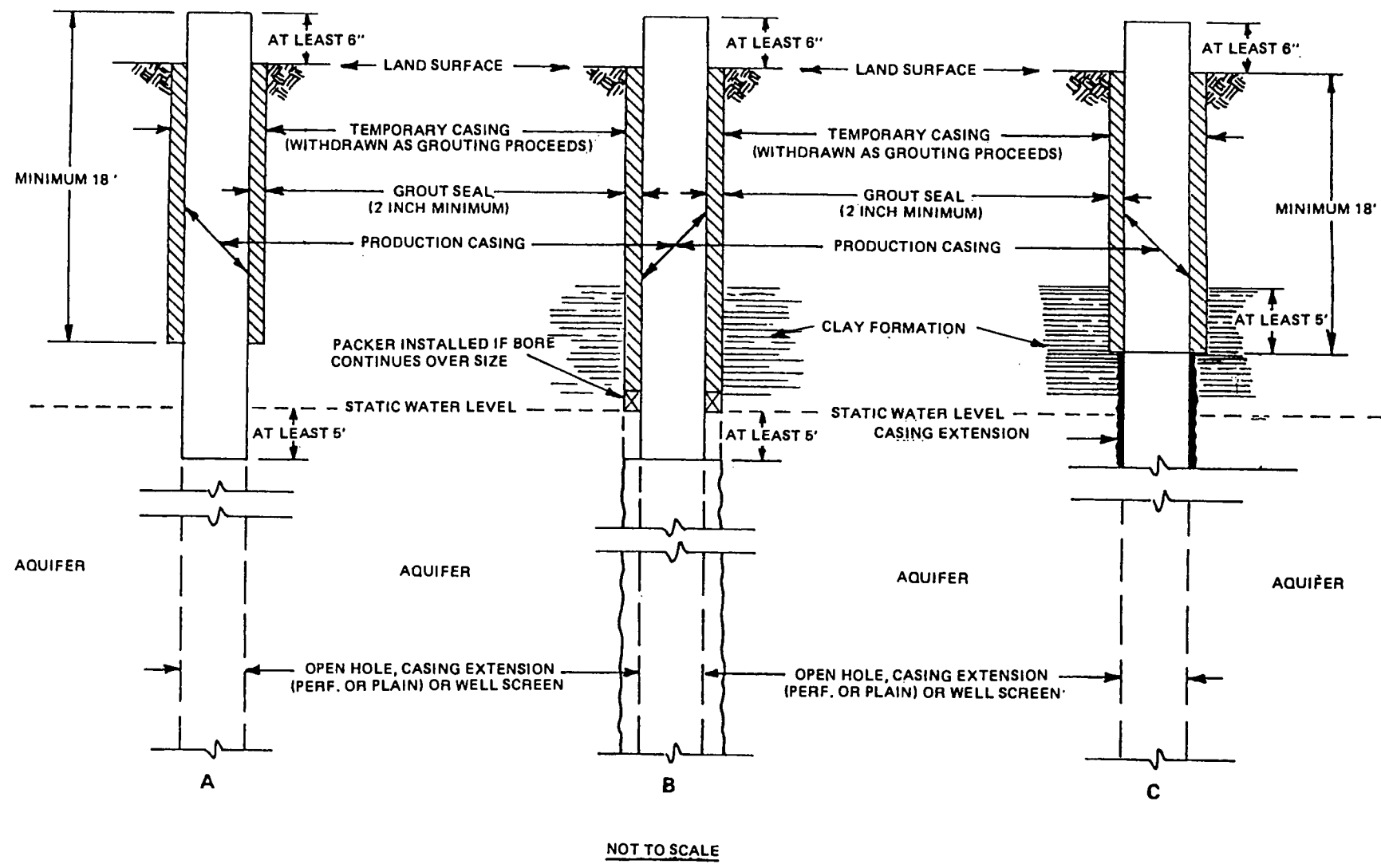
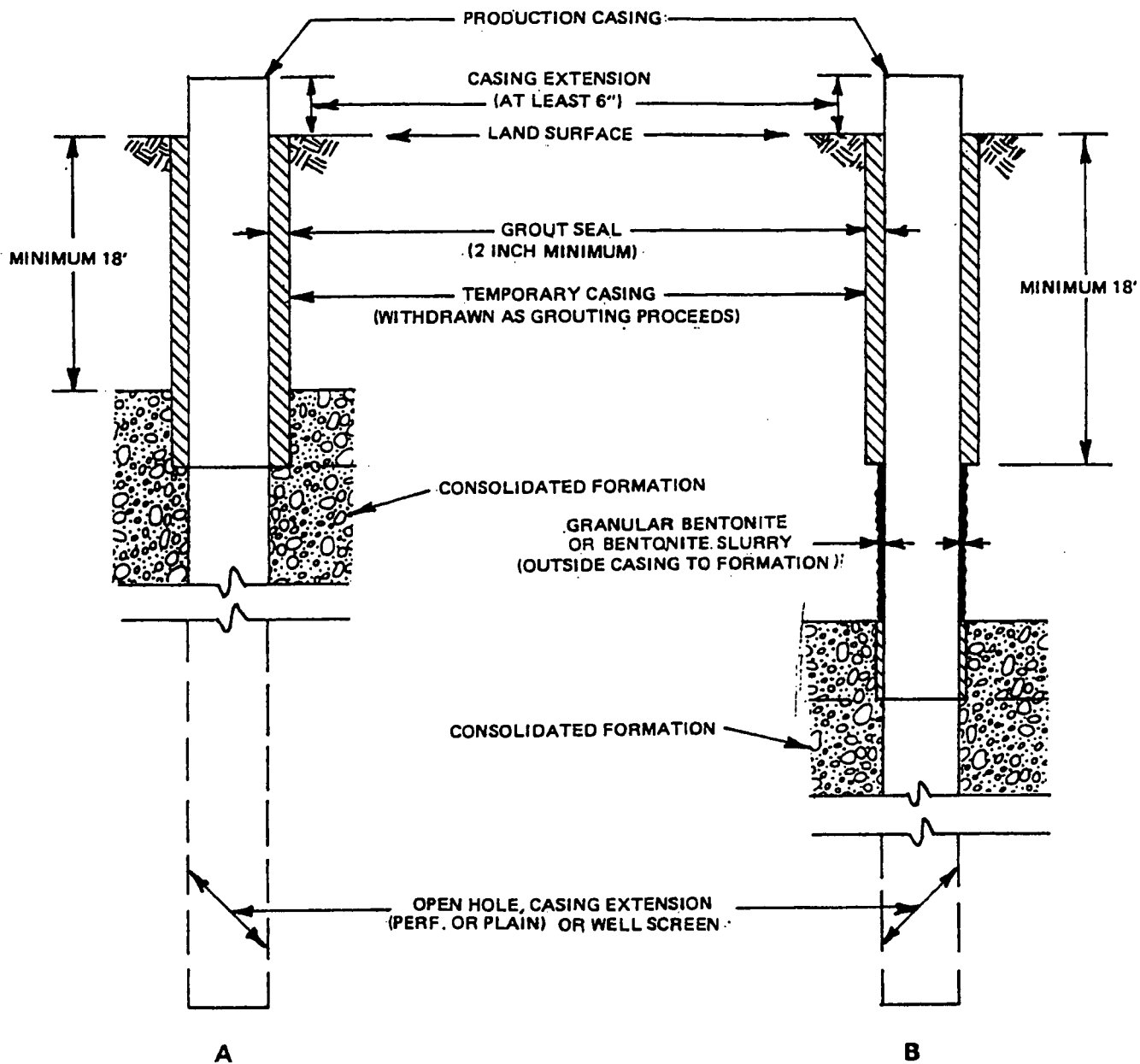


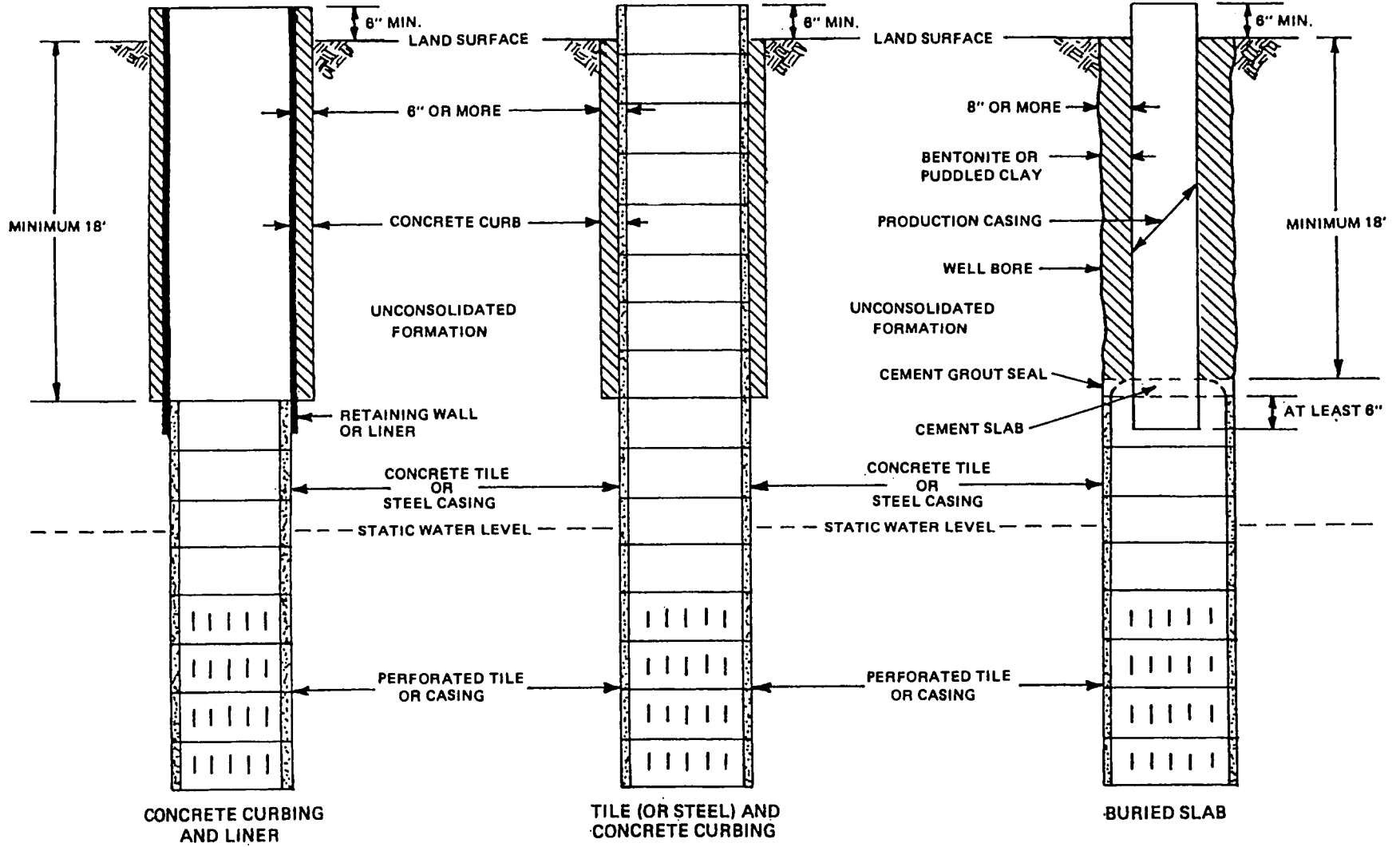
Figure 1. SEALING OF UNCONSOLIDATED FORMATIONS



NOT TO SCALE

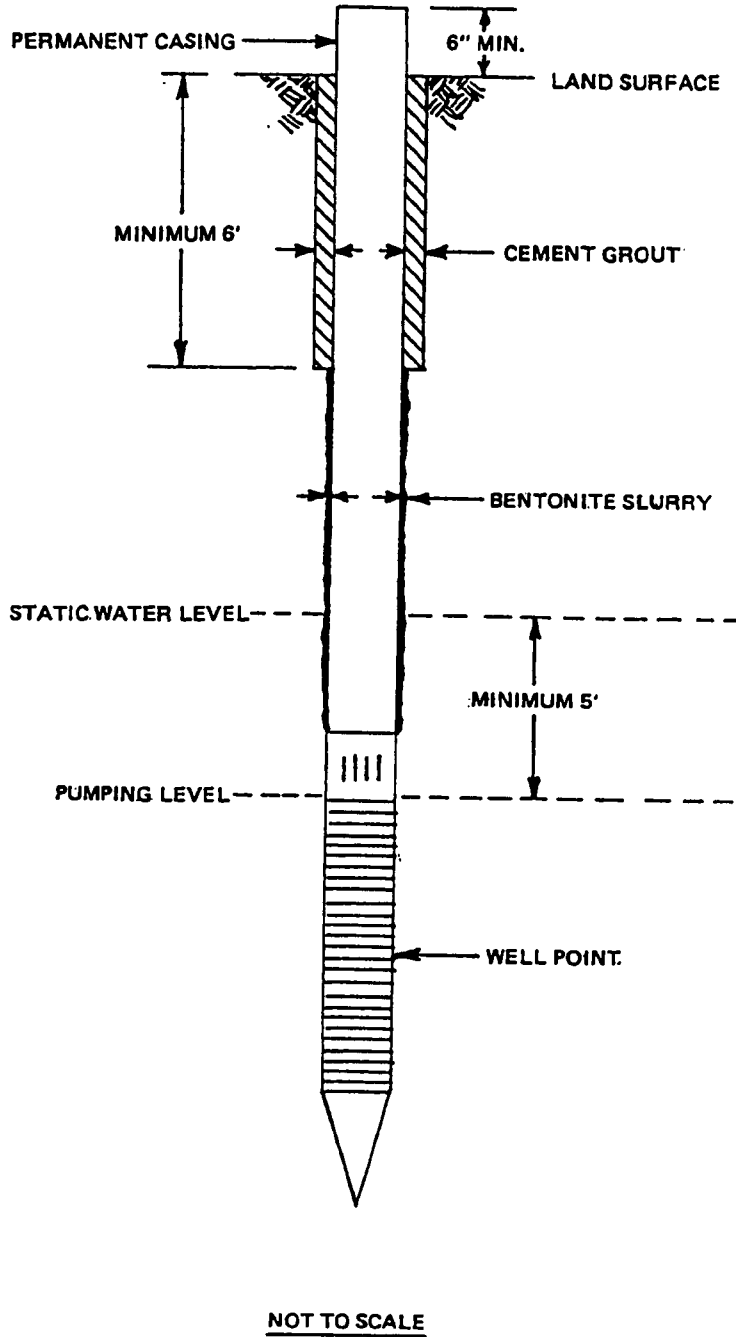
Figure 2. SEALING OF CONSOLIDATED FORMATIONS

PERMANENT



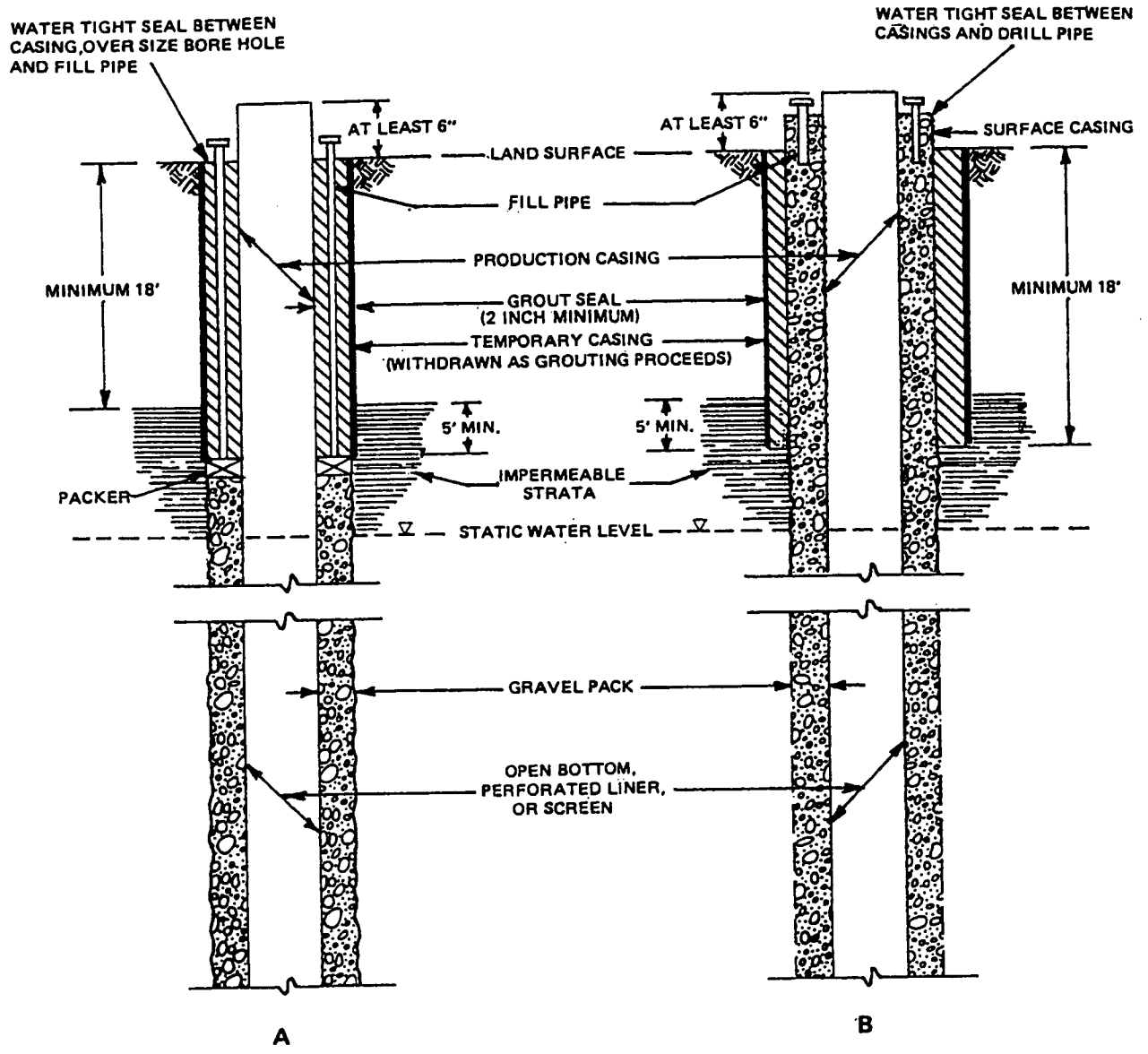
NOT TO SCALE

Figure 3. SEALING OF DUG WELLS



PERMANENT

Figure 4. SEALING OF DRIVEN AND JETTED WELLS .



NOT TO SCALE

A—WELL CONSTRUCTED WITH TEMPORARY SURFACE CASING.
 B—WELL CONSTRUCTED WITH PERMANENT SURFACE CASING.

Figure 5. SEALING OF GRAVEL-PACKED WELLS

PERMANENT

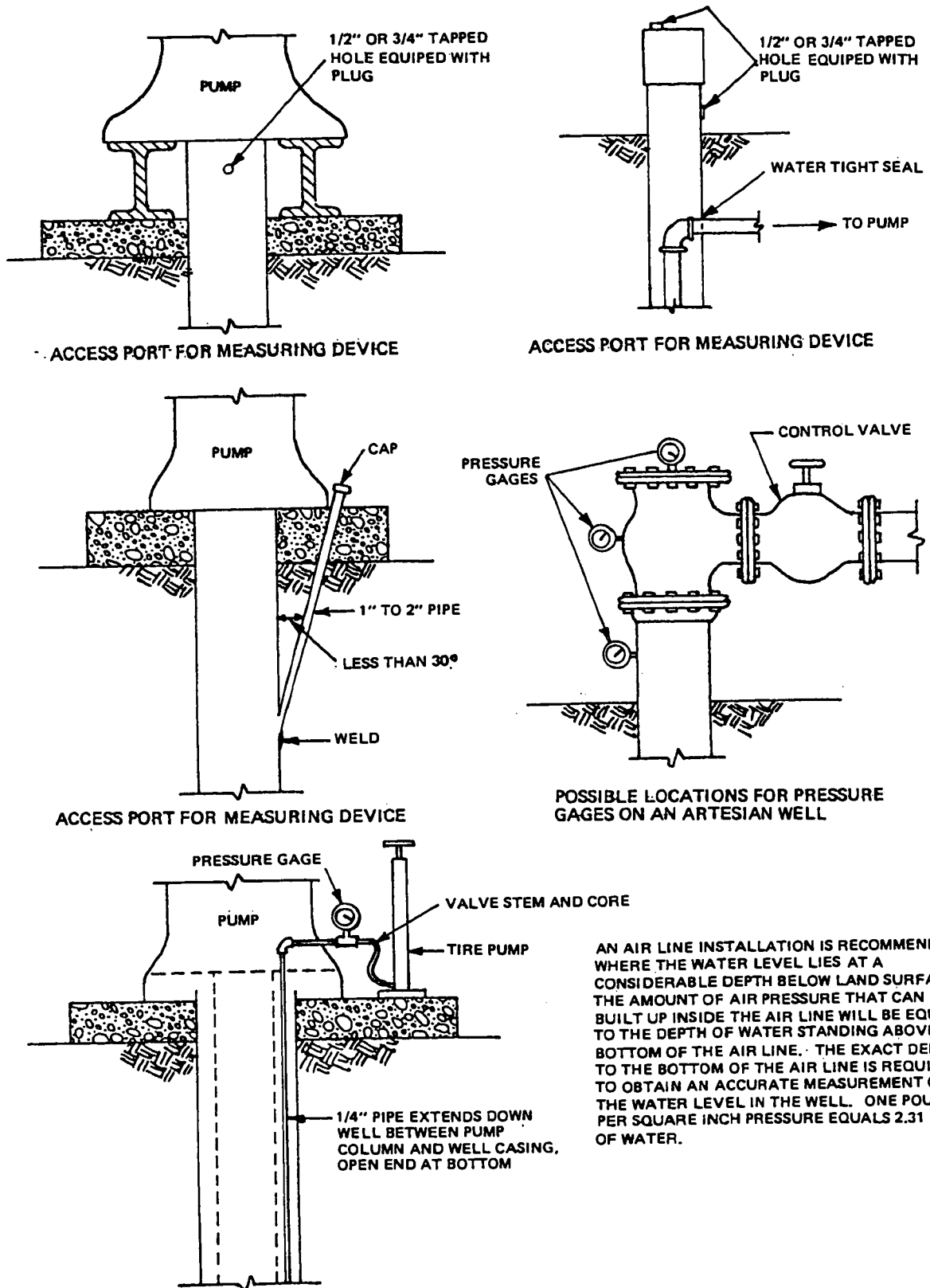


Figure 6. SUGGESTED METHODS FOR INSTALLING PRESSURE GAGES AND AIR LINES FOR MEASURING WATER LEVELS IN WELLS

PERMANENT

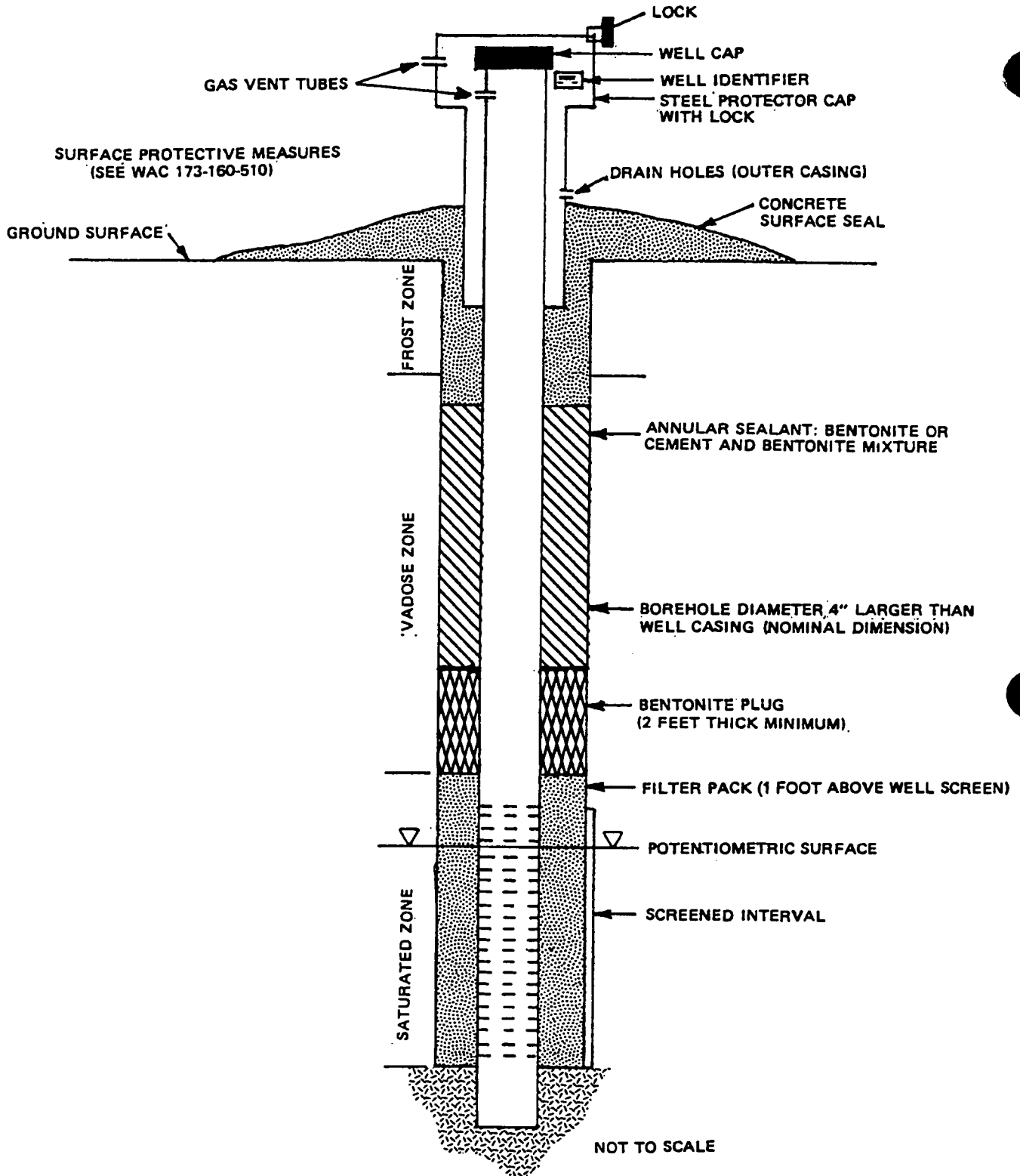


Figure 7. GENERAL RESOURCE PROTECTION WELL—CROSS SECTION.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 173-160-055

Well construction notification (start card).

WAC 173-160-065

WAC 173-160-075

WAC 173-160-085

WAC 173-160-095

Design and construction.
Design and construction—
Sealing of casing—General.
Capping.
Relationship to other authorities.

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WAC 173-160-105	Comparable construction standards.	WAC 173-160-445	Abandonment of wells— Abandonment of artesian wells.
WAC 173-160-115	Enforcement.	WAC 173-160-455	Abandonment of wells— Abandonment of dug wells.
WAC 173-160-125	Appeals.	WAC 173-160-465	Abandonment of wells— Plugging of test wells.
WAC 173-160-135	Regulation review.	WAC 173-160-475	Artificial recharge of ground-water bodies.
WAC 173-160-205	Location of well site and access requirements.	WAC 173-160-500	Design and construction— General.
WAC 173-160-215	Design and construction— Well completion—General.	WAC 173-160-510	Design and construction— Surface protective measures.
WAC 173-160-225	Design and construction— Casing.	WAC 173-160-520	Design and construction— Casing.
WAC 173-160-235	Recommended well diameters.	WAC 173-160-530	Design and construction— Cleaning.
WAC 173-160-245	Design and construction— Sealing materials.	WAC 173-160-540	Design and construction— Well screen, filter pack, and development.
WAC 173-160-255	Design and construction— Sealing of consolidated formations.	WAC 173-160-550	Design and construction— Well seals.
WAC 173-160-265	Sealing of unconsolidated formations without significant clay beds.	WAC 173-160-560	Abandonment of resource protection wells.
WAC 173-160-275	Sealing of unconsolidated formations with clay beds.		
WAC 173-160-285	Special sealing standards for artesian wells.		
WAC 173-160-295	Artificial gravel-packed wells—General.		
WAC 173-160-305	Sealing of artificial gravel-packed wells.		
WAC 173-160-315	Sealing of dug wells.		
WAC 173-160-325	Special standards for driven or jetted wells.		
WAC 173-160-335	Upper terminal of well.		
WAC 173-160-345	Testing of well.		
WAC 173-160-355	Testing of well—Access port or pressure gage.		
WAC 173-160-365	Disinfection.		
WAC 173-160-375	Quality of drilling water.		
WAC 173-160-385	Pump installation.		
WAC 173-160-395	Explosives.		
WAC 173-160-405	Chemical conditioning.		
WAC 173-160-415	Abandonment of wells.		
WAC 173-160-425	Abandonment of wells— Abandonment of drilled or jetted wells.		
WAC 173-160-435	Abandonment of wells— Abandonment of gravel-packed wells.		

WSR 98-08-035
PERMANENT RULES
HUMAN RIGHTS COMMISSION
 [Filed March 23, 1998, 12:15 p.m.]

Date of Adoption: February 20, 1998.

Purpose: To implement SHB 1491 (chapter 271, Laws of 1997), relating to dog guides and service animals.

(1) Reason for Adoption of Rules: The commission proposed certain changes to existing rules governing disability discrimination in employment, public accommodations, and housing in order to carry out the provisions of SHB 1491 (chapter 271, Laws of 1997) relating to service animals and dog guides.

(2) Differences Between Proposed Rules and Adopted Rules: The commission adopted the rules exactly as proposed, with no changes, additions, or deletions.

(3) Summary of Comments Received and Commission Response: Fifteen individuals or organizations provided written comments on the proposed rules. Eight persons testified at the public hearing. The section below summarizes the comments, followed by the initials or abbreviated name of the commenter.

Individuals Who Submitted Written Comments:

From	Representing
Keith Gorze (KG) Landlord/Manager	Real Estate Listing & Selling, Ellensburg
Jan Mowrey (JM) Landlord	Rental Property Owner, Yakima
Ralph E. Davis (RED) Chief Executive Officer	Dependable Building Maintenance Co., Seattle
Cliff Finch (CF) Director of Human Resources	Association of WA Business, Olympia
Judith Keeler (JK) Director of the Office of Fair Housing	USDHUD, Seattle
James G. Young (JGY) President	Seattle Steam, Seattle

Sally Feldman (SF) Governmental Affairs Director	Washington Food Industry, Olympia
Elaine M. Terry (EMT) VP Human Resources	Boeing Employees' Credit Union, Tukwila
Lisa Brock (LB) Administrative Director Human Resources	Providence General Medical Center, Everett
Julie Yake (JY)	URM Stores, Spokane
Julie E. Prafke (JEP) President	Humanix Personnel Services, Spokane
Gerald F. Miller (GFM) VP & General Counsel	Goldendale Aluminum Company, Vancouver
Judy Warnick (JW) Manager	Central Bonded Collectors, Moses Lake
HL Ravenscraft (HLR) VP Human Resource & Labor Relations	Associated Grocers, Inc., Seattle
JC Rotruck (JCR) Regional Director Human Resources Services	GTE Service Corp., Everett

Persons Who Testified at the Public Hearing:

Name	Representing
Mary Rook, (MR)	NW Aide Dog Foundation, Seattle
Allie Joiner, (AJ)	Gov. Committee on Disability Issues & Employment, Olympia
Cliff Finch, (CF)	Association of WA Business, Olympia
Joe Pinzone, (JP)	Sharp Microelectronics, Camas
Judith Keeler, (JK)	USDHUD, Seattle
Cheri Piercy, (CP)	Everett
Polly Klein, (PK)	Service Dog Access Consulting, Seattle
Sally Feldman, (SF)	WA Food Industry, Olympia

Comments on Proposed Implementing Rules:

Reference:	Source	Comments:	Commission Response:
Proposed Rules in General	MR, AJ, CP, PK	Supports better understanding, clear explanations, and education about why people need service animals.	This comment is also appropriate for the regulatory improvement process and will be forwarded accordingly.
WAC 162-22	JP	Proposed rules will encourage mischief in the workplace and result in legal costs.	The behavior causing risk section covers unreasonable disruption of the workplace. Staff welcomes specific language for additional rules that will minimize legal costs without violating the protected rights of persons with disabilities who use guide dogs and service animals. This comment is also appropriate for regulatory improvement and will be forwarded accordingly.
WAC 162-22	CF, LB, EMT, JGY, SF, JY, GFM, JW, HLR, JCR	Rules need to: (1) Limit potential abuse (2) Provide predictability and clarity (3) Minimize the potential for litigation.	The 1491 workgroups raised the issue of limiting abuse, resulting in the language on behavior causing risk. The comments on predictability and minimizing potential litigation are also appropriate for regulatory improvement and will be forwarded accordingly.

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WAC 162-22	SF, JY, JP	Rules should be limited to provide access only to those dog guides and service animals that are essential to the employee's ability to properly perform his or her job.	The 1491 workgroup discussed whether a dog guide or service animal must be essential to the employee's job performance. Such a requirement might be used to unfairly eliminate those animals that do not enable the performance of a particular essential job, but do provide other necessary services. For example: A service dog may alert a person with a disability to an oncoming seizure. This topic is also addressed in WAC 162-22-100 and in WAC 162-22-080, behavior causing risk and accommodation to employees with disabilities.
WAC 162-22	SF, JY, JCR	Rules should acknowledge the burden that animals in the workplace can impose on employers and other workers. This is of particular concern regarding animals in areas where food preparation work is done.	This issue is addressed in WAC 162-22-100 Behavior causing risk. In addition, the Department of Health (DOH) raised the point regarding food preparation areas in the workgroup. DOH is exploring possible adjustments and solutions in its own rules on the subject. This comment is also appropriate for the regulatory improvement process and will be forwarded accordingly.
WAC 162-22	RED	The expansion of the right to bring "service animals" to the workplace unreasonably invades the industrial workplace and poses serious liability and injury to employees and employers.	Persons with disabilities who use service animals are protected in statute as a result of SHB 1491. The behavior causing risk section addresses impacts on the workplace.
WAC 162-22 and 26	SF	The requirement for individual judgment is not sufficient to address concerns about health risks that are presented with animals in food preparation areas.	The section on behavior causing risk addresses this topic. "Individual judgment" is one of several factors to determine behavior causing risk as well as reasonable accommodation efforts. In addition, the Department of Health raised this point in the workgroup. DOH is exploring possible adjustments and solutions in its own rules on the subject. This will also be part of the regulatory improvement process.

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<p>WAC 162-22-020 Definitions</p>	<p>CF, LB, EMT, JGY, SF, JY, GFM, JW, HLR</p>	<p>1. Dog guide and service animal definitions should be expanded to require "<u>professional</u>" training, and 2. Should include a requirement "<u>to enable proper performance of the job in question.</u>"</p>	<p>1. The definitions in the proposed rules are quoted verbatim from statute. Changing the definitions of SHB 1491 is beyond the scope of implementing rules. 2. The 1491 workgroup discussed whether a dog guide or service animal must be essential to the employee's job performance. The language might unfairly exclude service animals that enable a person with a disability to get to a particular job in question (e.g. a dog guide for a visually impaired person) or enable a person to remain at a job location (e.g. a seizure warning dog). In these cases, the animal is not necessarily needed to enable a qualified person with a disability to do a particular job.</p>
<p>WAC 162-22-100 Behavior causing risk</p>	<p>CF, SF, JY, GFM, JW, HLR</p>	<p>1. Unreasonable risk should be expanded to include the risk "<u>of business interruption, sanitation hazards.</u>" 2. Behavior causing risk language should include "<u>the presence</u>" of a dog guide or service animal and add the words "<u>health and safety</u>" to unreasonable risk of other persons. 3. Subsection (2) individual judgment required, should also allow the removal of a dog guide or service animal if "<u>it is highly impracticable for an employer to individually test particular dog guides or service animals to make the determination...</u>" 4. Subsection (5) annoyance to staff or other customers should include the qualifying phrase "<u>absent actual disruption of operations.</u>" 5. In the language regarding "unreasonable risk" include "a risk to the <u>health or safety</u> of other persons." 6. Subsection (2) Individual judgment required places an undue burden on the employer.</p>	<p>1. The unreasonable risk language encompasses these risks. 2. Reasonable accommodation must be considered whenever it is asserted that the presence, alone, of a service animal presents an undue hardship or an unreasonable risk. Health and safety concerns are within the scope of the rule on behavior causing risk. 3. The intent of the individual judgment language is to discourage an employer from making over-generalized assumptions about a category of animals. The intent is also to encourage employers to take into consideration an individualized assessment of each service animal, just as an individualized assessment is required of each person with a disability. 4. Language regarding disruption of operations as a reason to exclude a service animal may be problematic in those instances where a disruption is the result of co-workers who are unfamiliar with working service animals, as compared to pets. 5. The language encompasses consideration of risk to the health or safety of other persons. 6. Individual judgment is necessary to avoid over generalized assumptions about any category of animals.</p>
<p>WAC 162-26 and 36</p>	<p>KG</p>	<p>The rules should not force landlords to accept pets on a broad basis. To do so will result in increased rents and costs to tenants in maintenance and damages.</p>	<p>The law and proposed rules do <i>not</i> protect the rights of individuals with pets. Dog guides and service animals are animals trained to assist, guide, or accommodate a person with a disability. They are protected by statute.</p>

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WAC 162-26 and 36	JM	Require service animals and dog guides to be officially designated or registered.	The definition of dog guides and service animals in SHB 1491 removes the previous requirement for certification. Requiring certification is contrary to federal laws on service animals. It is also impractical because of the absence, in many cases, of costly certification processes for legitimate service animals that have been adequately and individually trained.
WAC 162-38-100(4)	JK	Repeal this section. It is contrary to the interpretation of Federal Fair Housing Law by HUD NW region.	The commission shall consider the adoption of emergency rules if it establishes that such changes are necessary for state receipt of federal funds. At this time, there are no written federal regulations or rules that clearly require such changes. This is also an appropriate topic for the regulatory improvement process and the comment will be forwarded accordingly.

General Topical Comments

Employment-Liability Insurance	JP	Add a rule that it is not unfair to require proof of liability insurance from a disabled employee who uses a dog guide or service animal.	A similar concern was raised during a workgroup session. A service animal or dog guide is an assistive device for the person with a disability. Just as employers do not require proof of liability insurance for the person who uses a wheelchair as an assistive device, there should be no proof of liability insurance from a disabled person who uses a service animal or guide dog as an assistive device. The care and supervision of a service animal is the responsibility of the animal's owner. An employer may require an employee to pay for any damages he/she causes. Nothing in the rules prevents an employer from similarly requiring the employee who uses a dog guide or service animal to pay for any damage that he/she or his/her animal causes.
Employment And Public Accommodations - Immunity From Lawsuits	GFM	Add rules to grant the employer immunity from lawsuits if the animal bothers or injures a co-employee or customer.	The proposed rules do not grant immunity from lawsuits. The behavior causing risk section provides employers with a tool to address legitimate concerns that a dog guide or service animal must be removed because it poses an unreasonable risk. The animal's owner is responsible for the care and supervision of a dog guide or service animal.
Employment-Definition Of Disability	CF, LB, JGY, EMT, SF, JY, GFM, JW, HLR	Change the state definition of "disability" to the federal definition.	SHB 1491 did not mandate a change of the state definition of disability, and it did not limit the application of the changes to only those persons with disabilities as defined by the federal laws. This topic is beyond the scope of the rulemaking at issue.

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<p>Employment, Definition Of Trained Dog Guides And Service Animals</p>	<p>JEP, GFM, HLR, JCR, JP</p>	<p>Guidelines should specify that dog guides and service animals must be professionally trained, certified by an expert, or medically certified as essential to the employee's performance of the job.</p>	<p>The definitions of dog guides and service animals are quoted verbatim from SHB 1491. Also, SHB 1491 specifically removed the certification requirement. The 1491 workgroup discussed whether a dog guide or service animal must be essential to the employee's job performance. Such a requirement might be used to unfairly eliminate those animals that do not enable the performance of a particular essential job, but do provide other necessary services. For example: A service dog may alert a person with a disability to an oncoming seizure.</p>
<p>Employment-Impact On Other Employees</p>	<p>JEP, JP, JCR</p>	<p>Add rules to address the impact of service animals on employees with allergic reactions or who have an innate fear of dogs. Rules should address sanitation issues, business disruption when dogs bark or need to be fed, impact on other employees because of the presence of a service animal or dog guide. Rules do not highlight the increased hazardous working conditions, and loss of production. Rules should highlight substantial effects on product quality and reliability.</p>	<p>The workgroups discussed these issues. The sections on behavior causing risk and reasonable accommodation address these concerns. Specifically, the rules do not prohibit the removal of a service animal that poses an unreasonable risk, as long as an effort is made to consider whether or not there is a reasonable accommodation solution prior to removing the animal. This is also an appropriate topic for the regulatory improvement process and the comment will be forwarded accordingly.</p>
<p>Employment-No Family Pets</p>	<p>JW</p>	<p>Add rules to curb abuse by an employee who wants to bring their family pet to work.</p>	<p>The statutory definitions of dog guide and service animal limit coverage to animals that assist or accommodate a person with a disability. An employer is still free to restrict or prohibit family pets in the workplace.</p>
<p>Employment-Training Service Animals</p>	<p>JP</p>	<p>Add regulations to require that all service animals receive the same degree of training given to guide dogs.</p>	<p>At present, such a requirement is not feasible due to the lack of established training programs and the vast variety of disability needs. Workgroup members offered examples of training that is necessarily individualized. Participants discussed the impact of medical and technological advances that are creating innovative and changing opportunities for the use of service animals by people with disabilities.</p>

Citation of Existing Rules Affected by this Order: Amending chapter 162-22 WAC, Employment—Persons with disabilities, WAC 162-22-010, 162-22-020, 162-22-030, 162-22-040, 162-22-050, 162-22-060, 162-22-070, 162-22-080, and 162-22-090; chapter 162-26 WAC, Public accommodations—Disability discrimination, WAC 162-26-010, 162-26-020, 162-26-030, 162-26-040, 162-26-050, 162-26-060, 162-26-070, 162-26-080, 162-26-090, 162-26-100, 162-26-110, 162-26-120, 162-26-130 and 162-26-140; chapter 162-36 WAC, Real estate transactions, WAC 162-36-001, 162-36-005,

162-36-010 and 162-26-020; and chapter 162-38 WAC, Real estate transactions—Disability discrimination, WAC 162-38-010, 162-38-040, 162-38-050, 162-38-060, 162-38-100, and 162-38-120.

Statutory Authority for Adoption: RCW 49.60.120(3), chapter 271, Laws of 1997.

Adopted under notice filed as WSR 98-01-175 on December 23, 1997.

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

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Recently Enacted State Statutes: New 2, Amended 33, 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 33, 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 2, Amended 33, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

March 18, 1998

Susan J. Jordan

Executive Director

AMENDATORY SECTION (Amending Order 23, filed 7/21/75)

WAC 162-22-010 Scope of chapter. This chapter ~~((contains rules interpreting and implementing))~~ interprets and implements the ~~((handicap))~~ disability discrimination coverage of RCW 49.60.180 (unfair practices of employers), RCW 49.60.190 (unfair practices of labor unions), and RCW 49.60.200 (unfair practices of employment agencies).

AMENDATORY SECTION (Amending Order 23, filed 7/21/75)

WAC 162-22-020 Definitions. In this chapter the following words are used in the meaning given, unless the context clearly indicates another meaning:

~~(("Handicap"))~~ "Disability" is short for the statutory term "the presence of any sensory, mental, or physical ~~((handicap))~~ disability," see WAC 162-04-010, except when it appears as part of the full term.

An "able ~~((handicapped))~~ worker with a disability" is a person whose ~~((handicap))~~ disability does not prevent the proper performance of the particular job in question.

"Dog guide" means a dog that is trained for the purpose of guiding blind persons or a dog that is trained for the purpose of assisting hearing impaired persons."

"Service animal" means an animal that is trained for the purpose of assisting or accommodating a disabled person's sensory, mental, or physical disability."

AMENDATORY SECTION (Amending Order 22, filed 5/23/75)

WAC 162-22-030 Affirmative action and reporting.

(1) The commission will recognize a different definition of ~~((handicap))~~ disability for purposes of affirmative action and reporting than for purposes of law enforcement. The emphasis in law enforcement is to leave no one out. The emphasis in affirmative action must be to avoid including in so many persons that statistics become meaningless. None of us is a perfect sensory, mental, or physical specimen. Theoretically,

every person faces the possibility of being discriminated against because of ~~((handicap))~~ disability—although some very remotely. It is therefore necessary to restrict the definition of ~~((handicap))~~ disability for purposes of affirmative action and reports on the use of ~~((handicapped))~~ workers with disabilities to ~~((handicaps))~~ disabilities that are significant and permanent.

(2) An appropriate definition of ~~((handicap))~~ disability for affirmative action and reporting purposes is the following, which is already in use by the Washington state department of personnel:

~~(("Handicapped"))~~ Disabled: Persons with physical, mental, or sensory impairments that would impede that individual in obtaining and maintaining permanent employment and promotional opportunities. The impairments must be material rather than slight; static and permanent in that they are seldom fully corrected by medical replacement, therapy, or surgical means."

AMENDATORY SECTION (Amending Order 23, filed 7/21/75)

WAC 162-22-040 General approach to enforcement.

(1) For the purpose of determining whether an unfair practice under RCW 49.60.180, 49.60.190, or 49.60.200 has occurred:

(a) A condition is a "sensory, mental, or physical ~~((handicap))~~ disability" if it is an abnormality and is a reason why the person having the condition did not get or keep the job in question, or was denied equal pay for equal work, or was discriminated against in other terms and conditions of employment, or was denied equal treatment in other areas covered by the statutes. In other words, for enforcement purposes a person will be considered to be ~~((handicapped))~~ disabled by a sensory, mental, or physical condition if he or she is *discriminated against because of the condition* and the condition is abnormal.

(b) "The presence of a sensory, mental, or physical ~~((handicap))~~ disability" includes, but is not limited to, circumstances where a sensory, mental, or physical condition:

- (i) Is medically cognizable or diagnosable;
- (ii) Exists as a record or history; or
- (iii) Is perceived to exist, whether or not it exists in fact.

(2) An example of subsection (1)(b)(ii) is a medical record showing that the worker had a heart attack five years ago. An example of subsection (1)(b)(iii) is rejection of a person for employment because he had a florid face and the employer thought that he had high blood pressure, but in fact he did not have high blood pressure.

AMENDATORY SECTION (Amending Order 23, filed 7/21/75)

WAC 162-22-050 Unfair practice. (1) RCW 49.60.180 says: "It is unfair practice for any employer:

"(1) To refuse to hire a person because of . . . the presence of any sensory, mental, or physical ~~((handicap))~~ disability or the use of a trained dog guide or service animal by a disabled person . . . : *Provided*, That the prohibition against discrimination because of such ~~((handicap))~~ disability shall

not apply if the particular disability prevents the proper performance of the particular worker involved."

(2) An unfair practice has been committed when both of the following have occurred:

(a) An employer, employment agency, or labor union has refused to hire or has otherwise discriminated against a person because the person has a ((handicap)) disability or because of the use of a trained dog guide or service animal by a person with a disability, and

(b) The ((handicap)) disability or the use of a trained dog guide or service animal by a person with a disability does not prevent the person from properly performing the particular job.

(3) While the proviso on ability to do the job appears only in paragraph (1) of RCW 49.60.180, it logically applies to all circumstances where ability to do the job is material. The rule of the proviso will therefore be applied when appropriate in cases arising under other paragraphs of RCW 49.60.180, and also in cases under RCW 49.60.190 (labor unions), and RCW 49.60.200 (employment agencies).

AMENDATORY SECTION (Amending Order 23, filed 7/21/75)

WAC 162-22-060 Preference for ((handicapped)) disabled is not an unfair practice. The law against discrimination says that it is an unfair practice to discriminate *against* a person because of the presence of any ((handicap)) disability or the use of a trained dog guide or service animal by a person with a disability. Discrimination *in favor of* a person because of the person's ((handicap)) disability is not an unfair practice. Stating the same thing inversely, discrimination *against* a person because the person is *not* ((handicapped)) disabled is not an unfair practice. This nonreciprocal operation is different from the operation of the statutes in all other areas, except for age discrimination. For example, it is an unfair practice for an employer to discriminate either for or against persons of any race or either sex.

AMENDATORY SECTION (Amending Order 23, filed 7/21/75)

WAC 162-22-070 Bona fide occupational qualification. (1) The special rules in this section supplement the general rules on bona fide occupational qualification in WAC 162-16-020, 162-16-030, and 162-16-040.

(2) No bona fide occupational qualification question is raised by preferential treatment of ((handicapped)) disabled persons, since such treatment is not an unfair practice. See WAC 162-22-060.

(3) A bona fide occupational qualification differs from the statutory requirement that the ((handicapped)) disabled individual be able to properly perform the job. The determination of ability to do the job is made on an individual basis, for each person for each job. A bona fide occupational qualification is a requirement that must be met by all persons whether or not they can do the job. Ability to do the job is part of the definition of ((handicap)) disability discrimination; a bona fide occupational qualification is an exception to the rule of nondiscrimination because of ((handicap)) disability.

(4) The following job requirements are bona fide occupational qualifications:

(a) Any specific requirement set out in a statute of the United States or the state of Washington, or an authorized regulation of an agency of the United States government.

(b) Any specific requirement set out in an authorized regulation of an agency of the state of Washington, or in an ordinance, authorized rule, or other official act of a unit of local government of the state of Washington, unless the human rights commission finds that the state or local requirement is not consistent with the law against discrimination.

(5) The following are not bona fide occupational qualifications:

(a) Preferences or objections of co-workers, the employer, clients, or customers.

(b) Physical obstacles or inadequacies at work facilities that reasonably can be corrected as provided in WAC 162-22-080.

AMENDATORY SECTION (Amending Order 23, filed 7/21/75)

WAC 162-22-080 Accommodation to ((handicapped)) employees with disabilities. (1) It is an unfair practice for an employer to fail or refuse to make reasonable accommodations to the sensory, mental, or physical limitations of employees, or the use of a trained dog guide or service animal by a disabled person, unless the employer can demonstrate that such an accommodation would impose an undue hardship on the conduct of the employer's business.

(2) It is an unfair practice for an employer to refuse to hire or otherwise discriminate against an able ((handicapped)) worker with a disability because the employer will be subject to the requirements of this section if the worker is hired, promoted, etc.

(3) The cost of accommodating an able ((handicapped)) worker with a disability or the use of a trained dog guide or service animal by a disabled person will be considered to be an undue hardship on the conduct of the employer's business only if it is unreasonably high in view of the size of the employer's business, the value of the employee's work, whether the cost can be included in planned remodeling or maintenance, the requirements of other laws and contracts, and other appropriate considerations.

AMENDATORY SECTION (Amending Order 23, filed 7/21/75)

WAC 162-22-090 Physician's opinions. (1) A physician's opinion on whether a ((handicap)) disability prevents a person from properly performing a particular job will be given due weight in view of all the circumstances, including the extent of the physician's knowledge of the particular person and job, and the physician's relationship to the parties.

(2) A physician's conclusion will not be considered to be an opinion on whether the person can properly perform the particular job unless it:

(a) Is based on the individual capabilities of the particular person, and not on generalizations as to the capabilities of

all persons with the same ((handicap)) disability, unless the ((handicap)) disability is invariable in its disabling effect; and

(b) Is based on knowledge of the actual sensory, mental, and physical qualifications needed for proper performance of the particular job.

(3) Employers who choose to rely on a physician's opinion in determining that a person cannot properly perform the particular job are advised to provide the physician with the necessary information about the job and to inform the physician of the need for an individualized opinion.

NEW SECTION

WAC 162-22-100 Behavior causing risk. Behavior or actions of a dog guide or service animal that constitutes an unreasonable risk to property or other persons can be grounds to request that a dog guide or service animal be removed, and shall not constitute an unfair practice.

(1) **General rule.** It is not an unfair practice under RCW 49.60.180 to request that a dog guide or service animal be removed from the workplace because the behavior or actions of that dog guide or service animal constitutes an unreasonable risk to property or other persons.

(2) **Individual judgment required.** To come within this exception, the removal of a dog guide or service animal must be based on knowledge of the present behavior or actions of the dog guide or service animal. It is an unfair practice to exclude all of the particular dog guides or service animals unless the employer can show that all of the particular dog guides or service animals will present an unreasonable risk to persons or property.

(3) **Likelihood of injury.** Risk to property or other persons must be immediate and likely, not remote or speculative.

(4) **Degree of risk.** Risk of injury to persons may be given more weight than risk of injury to property. Risk of severe injury may be given more weight than risk of slight injury.

(5) **Annoyance to staff or other customers.** Annoyance on the part of staff or other customers of the workplace at the presence of the dog guide or service animal is not an unreasonable "risk to property or other persons" justifying the removal of the dog guide or service animal.

(6) **Least discriminatory solution required.** It is an unfair practice to remove a dog guide or service animal from the entire workplace because the dog guide or service animal presents a risk of injury when in part of the workplace. When risk justifies the removal of a dog guide or service animal from the workplace, efforts must be made to reasonably accommodate the person with the disability.

Chapter 162-26 WAC

PUBLIC ACCOMMODATIONS, ((HANDICAP)) DISABILITY DISCRIMINATION

AMENDATORY SECTION (Amending Order 41, filed 9/22/82)

WAC 162-26-010 Scope of chapter. (1) **Confined to unfair practice.** This chapter interprets and implements the ((handicap)) disability discrimination coverage of RCW 49.60.215, unfair practices of places of public resort, accommodation, assemblage, amusement. This chapter does not define the scope of the civil right to be free from discrimination because of ((handicap)) disability declared in RCW 49.60.030 ((quoted below in WAC 162-26-030)) or interpret other statutes. This chapter applies to the unfair practices which the commission is empowered by RCW 49.60.120 to eliminate and prevent through the administrative process provided in RCW 49.60.230 through 49.60.270.

(2) **Language interpreted.** ((The language of RCW 49.60.215 that is interpreted and implemented by this chapter is:

~~"It shall be an unfair practice for any person or his agent or employee to commit an act which directly or indirectly results in any distinction, restriction, or discrimination, or the requiring of any person to pay a larger sum than the uniform rates charged other persons, or the refusing or withholding from any person the admission, patronage, custom, presence, frequenting, dwelling, staying, or lodging in any place of public resort, accommodation, assemblage, or amusement, except for conditions and limitations established by law and applicable to all persons, regardless of . . . the presence of any sensory, mental, or physical handicap, or the use of a trained dog guide by a blind or deaf person: *Provided*, That this section shall not be construed to require structural changes, modifications, or additions to make any place accessible to a handicapped person except as otherwise required by law: *Provided*, That behavior or actions constituting a risk to property or other persons can be grounds for refusal and shall not constitute an unfair practice.")~~ This chapter interprets and implements RCW 49.60.215, Unfair practices of places of public resort, accommodation, assemblage, and amusement, as amended by chapter 271, Laws of 1997.

(3) **Related regulations.** Regulations of the commission on ((handicap)) disability discrimination in real estate transactions are in chapter 162-38 WAC. Commission regulations governing ((handicap)) disability discrimination in employment are in chapter 162-22 WAC and in other regulations governing employment. General regulations of the commission governing schools are in chapter 162-28 WAC.

AMENDATORY SECTION (Amending Order 41, filed 9/22/82)

WAC 162-26-020 Purpose of chapter. (1) **Purpose.** The purpose of this chapter is to specify how the interpreted statute applies to specific circumstances and to established principles of interpretation that will guide in other circumstances.

(2) **Sources of policy.** The commission is guided by the policy of the legislature expressed in the statute being interpreted and in related statutes, particularly RCW 49.60.010, 49.60.030, and chapter 70.04 RCW, the "white cane law." The commission is also guided by the specialized knowledge

and experience of its staff, particularly its disability specialists, and by the commissioners' own knowledge of the nature of ~~((handicap))~~ disability discrimination and the practical needs of the disabled. This includes the information gathered at hearings held in Spokane, Yakima, Lacey, and Seattle prior to the preparation of the first draft of these rules, and the written and oral comments received after circulation of proposed rules.

(3) **Legislative policy.** The principal expressions of legislative policy outside of the language being interpreted are the following:

~~((RCW 49.60.010: "The legislature hereby finds and declares that practices of discrimination against any of its inhabitants because of . . . the presence of any sensory, mental, or physical handicap are a matter of state concern, that such discrimination threatens not only the rights and proper privileges of its inhabitants but menaces the institutions and foundation of a free democratic state. A state agency is herein created with powers with respect to elimination and prevention of discrimination in . . . places of public resort, accommodation, or amusement . . . because of . . . the presence of any sensory, mental, or physical handicap; and the board (human rights commission) established hereunder is hereby given general jurisdiction and power for such purposes."))~~

RCW 70.84.010: "The legislature declares:

"(1) It is the policy of this state to encourage and enable the blind, the visually handicapped, the hearing impaired, and the otherwise physically disabled to participate fully in the social and economic life of the state, and to engage in remunerative employment.

"(2) As citizens, the blind, the visually handicapped, the hearing impaired, and the otherwise physically disabled have the same rights as the able-bodied to the full and free use of the streets, highways, walkways, public buildings, public facilities, and other public places.

"(3) The blind, the visually handicapped, the hearing impaired, and the otherwise physically disabled are entitled to full and equal accommodations, advantages, facilities, and privileges on common carriers, airplanes, motor vehicles, railroad trains, motor buses, street cars, boats, and all other public conveyances, as well as in hotels, lodging places, places of public resort, accommodation, assemblage or amusement, and all other places to which the general public is invited, subject only to the conditions and limitations established by law and applicable alike to all persons."

RCW 28A.13.005: "It is the purpose of this chapter (certain education statutes) to ensure that all handicapped children . . . shall have the opportunity for an appropriate education at public expense as guaranteed to them by the constitution of this state."

AMENDATORY SECTION (Amending Order 41, filed 9/22/82)

WAC 162-26-030 Related law. (1) **General civil right.** RCW 49.60.030 provides:

"(1) The right to be free from discrimination because of . . . the presence of any sensory, mental, or physical ~~((handicap))~~ disability or the use of a trained dog guide or service

animal by a disabled person is recognized as and declared to be a civil right. This right shall include, but not be limited to:

". . .

"(b) The right to the full enjoyment of any of the accommodations, advantages, facilities, or privileges of any place of public resort, accommodation, assemblage, or amusement;"

This right is enforceable through lawsuits in court (RCW 49.60.030(2)) but not through the administrative process of the human rights commission.

~~((The "white cane law." Chapter 70.84 RCW prohibits the refusal of service to or the exaction of an extra charge from any blind or hearing impaired person because the person is accompanied by a guide dog. RCW 70.84.030. The chapter imposes special duties on a driver who approaches a blind pedestrian with a white cane or a blind or hearing impaired pedestrian using a guide dog. RCW 70.84.040. Blind, partially blind, and hearing impaired pedestrians are declared to have all the rights and privileges conferred by law on other persons in any of the places, accommodations, or conveyances listed in RCW 70.84.010 (quoted above in WAC 162-26-020(2)). RCW 70.84.050.~~

(3)) **Other laws.** Other state laws define rights of the ~~((handicapped))~~ persons with disabilities in particular circumstances. Some are referred to elsewhere in this chapter. Some accommodations are subject to United States law, particularly sections 503 and 504 of the Rehabilitation Act of 1973, 29 U.S.C. §§793, 794, and the Americans with Disabilities Act of 1990, codified at 42 U.S.C. 12101, et seq.

AMENDATORY SECTION (Amending Order 41, filed 9/22/82)

WAC 162-26-040 Definitions. (1) **Place of public accommodation.** RCW 49.60.040 gives the following definition:

"Any place of public resort, accommodation, assemblage, or amusement' includes, but is not limited to, any place, licensed or unlicensed, kept for gain, hire, or reward, or where charges are made for admission, service, occupancy, or use of any property or facilities, whether conducted for the entertainment, housing, or lodging of transient guests, or for the benefit, use, or accommodation of those seeking health, recreation, or rest, or for the burial or other disposition of human remains, or for the sale of goods, merchandise, services, or personal property, or for the rendering of personal services, or for public conveyance or transportation on land, water, or in the air, including the stations and terminals thereof and the garaging of vehicles, or where food or beverages of any kind are sold for consumption on the premises, or where public amusement, entertainment, sports, or recreation of any kind is offered with or without charge, or where medical service or care is made available, or where the public gathers, congregates, or assembles for amusement, recreation, or public purposes, or public halls, public elevators, and public washrooms of buildings and structures occupied by two or more tenants, or by the owner and one or more tenants, or any public library or educational institution, or schools of special instruction, or nursery schools, or day care centers or children's camps: *Provided*, That nothing con-

tained in this definition shall be construed to include or apply to any institute, bona fide club, or place of accommodation, which is by its nature distinctly private, including fraternal organizations, though where public use is permitted that use shall be covered by this chapter; nor shall anything contained in this definition apply to any educational facility, columbarium, crematory, mausoleum, or cemetery operated or maintained by a bona fide religious or sectarian institution;"

(2) **General definitions.** General definitions applicable throughout the commission's regulations are set out in WAC 162-04-010. These include the following:

"((~~Handicap~~)) **'Disability'** is short for the term 'the presence of any sensory, mental, or physical ((~~handicap~~)) disability' used in the law against discrimination, and means the full term."

(3) **Definitions special to this chapter.** The following words or phrases are used in this chapter in the meaning given, unless the context clearly indicates another meaning.

"Accessible" means usable or understandable by a person ((~~who is handicapped~~)) with a disability, with reasonable effort and in reasonable safety.

"Arranged service" means making the services or goods of a place of public accommodation available to a ((~~handicapped~~)) person with a disability at a place or in a way that is different from the place or way that the service is offered to the public in general in order to serve the person. See WAC 162-26-090.

"Dog guide" means a ((~~trained dog guide used by a blind or deaf person. See WAC 162-26-130~~)) dog that is trained for the purpose of guiding blind persons or a dog that is trained for the purpose of assisting hearing impaired persons.

"Fair service" means the service required by RCW 49.60.215 for ((~~handicapped~~)) disabled persons in places of public accommodation. Depending on the circumstances, fair service may be in the form of (a) same service, (b) reasonable accommodation, or (c) arranged service. These terms are defined in this chapter. See also "service" and "fairly serve."

"Fairly serve" means to provide fair service.

"Place of public accommodation" is short for "place of public resort, accommodation, assemblage, or amusement" and means the full term.

"Reasonable accommodation" means action, reasonably possible in the circumstances, to make the regular services of a place of public accommodation accessible to persons who otherwise could not use or fully enjoy the services because of the person's sensory, mental, or physical limitations. See WAC 162-26-080.

"Same service" means service without regard to the existence of a ((~~handicap~~)) disability. See WAC 162-26-060.

"Service" means everything available to persons from a place of public accommodation.

"Service animal" means an animal that is trained for the purpose of assisting or accommodating a disabled person's sensory, mental, or physical disability.

"Structural" is defined in WAC 162-26-100(5).

"Unfair service" means service not in compliance with RCW 49.60.215. See "fair service."

AMENDATORY SECTION (Amending Order 41, filed 9/22/82)

WAC 162-26-050 Who is protected. (1) **Statute.** RCW 49.60.215 requires service in places of public accommodation "regardless of . . . the presence of any sensory, mental, or physical ((~~handicap~~)) disability, or the use of a trained dog guide ((~~by a blind or deaf person~~)) or service animal by a disabled person . . ."

(2) **What is a ((~~handicap~~)) disability.** A person's condition is a "sensory, mental, or physical ((~~handicap~~)) disability" if it is abnormal and is a reason why the person was not fairly served in a place of public accommodation. A person is ((~~handicapped~~)) disabled by a sensory, mental, or physical condition if she or he is not fairly served because of the condition. The law protects all persons from unfair service because of ((~~handicap~~)) disability, whether the ((~~handicap~~)) disability is severe or slight.

(3) **When ((~~handicap~~)) disability is present.** The presence of a sensory, mental, or physical ((~~handicap~~)) disability includes, but is not limited to, circumstances where a sensory, mental, or physical condition:

- (a) Is medically cognizable or diagnosable;
- (b) Exists as a record or history; or
- (c) Is perceived to exist, whether or not it exists in fact.

(4) **Person using a trained dog guide or service animal.** WAC 162-26-130 defines who is protected as a person using a trained dog guide or service animal.

(5) ((~~Nonhandicapped~~)) **Nondisabled not protected.** The law protects against discrimination because of the "presence" of a ((~~handicap~~)) disability. It does not prohibit treating ((~~handicapped~~)) disabled persons more favorably than ((~~nonhandicapped~~)) nondisabled persons. Compare WAC 162-22-060 (employment).

AMENDATORY SECTION (Amending Order 41, filed 9/22/82)

WAC 162-26-060 General principles. (1) **Same service preferred.** The purposes of the law against discrimination are best achieved when ((~~handicapped~~)) disabled persons are treated the same as if they were not ((~~handicapped~~)) disabled. The legislature expresses this policy in RCW 49.60.215 with the words "regardless of." Persons should, if possible, be treated without regard to their ((~~handicap~~)) disability or use of a dog guide or service animal. This is called "same service" in this chapter.

(2) **Reasonable accommodation.** In some circumstances, however, treating ((~~handicapped~~)) disabled persons the same as ((~~nonhandicapped~~)) nondisabled persons (same service) will defeat the purposes of the law against discrimination. This would be true if persons in wheelchairs and ((~~nonhandicapped~~)) nondisabled persons are equally entitled to use the stairway to reach the second floor of a store. In such circumstances, the operator of the place of public accommodation should if possible use the next best solution: Reasonable accommodation. A reasonable accommodation would be to permit the shopper in the wheelchair to use an elevator to reach the second floor, even though the public in general is

not permitted to use the elevator. Reasonable accommodation is explained in WAC 162-26-080.

(3) **Arranged service.** Where same service will not carry out the purposes of the law and where no accommodation is reasonable, the operator of a place of public accommodation should use the third best solution: Arranged service. In the example used in this section, arranged service would be having a store employee bring merchandise of the size and description requested by the wheelchair shopper from the second floor for examination by the customer on the first floor. This would be appropriate if there were no elevator and no other safe and dignified way to transport the customer to the second floor. Arranged service is explained in WAC 162-26-090.

(4) **Overall objective.** In applying RCW 49.60.215, the commission seeks to assure that ~~((handicapped))~~ **disabled** persons will have the enjoyment of places of public accommodation to the greatest extent practical. The legislature in RCW 49.60.040 has defined "full enjoyment of" with respect to the civil right set out in places of public accommodation in RCW 49.60.030 as follows:

"Full enjoyment of" includes the right to purchase any service, commodity, or article of personal property offered or sold on, or by, any establishment to the public, and the admission of any person to accommodations, advantages, facilities, or privileges of any place of public resort, accommodation, assemblage, or amusement, without acts directly or indirectly causing persons . . . with any sensory, mental, or physical ~~((handicap))~~ **disability**, or ~~((a blind or deaf person using))~~ **the use of a trained dog guide or service animal by a disabled person**, to be treated as not welcome, accepted, desired, or solicited;"

AMENDATORY SECTION (Amending Order 41, filed 9/22/82)

WAC 162-26-070 General rules. (1) **Rules.** Except where exempted by RCW 49.60.215 or excepted by ruling of the commissioners under WAC 162-06-030, it is an unfair practice under RCW 49.60.215 for any person in the operation of a place of public accommodation, because of ~~((handicap))~~ **disability** or use of a **trained dog guide or service animal**:

- (a) To refuse to serve a person;
- (b) To charge for reasonably accommodating the special needs of a ~~((handicapped))~~ **disabled** person, or for arranged service as defined in this chapter;
- (c) **To require a disabled person accompanied by a trained dog guide or service animal in any of the places listed in RCW 70.84.010(3) to pay an extra charge for the trained dog guide or service animal.**

(d) To treat a ~~((handicapped))~~ **disabled** person as not welcome, accepted, desired, or solicited the same as a ~~((non-handicapped))~~ **nondisabled** person;

~~((d))~~ (e) To segregate or restrict a person or deny a person the use of facilities or services in connection with the place of public accommodation where same service is possible without regard to the ~~((handicap))~~ **disability**;

~~((e))~~ (f) To fail to reasonably accommodate the known physical, sensory, or mental limitations of a ~~((handicapped))~~

disabled person, when same service would prevent the person from fully enjoying the place of public accommodation, as provided in WAC 162-26-080; or

~~((f))~~ (g) To fail to arrange service under the rules in WAC 162-26-090 when reasonable accommodation is not possible and same service treatment would prevent the ~~((handicapped))~~ **disabled** person from fully enjoying the place of public accommodation.

(2) **Exceptions may be granted.** The commission will grant exceptions to the rules of this chapter under the standards set out in WAC 162-06-030.

AMENDATORY SECTION (Amending Order 43, filed 12/23/82)

WAC 162-26-080 Reasonable accommodation. (1) **Unfair to not accommodate.** It is an unfair practice for a person in the operation of a place of public accommodation to fail to make reasonable accommodation to the known physical, sensory, or mental limitations of a ~~((handicapped))~~ person **with a disability or to the use of a trained dog guide or service animal by a disabled person**, when same service would prevent the person from fully enjoying the place of public accommodation.

(2) **Defined.** "Reasonable accommodation" is action, reasonably possible in the circumstances, to make the regular services of a place of public accommodation accessible to persons who otherwise could not use or fully enjoy the services because of the person's sensory, mental, or physical limitations.

(3) **Reasonableness.** Whether a possible accommodation is reasonable or not depends on the cost of making the accommodation, the size of the place of public accommodation, the availability of staff to make the accommodation, the importance of the service to the ~~((handicapped))~~ person **with a disability**, and other factors bearing on reasonableness in the particular situation.

(4) **Carrying not favored.** Carrying a mobility-impaired person is not required by law and is not an acceptable accommodation, except in rare circumstances. Carrying should be done only when there is no other way for the mobility-impaired person to use the facility and when it is agreeable to the ~~((handicapped))~~ person **with a disability**.

(5) **Reference to employment standard.** The concept of reasonable accommodation is also used in the employment context. The commission will rely on its interpretations of WAC 162-22-080 and on *Holland v. Boeing Co.*, 90 Wn.2d 384, 583 P.2d 621 (1978) for guidance in applying this section.

AMENDATORY SECTION (Amending Order 41, filed 9/22/82)

WAC 162-26-090 Arranged service. (1) **Unfair to deny.** No person shall be denied the enjoyment of a place of public accommodation because the facilities are not accessible to the person and cannot be made accessible with reasonable accommodation, when the desired service can be made

available under the standards for arranged service that are specified in this section.

(2) **Defined.** "Arranged service" means making the services or goods of a place of public accommodation available to a ~~((handicapped))~~ person with a disability or a person with a disability using a trained dog guide or service animal at a place or in a way that is different from the place or way that the service is offered to the public in general, in order to serve the person.

(3) **Limitation on use.** Arranged service is fair only when neither same service nor reasonable accommodation is possible, and the choice is between arranged service and no service.

(4) **Choice of means of arranged service.** The operator of a place of public accommodation may choose the place and means of providing arranged service so long as the operator gives reasonable weight to the convenience, needs, and dignity of the ~~((handicapped))~~ person with a disability or a person with a disability using a trained dog guide or service animal seeking service. Among available means or places, the one that most closely approximates service to the general public should be chosen. There is no need for the operator to deliver the services away from the place of public accommodation if the services can be made available somewhere at the place of public accommodation.

(5) **Examples.**

(a) In a retail setting, goods can be carried from an inaccessible location to an accessible location, as described in WAC 162-26-060(3).

(b) In an office setting, interviewers and forms could be brought to an accessible office or conference room in the building or at another place, although the particular business would ordinarily be done at an inaccessible location.

(c) In an office setting, arrange to interview a ~~((mentally handicapped))~~ person with a mental disability in place of requiring a written application or report.

(d) In an entertainment setting, seating areas made available for patrons in wheelchairs would be arranged service.

(e) In a hospital setting, during surgery, a person with a disability might be asked to leave their trained dog guide or service animal outside the operating room while the person with the disability is individually assisted by hospital staff through the surgical procedure.

AMENDATORY SECTION (Amending Order 43, filed 12/23/82)

WAC 162-26-100 Structural barriers to accessibility.

(1) **Statute.** RCW 49.60.215 says that it

"shall not be construed to require structural changes, modifications, or additions to make any place accessible to a ~~((handicapped))~~ disabled person except as otherwise required by law. . . ."

(2) **Laws requiring accessibility.** The principal laws requiring that places be made accessible are:

(a) The state building code, chapter 19.27 RCW, which includes the barrier free design standards adopted in chapter 51-10 WAC under authority of chapter 70.92 RCW. The barrier free design standards apply with some exceptions to

"buildings, structures, or portions thereof, . . . which are constructed, substantially remodeled, or substantially rehabilitated after October 1, 1976." WAC 51-10-003.

(b) Chapter 219, Laws of 1971 ex. sess., in effect from August 9, 1971, through June 30, 1976. This statute required that plans and specifications for the erection or remodeling of any public accommodation must provide for access by ~~((physically handicapped))~~ persons with physical disabilities, for toilet facilities designed for use by the ~~((physically handicapped))~~ persons with physical disabilities, and for additional facilities specified in a national standard.

(c) Chapter 35, Laws of 1967, in effect from June 8, 1967, through June 30, 1976. This statute was substantially the same as the 1971 statute described in paragraph (b) of this subsection, but was limited in its coverage to public buildings.

(d) RCW 35.68.075, requiring curb ramps in sidewalks constructed or replaced after June 7, 1973.

(e) United States law; particularly 45 CFR § 84.23 implementing section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794), which requires that facilities constructed after April 28, 1977 with federal assistance be readily accessible to and usable by ~~((handicapped))~~ disabled persons.

(f) The Americans with Disabilities Act of 1990, codified at 42 U.S.C. 12101 et seq.

(3) **Practices that are not unfair.** It is not an unfair practice under RCW 49.60.215 to operate a place of public accommodation with structural barriers to accessibility of the ~~((handicapped))~~ person with a disability when the structural barriers were lawful when constructed and are presently lawful under the state building code and other law outside of the law against discrimination. This exemption does not relieve the operator of a place of public accommodation of the duty to make reasonable accommodation to the needs of ~~((handicapped))~~ disabled persons as described in WAC 162-26-080, or to provide arranged service as described in WAC 162-26-090.

(4) **When required by law.** It is an unfair practice under RCW 49.60.215:

(a) To deny service to any person because of a barrier to accessibility when accessibility is required by law;

(b) To build or remodel in a way that does not comply with requirements of law on accessibility;

(c) To operate a place of public accommodation that is out of compliance with a law requiring accessibility;

(d) To fail to maintain or fail to continue the accessibility of a place of public accommodation that was required by law to be accessible when it was built, remodeled, or rehabilitated.

(5) **Nonstructural changes.** After January 1, 1983, it is an unfair practice under RCW 49.60.215 for a person who is making nonstructural changes in a place of public accommodation to fail to eliminate barriers to same service when this can be done without substantially changing the scope or cost of the project or requiring structural changes that are not otherwise required by law. Specifically, it is an unfair practice:

(a) When installing a nonstructural fixture or component, to choose and install one that is not accessible to the ~~((handicapped))~~ person with a disability or that makes the place of

public accommodation less accessible to the ((handicapped)) person with a disability.

(b) When replacing a nonstructural fixture or component, to replace it with one that is not accessible to the handicapped or one that makes the place of public accommodation less accessible to the ((handicapped)) person with a disability.

(c) When relocating a nonstructural fixture or component, to relocate it to a place that is not accessible to the ((handicapped)) person with a disability, unless no suitable place is accessible.

(d) When modifying a nonstructural fixture or component, to do so in a way that does not eliminate barriers to the ((handicapped)) person with a disability, when possible.

(6) What is "structural." "Structural" for purposes of RCW 49.60.215 means the load-bearing members and essential structure or composition of a place, as distinguished from its finish, decorations, or fittings. Examples of structural components are floors, walls, stairs, door openings, side-walks, elevators, and escalators. Examples of things that are not structural are moveable walls, bathroom fixtures and partitions, fixtures such as water fountains (whether or not attached to a wall), doors and door hardware, cabinets, counters, handrails, signs (attached or painted), elevator controls, alarm systems, and carpeting or other floor covers.

AMENDATORY SECTION (Amending Order 41, filed 9/22/82)

WAC 162-26-110 Behavior causing risk. (1) **Proviso interpreted.** This section interprets the following proviso of RCW 49.60.215:

"Provided, That behavior or actions constituting a risk to property or other persons can be grounds for refusal and shall not constitute an unfair practice."

(2) **General rule.** It is not an unfair practice under RCW 49.60.215 to deny a person service in a place of public accommodation because that person's behavior or actions constitute a risk to property or other persons. It is not an unfair practice to request that a trained dog guide or service animal be removed because the behavior or actions of that dog guide or service animal constitute an unreasonable risk to property or other persons.

(3) **Individual judgment required.** To come within this exception, the denial of service must be based on knowledge of the present behavior or actions of the individual who is not served. It is an unfair practice to exclude all persons who have a ((handicap)) disability or who have a particular ((handicap)) disability unless the operator of the place of public accommodation can show that all persons with the ((handicap)) disability will present a risk to persons or property.

To come within this exception, the removal of a trained dog guide or service animal must be based on knowledge of the present behavior or actions of the dog guide or service animal. It is an unfair practice to exclude all of the particular dog guides or service animals unless the place of public accommodation can show that all of the particular dog guides or service animals will present an unreasonable risk to property or other persons.

(4) **Likelihood of injury.** Risk to property or other persons must be immediate and likely, not remote or speculative.

(5) **Degree of risk.** Risk of injury to persons may be given more weight than risk of injury to property. Risk of severe injury may be given more weight than risk of slight injury.

(6) **Risk to ((handicapped)) person with a disability or trained dog guide or service animal.** Risk to the ((handicapped)) person with a disability or trained dog guide or service animal is not a reason to deny service. Liability for injury to ((handicapped)) customers with a disability is governed by law other than the law against discrimination. The law against discrimination affects tort liability only insofar as it includes ((handicapped)) persons with a disability within the public for which public accommodations must be made safe.

(7) **Annoyance to staff or other customers.** Annoyance on the part of staff or customers of the place of public accommodation at the abnormal appearance or behavior of a ((handicapped)) person with a disability is not a "risk to property or other persons" justifying nonservice. Annoyance on the part of staff or customers of the place of public accommodation at the presence of the dog guide or service animal is not an unreasonable "risk to property or other persons" justifying the removal of the dog guide or service animal.

(8) **Least discriminatory solution required.** It is an unfair practice to deny a ((handicapped)) person with a disability the enjoyment of an entire place of public accommodation because the person presents a risk of injury when using part of the place. When risk justifies not serving a ((handicapped)) person with a disability in the same way or same place as other customers, the person should be served through reasonable accommodation (WAC 162-26-060, 161-26-080 [162-26-080]) or arranged service (WAC 162-26-060, 162-260-090), if possible. When risk justifies removal of a dog guide or service animal from the place of public accommodation, efforts must be made to reasonably accommodate the person with a disability.

AMENDATORY SECTION (Amending Order 41, filed 9/22/82)

WAC 162-26-120 Failure to meet requirements of other law. (1) **Unfair practice.** It is an unfair practice under RCW 49.60.215 for the operator of a place of public accommodation to refuse or fail to comply with any specific requirement of law for the benefit of ((handicapped)) persons with disabilities applicable to the place of public accommodation.

(2) **All sources of law covered.** This section applies to all requirements imposed by or authorized by any law of the United States, the state of Washington, or any ordinance of a unit of local government within the state of Washington.

(3) **References to selected laws.** Some of the laws to which this section applies are:

(a) Chapter 28A.13 RCW (education for handicapped children);

(b) Sections 503 and 504 of the United States Rehabilitation Act of 1973, 29 U.S.C. §§ 793 and 794, and all regula-

tions of agencies of the United States government issued pursuant to them;

(c) Chapter 70.84 RCW, the "white cane law."

AMENDATORY SECTION (Amending Order 41, filed 9/22/82)

WAC 162-26-130 Use of trained dog guide or service animal. (1) **Coverage of statute.** RCW 49.60.215 requires fair service in a place of public accommodation "regardless of . . . the use of a trained dog guide or service animal by a ((blind or deaf)) disabled person . . ." as well as because of ((handicap)) disability itself.

(2) **Same rules apply.** All of the rules of this chapter with respect to ((handicap)) disability itself apply equally to service of a ((blind or deaf)) person with a disability who is using a trained dog guide or service animal. See particularly WAC 162-26-060 and 162-26-070.

~~((3) Standards of "white cane law" apply. It is an unfair practice under RCW 49.60.215 for the operator of a place of public accommodation to deny any person the following rights set out in the "white cane law," RCW 70.84.030:~~

~~"Every totally or partially blind or hearing impaired person shall have the right to be accompanied by a guide dog in any of the places listed in RCW 70.84.010(3) without being required to pay an extra charge for the guide dog. It shall be unlawful to refuse service to a blind or hearing impaired person in any such place solely because he is accompanied by a guide dog."~~

~~(4) "Dog guide" defined. For purposes of RCW 49.60.215 the term "dog guide" means a trained dog guide used by a blind or deaf person. It has the same meaning as "guide dog" in RCW 70.84.020:~~

~~"... the term 'guide dog' shall mean a dog which is in working harness and is trained or approved by an accredited school engaged in training dogs for the purpose of guiding blind persons or a dog which is trained or approved by an accredited school engaged in training dogs for the purpose of assisting hearing impaired persons."~~

~~(5) Identification of trained dog guide. A trained dog guide used by a blind person is identified by the harness with rigid stirrup for the hand of the guided person that such dogs wear when in service. A trained dog guide used by a deaf person shall be identified by a credential presented by the deaf person on request, or by a tag or other identifying device that is adopted and promulgated so as to become generally known.)~~

AMENDATORY SECTION (Amending Order 43, filed 12/23/82)

WAC 162-26-140 Unfair to request or require waiver of rights. It is an unfair practice for any person to request or require another person to waive rights or hold anyone harmless as a condition of the use or enjoyment of a place of public accommodation by a ((handicapped)) disabled person. It is an unfair practice to request or require another person to waive rights or hold anyone harmless as a condition of the use or

enjoyment of a place of public accommodation by a disabled person using a dog guide or service animal. This section is intended to prohibit waivers on the basis of ((handicap)) disability, but is not intended to preclude waivers required on a nondiscriminatory basis.

AMENDATORY SECTION (Amending WSR 96-13-045, filed 6/13/96, effective 7/14/96)

WAC 162-36-001 Definitions. (1) "Brokerage services" means access to or membership or participation in a multiple-listing service, real estate brokers' organization or other service, organization, or facility relating to the business of selling or renting dwellings;

(2) "Dwelling" means any building, structure or portion thereof that is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land that is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof;

(3) "Families with children status" means one or more individuals who have not attained the age of eighteen years being domiciled with a parent or another person having legal custody of such individual or individuals, or with the designee of such parent or other person having such legal custody, with the written permission of such parent or other person. Families with children status also applies to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of eighteen years;

(4) "Real estate transaction" includes the sale, appraisal, brokering, exchange, purchase, rental, or lease of real property; transacting or applying for a real estate loan; the provision of brokerage services; or the making or purchasing of loans secured by residential real estate;

(5) "Real property" includes buildings, structures, dwellings, real estate, land, tenements, leaseholds, interests in real estate cooperatives, condominiums, and hereditaments, corporeal and incorporeal, or any interest therein;

(6) "Unfair practices on the basis of creed" or "discrimination on the basis of creed" includes, but is not limited to religious discrimination under the federal Fair Housing Amendments Act of 1988.

(7) "'Dog guide' means a dog that is trained for the purpose of guiding blind persons or a dog that is trained for the purpose of assisting hearing impaired persons."

(8) "'Service animal' means an animal that is trained for the purpose of assisting or accommodating a disabled person's sensory, mental, or physical disability."

AMENDATORY SECTION (Amending WSR 96-13-045, filed 6/13/96, effective 7/14/96)

WAC 162-36-005 Discrimination. (1) It is an unfair practice for any person, whether acting for himself, herself, or another, because of sex, marital status, race, creed, color, national origin, families with children status, the presence of any sensory, mental, or physical disability, or the use of a trained ((guide dog or service dog)) dog guide or service animal by a disabled person:

(a) To refuse to engage in a real estate transaction with a person;

(b) To discriminate against a person in the terms, conditions, or privileges of a real estate transaction or in the furnishing of facilities or services in connection therewith;

(c) To refuse to receive or to fail to transmit a bona fide offer to engage in a real estate transaction from a person;

(d) To refuse to negotiate for a real estate transaction with a person;

(e) To represent to a person that real property is not available for inspection, sale, rental, or lease when in fact it is so available, or to fail to bring a property listing to his or her attention, or to refuse to permit the person to inspect real property;

(f) To discriminate in the sale or rental, or to otherwise make unavailable or deny a dwelling, to any person; or to a person residing in or intending to reside in that dwelling after it is sold, rented, or made available; or to any person associated with the person buying or renting;

(g) To make, print, publish, circulate, post, mail, or cause to be so made or published a statement, advertisement, or sign, or to use a form of application for a real estate transaction, or to make a record or inquiry in connection with a prospective real estate transaction, which indicates, directly or indirectly, an intent to make a limitation, specification, or discrimination with respect thereto;

(h) To offer, solicit, accept, use, or retain listing of real property with the understanding that a person may be discriminated against in a real estate transaction or in the furnishing of facilities or services in connection therewith;

(i) To expel a person from occupancy of real property;

(j) To discriminate in the course of negotiating, executing, or financing a real estate transaction whether by mortgage, deed of trust, contract, or other instrument imposing a lien or other security in real property, or in negotiating or executing any item or service related thereto including issuance of title insurance, mortgage insurance, loan guarantee, or other aspect of the transaction. Nothing in this section shall limit the effect of RCW 49.60.176 relating to unfair practices in credit transactions;

(k) To attempt to do any of the unfair practices defined in this chapter or chapter 49.60 RCW.

(2) It is an unfair practice for any person, for profit, to induce or attempt to induce any person to sell or rent any real property by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, creed, color, sex, national origin, families with children status, or with any sensory, mental or physical disability and/or the use of a trained (~~(guide dog or service dog)~~) dog guide or service animal by a disabled person.

(3) It is an unfair practice to insert in a written instrument relating to real property a provision that is void under RCW 49.60.224(1) or to honor or attempt to honor such a provision in the chain of title.

(4) Nothing in this chapter prohibits a person engaged in the business of furnishing appraisals of real property to take into consideration factors other than race, color, creed, national origin, sex, disability, the use of a trained dog guide or service animal by a disabled person, or families with children status.

(5) Nothing in this chapter limits the applicability of any reasonable federal, state or local restrictions regarding the maximum number of occupants permitted to occupy a dwelling.

(6) Nothing in this chapter prohibiting discrimination based on families with children status applies to housing for older persons as defined by the federal Fair Housing Amendments Act of 1988, 42 U.S.C. sec 3607 (b)(1) through (3), as amended by the Housing for Older Persons Act of 1995, P.L. 104-76, as enacted on December 28, 1995.

AMENDATORY SECTION (Amending WSR 96-13-045, filed 6/13/96, effective 7/14/96)

WAC 162-36-010 Soliciting buyers from neighbors of listed house. Some real estate firms have a practice of sending letters, post cards or printed circulars to residents of a neighborhood where they have a home listed for sale in order to obtain referrals of prospective buyers of the home. Such a practice does not necessarily discriminate against persons on the basis of race, creed, color, national origin, sex, marital status, families with children status, the presence of a sensory, mental or physical disability or the use of a trained (~~(guide dog or service dog)~~) dog guide or service animal by a disabled person. However, the practice can have a discriminatory effect, and thereby constitute an unfair practice in a real estate transaction within the meaning of this chapter, where:

(1) It is used only in neighborhoods occupied entirely or predominantly by persons of a single race, creed, color, national origin, sex, marital status, families with children status, have the presence of a sensory, mental or physical disability, or who use a trained (~~(guide dog or service dog)~~) dog guide or service animal as a disabled person, or

(2) Persons of a particular race, creed, color, national origin, sex, marital status, families with children status, have the presence of a sensory, mental or physical disability, or use a trained (~~(guide dog or service dog)~~) dog guide or service animal as a disabled person living in the same neighborhood are not sent solicitations, or

(3) The content or language of the solicitation invites, promotes or perpetuates residential segregation or discrimination on the basis of race, creed, color, national origin, sex, marital status, families with children status, the presence of a sensory, mental or physical disability, or the use of a trained (~~(guide dog or service dog)~~) dog guide or service animal by a disabled person.

AMENDATORY SECTION (Amending WSR 96-13-045, filed 6/13/96, effective 7/14/96)

WAC 162-36-020 Content and language of solicitation. Residential segregation on the basis of race, creed, national origin or other ethnic classification is rooted in the history of this country and fixed in the patterns of thought of many people. The content and language of a solicitation of names of prospective purchasers directed to neighbors of a house listed for sale, must be examined in this context in assessing whether the solicitation constitutes an unfair practice within the meaning of RCW 49.60.222 and WAC 162-

36-010. A solicitation which indicates that the recipient of the solicitation can control the type of persons who will move into the neighborhood by referring appropriate prospective buyers, is likely to be understood as an invitation to discriminate on the basis of race, creed, color, national origin, sex, marital status, families with children status, the presence of a sensory, mental or physical disability, or the use of a trained (~~guide dog or service dog~~) dog guide or service animal by a disabled person. Phrases such as "uphold the standards of the community" (when the "standards" are unspecified) are likely to be understood the same way. Accordingly, it is an unfair practice under RCW 49.60.222 and WAC 162-36-010 for the content or language of a neighborhood solicitation to:

(1) Suggest in any way that the solicitor, buyer or seller has the power to control the type or character of the person or persons to whom the property involved may be sold;

(2) Invite or provoke discriminatory feelings, actions, or responses from the person or persons being solicited;

(3) Make reference to an assumed standard of the community which the solicitor, buyer or seller must or will uphold, unless the particular community standard is identified specifically, and the standard does not have the effect of excluding persons of a particular race, creed, color, national origin, sex, marital status, families with children status, the presence of a sensory, mental or physical disability, or the use of a trained (~~guide dog or service dog~~) dog guide or service animal by a disabled person.

Chapter 162-38 WAC

REAL ESTATE TRANSACTIONS, (~~HANDICAP~~) DISABILITY

DISCRIMINATION

AMENDATORY SECTION (Amending WSR 96-13-045, filed 6/13/96, effective 7/14/96)

WAC 162-38-010 Scope and purpose of chapter. (1) **Confined to unfair practices.** This chapter interprets and implements the disability discrimination coverage provided by the law against discrimination regarding unfair practices in real estate transactions, RCW 49.60.222 through 49.60.340. This chapter applies to the unfair practices which the commission is empowered by RCW 49.60.120(4) to eliminate and prevent through the administrative process provided in RCW 49.60.230 through 49.60.270.

(2) **Principal statutes interpreted.** The statutes principally interpreted in this chapter are RCW 49.60.222 through 49.60.225. This chapter does not define the scope of the civil right to be free from discrimination because of a disability declared in RCW 49.60.030 or interpret other statutes.

(3) **Sources of policy guidance.** In applying and interpreting the provisions of the law against discrimination regarding discrimination in real estate transactions based upon the presence of a sensory, mental or physical disability or the use of a trained (~~guide dog or service dog~~) dog guide

or service animal by a disabled person, the commission is guided by the following:

(a) Legislative policy statements found in RCW 49.60.010, 49.60.030, 70.84.010 and 70.92.100; and

(b) The federal Fair Housing Amendments Act of 1988, 42 U.S.C. 3601, et seq.

(4) **Related statutes and regulations.** Chapter 70.92 RCW (provisions in buildings for aged and disabled persons); chapter 70.84 RCW ("white cane law" for disabled persons); chapter 19.27 RCW (state building code); chapter 162-26 WAC (disability discrimination in public accommodations); chapter 162-22 WAC (disability discrimination in employment); chapter 162-40 WAC (disability discrimination in credit transactions); chapter 162-36 WAC (unfair practices in real estate transactions); and chapter 51-30 WAC (standards for barrier-free facilities).

AMENDATORY SECTION (Amending WSR 96-13-045, filed 6/13/96, effective 7/14/96)

WAC 162-38-040 Definitions. The following words or phrases are used in this chapter in the meaning given, unless the context clearly indicates another meaning.

"Accessible" means usable or understandable by a person who is disabled, with reasonable effort and in reasonable safety.

"Standards for barrier-free facilities" means standards for making building and facilities accessible to physically disabled persons, pursuant to chapter 51-30 WAC and chapter 70.92 RCW. See WAC 162-38-030(2), 162-38-070.

"Disability" is short for "the presence of a sensory, mental or physical disability."

"Landlord" means anyone other than the occupant of real property who attempts to control use of the property under claim of right arising out of an ownership interest in real property by that person or another person for whom that person acts. The term includes owners of rental property, trustees, receivers, persons controlling the common areas used in connection with condominiums, and agents or others acting in the interest of any such persons.

"Rental property" includes real property that is rented or leased, offered for rental or lease, or built or maintained for rental or lease.

"Structural" means the load-bearing members and essential structure or composition of a place, as distinguished from its finish, decorations or fittings. Examples of structural components are floors, walls, stairs, door openings, sidewalks, elevators, and escalators. Examples of things that are not structural are moveable walls, bathroom fixtures and partitions, fixtures such as water fountains (whether or not attached to a wall), doors and door hardware, cabinets, counters, handrails, signs (attached or painted), elevator controls, alarm systems, and carpeting and other floor covers.

"Tenant" is a person who rents or seeks to rent real property.

"Dog guide" means a dog that is trained for the purpose of guiding blind persons or a dog that is trained for the purpose of assisting hearing impaired persons."

"Service animal" means an animal that is trained for the purpose of assisting or accommodating a disabled person's sensory, mental, or physical disability."

AMENDATORY SECTION (Amending WSR 96-13-045, filed 6/13/96, effective 7/14/96)

WAC 162-38-050 Who is protected. (1) **Scope.** RCW 49.60.222 defines practices in connection with real estate transactions that are unfair when done because of "the presence of any sensory, mental, or physical disability, or the use of a trained ~~((guide dog or service dog))~~ dog guide or service animal by a ~~((blind, deaf or physically))~~ disabled person." Nothing in this chapter or in chapter 49.60 RCW, however, prohibits treating disabled persons more favorably in a real estate transaction than persons who are not disabled.

(2) **Presence of disability.** The presence of a sensory, mental, or physical disability includes, but is not limited to, an abnormal condition that:

- (a) Is medically cognizable or diagnosable;
- (b) Exists as a record or history; or
- (c) Is perceived to exist, whether or not it exists in fact.

AMENDATORY SECTION (Amending WSR 96-13-045, filed 6/13/96, effective 7/14/96)

WAC 162-38-060 General rules. (1) **General principles apply.** The unfair practices in real estate transactions as defined in RCW 49.60.222 through 49.60.225 apply to claims of disability discrimination. This chapter deals with special questions as to the application of the law to disability discrimination. Where no special provision is made by the statute, by this chapter, or by exception by the commissioners under WAC 162-06-030, general principles of nondiscrimination apply.

(2) **Statutory rules.** It is an unfair practice for any person to do any of the acts enumerated in RCW 49.60.222 through 49.60.225 because of the presence of a sensory, mental or physical disability or the use of a trained ~~((guide dog or service dog))~~ dog guide or service animal by a disabled person. For purposes of this chapter, an unfair practice in a real estate transaction on the basis of a disability includes discrimination because of a disability of the buyer or renter, a person residing in or intending to reside in that dwelling after it is so sold, rented or made available, or any person associated with that buyer or renter.

AMENDATORY SECTION (Amending Order 41, filed 9/22/82)

WAC 162-38-100 Persons with dog guides or service animals. (1) **Are protected.** RCW 49.60.222 protects ~~((blind or deaf))~~ persons with disabilities from discrimination because of their use of a trained dog guide or service animal the same as it protects them from discrimination directly because of ~~((handicap))~~ disability.

(2) **General rule.** The same rules that apply to the treatment of persons because of ~~((handicap))~~ disability under RCW 49.60.222 and this chapter apply to the treatment of

~~((blind or deaf))~~ persons with disabilities because they use a trained dog guide or service animal.

(3) **Landlord's duty.** It is an unfair practice for a landlord to refuse to rent to a ~~((blind or deaf))~~ person with a disability because the person uses a trained dog guide or service animal. A landlord's no-pet policy cannot be applied to the dog guide or service animal of a ~~((blind or deaf))~~ person with a disability.

(4) **Cleaning or damage deposits not unfair.** It is not an unfair practice for a landlord to enforce on a ~~((blind or deaf))~~ tenant with a disability its standard cleaning or damage deposit for dogs or other animals. It is not an unfair practice for a landlord who otherwise doesn't allow dogs or other animals in the rented property to require a reasonable cleaning or damage deposit for the dog or other animal when renting to a ~~((deaf or blind))~~ person with a disability using a trained dog guide or service animal.

~~((5))~~ **"Dog guide" defined.** For purposes of RCW 49.60.222 the term "dog guide," means a trained dog guide used by a blind or deaf person. It has the same meaning as "guide dog" in RCW 70.84.020:

~~"The term 'guide dog' shall mean a dog which is in working harness and is trained or approved by an accredited school engaged in training dogs for the purpose of guiding blind person or a dog which is trained or approved by an accredited school engaged in training dogs for the purpose of assisting hearing impaired persons."~~

(6) **Identification of trained dog guide.** A trained dog guide used by a blind person is identified by the harness with rigid stirrup for the hand of the guided person that such dogs wear when in service. A trained dog guide used by a deaf person shall be identified by a credential presented by the deaf person on request, or by a tag or other identifying device that is adopted and promulgated so as to become generally known.)

AMENDATORY SECTION (Amending WSR 96-13-045, filed 6/13/96, effective 7/14/96)

WAC 162-38-120 Unfair to request or require waiver of rights. It is an unfair practice for any person as a condition of entering into or continuing a real estate transaction to request or require another person to waive rights or hold anyone harmless because the real property will be occupied by a disabled person or by a person with a disability using a trained dog guide or service animal.

NEW SECTION

WAC 162-38-130 Behavior causing risk. Behavior or actions of a dog guide or service animal that constitutes an unreasonable risk to property or other persons can be grounds to request that a dog guide or service animal be removed, and shall not constitute an unfair practice.

(1) **General rule.** If a reasonable attempt to eliminate the behavior or actions of a dog guide or service animal that constitutes an unreasonable risk to property or other persons fails, it is not an unfair practice under RCW 49.60.222 to request that the dog guide or service animal be removed from a housing unit.

(2) **Individual judgment required.** To come within this exception, the removal of a dog guide or service animal must be based on knowledge of the present behavior or actions of the dog guide or service animal. It is an unfair practice to exclude all of the particular dog guides or service animals unless the property owner can show that all of the particular dog guides or service animals will present an unreasonable risk to persons or property.

(3) **Likelihood of injury.** Risk to property or other persons must be immediate and likely, not remote or speculative.

(4) **Degree of risk.** Risk of injury to persons may be given more weight than risk of injury to property. Risk of severe injury may be given more weight than risk of slight injury.

(5) **Annoyance to staff or other tenants.** Annoyance on the part of staff or other tenants of a rental property at the presence of the dog guide or service animal is not an unreasonable "risk to property or other persons" justifying the removal of the dog guide or service animal.

(6) **Least discriminatory solution required.** When risk justifies the removal of a dog guide or service animal from a rental property, efforts must be made to reasonably accommodate the person with the disability.

WSR 98-08-036

PERMANENT RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed March 24, 1998, 3:15 p.m.]

Date of Adoption: March 24, 1998.

Purpose: The rule imposes a twelve month residency requirement on certain legal immigrants who enter the United States after August 21, 1996, and apply for benefits under the state family assistance program.

Statutory Authority for Adoption: RCW 74.08.090.

Other Authority: RCW 74.08A.100.

Adopted under notice filed as WSR 97-21-106 on October 20, 1997.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 1, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

March 24, 1998

Edith M. Rice, Chief
Office of Legal Affairs

NEW SECTION

WAC 388-220-0050 Special residency requirement for aliens. An alien who physically enters the United States after August 21, 1996, and is otherwise eligible, may receive state family assistance only after an adult caretaker relative or legal guardian in the assistance unit has resided in Washington state for twelve consecutive months. This requirement:

(1) Applies to an alien only once during his or her lifetime; and

(2) Does not apply to a North American Indian born in Canada to whom the provisions of section 289 of the Immigration and Nationality Act apply.

WSR 98-08-037

PERMANENT RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed March 24, 1998, 3:19 p.m.]

Date of Adoption: March 24, 1998.

Purpose: To update the need standard as required by RCW 74.04.200. This information is needed by various public and private organizations to determine eligibility for various programs and services.

Citation of Existing Rules Affected by this Order: Amending WAC 388-250-1250.

Statutory Authority for Adoption: RCW 74.04.050 and 74.08.090.

Other Authority: RCW 74.04.200.

Adopted under notice filed as WSR 98-01-169 on December 22, 1997.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 1, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 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.

March 24, 1998

Edith M. Rice, Chief
Office of Legal Affairs

PERMANENT

AMENDATORY SECTION (Amending WSR 97-01-001, filed 12/5/96, effective 1/5/97)

WAC 388-250-1250 Standards of assistance—Need standards. (1) ~~((Effective September 1, 1996, the department shall determine))~~ The statewide monthly need standard for a household with an obligation to pay shelter ~~((to be))~~ is:

Recipients in Household	Need Standard
1	\$ ((788)) <u>795</u>
2	((996)) <u>1,005</u>
3	((1,233)) <u>1,244</u>
4	((1,450)) <u>1,463</u>
5	((1,670)) <u>1,686</u>
6	((1,896)) <u>1,914</u>
7	((2,190)) <u>2,210</u>
8	((2,424)) <u>2,446</u>
9	((2,662)) <u>2,686</u>
10 or more	((2,893)) <u>2,919</u>

(2) ~~((Effective September 1, 1996, the department shall determine))~~ The statewide monthly need standard for a household with shelter provided at no cost, except as described under WAC 388-250-1200, ~~((to be))~~ is:

Recipients in Household	Need Standard
1	\$ ((481)) <u>478</u>
2	((608)) <u>605</u>
3	((752)) <u>749</u>
4	((884)) <u>880</u>
5	((1,019)) <u>1,014</u>
6	((1,157)) <u>1,152</u>
7	((1,336)) <u>1,330</u>
8	((1,478)) <u>1,472</u>
9	((1,624)) <u>1,617</u>
10 or more	((1,764)) <u>1,757</u>

WSR 98-08-039
PERMANENT RULES
STATE BOARD OF EDUCATION

[Filed March 24, 1998, 3:41 p.m.]

Date of Adoption: March 19, 1998.

Purpose: To make technical corrections to WAC 180-16-002 and repeal WAC 180-16-180.

Citation of Existing Rules Affected by this Order: Repealing WAC 180-16-180; and amending WAC 180-16-002.

Statutory Authority for Adoption: RCW 28A.150.220(4).

Adopted under notice filed as WSR 98-04-088 on February 4, 1998.

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 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, 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 1, Repealed 1.

Effective Date of Rule: Thirty-one days after filing.

March 23, 1998

Larry Davis

Executive Director

AMENDATORY SECTION (Amending WSR 98-01-031, filed 12/8/97, effective 1/8/98)

WAC 180-16-002 Authority. The authority for this chapter is RCW 28A.150.220(4) which ~~((authorizes))~~ requires the state board of education to adopt rules that implement and ensure compliance with the basic program of education requirements of RCW 28A.150.250, 28A.150.260, and 28A.150.220 and such related basic program of education requirements as may be established by the state board of education.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 180-16-180 Vocational-technical institutes, state support of.

WSR 98-08-041
PERMANENT RULES
LIQUOR CONTROL BOARD

[Filed March 25, 1998, 10:35 a.m.]

Date of Adoption: March 4, 1998.

Purpose: Establishing guidelines for spiritous liquor samples.

Statutory Authority for Adoption: RCW 66.08.030.

Adopted under notice filed as WSR 98-02-069 on January 7, 1998.

Changes Other than Editing from Proposed to Adopted Version: Words "per person" removed from item 1 for clarity.

PERMANENT

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 1, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 1, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

March 4, 1998

Nathan S. Ford, Jr.

Chairman

NEW SECTION

WAC 314-64-08001 Procedures for providing spirit samples to authorized retail licensees for the purpose of negotiating a sale: A distiller or their agent may, for the purpose of product promotion, provide without charge single samples to retail licensees authorized to sell spirits and their employees.

1. Samples are limited to 1.7 ounces (50 ml) and no more than one sample of each product may be provided to any one licensed business.
2. All spirit samples must be purchased at retail from the board from existing stocks or by special order.
3. Only products not previously purchased or existing products with a change in alcohol proof or formula may be sampled.
4. Both the retailer and distiller must retain records of sampling for a period of two years. The records shall include the brand and type of sample and the date of sampling.

WSR 98-08-051

PERMANENT RULES

DEPARTMENT OF TRANSPORTATION

[Filed March 27, 1998, 9:30 a.m.]

Date of Adoption: March 25, 1998.

Purpose: WAC 468-300-010, 468-300-020, 468-300-040 and 468-300-220, the primary purpose of this rule making is to generate additional farebox revenue for the Washington state ferries to offset operational cost impacts of inflation and additional services projected over the next several years.

Statutory Authority for Adoption: RCW 47.56.030 and 47.60.326.

Adopted under notice filed as WSR 98-03-050 on January 16, 1998.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 4, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 4, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 4, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

March 25, 1998

Alice B. Tawresey, Chair
Transportation Commission

AMENDATORY SECTION (Amending Orders 79 and 80, filed 2/16/96, effective 3/19/96)

WAC 468-300-010 Ferry passenger tolls.

Effective 03:00 a.m. (~~October 9, 1994~~) May 10, 1998

ROUTES	Full Fare	Half Fare	(Frequent User Ticket Book 20 Rides ¹	Monthly Pass ⁵	Bicycle Surcharge ² @ ⁶
Via Passenger Only Ferry					
*Seattle-Vashon					
*Seattle-Southworth	3.50	1.75	21.00	44.10	N/C
*Seattle-Bremerton					
Via Auto Ferry					
*Fauntleroy-Southworth					
*Seattle-Bremerton					
*Seattle-Winslow	3.50	1.75	21.00	44.10	0.50
*Edmonds-Kingston					

PERMANENT

ROUTES	Full Fare	Half Fare	((Frequent User Ticket Book 20 Rides ¹	Monthly Pass ⁵	Bicycle Surcharge ^{2,6} @
Port-Townsend-Keystone	1.75	0.90	21.00	N/A	0.25
*Fauntleroy-Vashon *Southworth-Vashon *Pt. Defiance-Tahlequah *Mukilteo-Clinton	2.30	1.15	13.70	29.00	0.50
*Anacortes to Lopez Shaw, Orcas or Friday Harbor	4.95	2.50	29.60	N/A	2.75
Between Lopez, Shaw, Orcas and Friday Harbor ⁴	N/C	N/C	N/C	N/A	N/C
<i>International Travel</i>					
Anacortes to Sidney and Sidney to all destinations	6.90	3.45	N/A	N/A	4.50
From Lopez, Shaw, Orcas and Friday Harbor to Sidney [@]	1.75	1.00	N/A	N/A	1.75
Lopez, Shaw, Orcas and Friday Harbor to Sidney (round trip) ³	8.65	4.45	N/A	N/A	6.25))

ROUTES	Full Fare	Half Fare	Frequent User Ticket Book 20 Rides ¹	Monthly Pass ¹	Quarterly Pass ¹	Annual Pass ¹	Bicycle Surcharge ^{2,6}
<u>Via Passenger-Only Ferry</u>							
*Seattle-Vashon							
*Seattle-Bremerton	3.60	1.80	23.50	49.40	148.20	592.80	N/C
<u>Via Auto Ferry</u>							
*Fauntleroy-Southworth							
*Seattle-Bremerton							
*Seattle-Bainbridge Island	3.60	1.80	23.50	49.40	148.20	592.80	0.60
*Edmonds-Kingston							
Port Townsend-Keystone	1.80	0.90	23.50	N/A	N/A	N/A	0.30

PERMANENT

ROUTES	Full Fare	Half Fare	Frequent User Ticket Book 20 Rides ¹	Monthly Pass ²	Quarterly Pass ²	Annual Pass ²	Bicycle Surcharge ^{2,6}
* <u>Fauntleroy-Vashon</u> * <u>Southworth-Vashon</u> * <u>Pt. Defiance-Tablequah</u> * <u>Mukilteo-Clinton</u>	2.40	1.20	15.75	33.10	99.30	397.20	0.60
* <u>Anacortes to Lopez, Shaw, Orcas or Friday Harbor</u>	5.10	2.60	33.25	N/A	N/A	N/A	2.90
<u>Between Lopez, Shaw, Orcas and Friday Harbor⁴</u>	N/C	N/C	N/C	N/A	N/A	N/A	N/C
<i>International Travel</i>							
<u>Anacortes to Sidney and Sidney to all destinations</u>	8.90	4.50	N/A	N/A	N/A	N/A	4.50
<u>From Lopez, Shaw, Orcas and Friday Harbor to Sidney@</u>	4.00	2.00	N/A	N/A	N/A	N/A	1.75
<u>Lopez, Shaw, Orcas and Friday Harbor to Sidney (round trip)³</u>	12.90	6.50	N/A	N/A	N/A	N/A	6.25

@ These fares rounded to the ((nearest)) next multiple of \$.25. All other fares rounded to the next multiple of \$0.10.

* These routes operate as a one-point toll collection system.

¹FREQUENT USER TICKETS - Shall be valid only for 90-days from date of purchase after which time the tickets shall not be accepted for passage.

²BICYCLE SURCHARGE - Is an addition to the appropriate passenger fare.

³ROUND TRIP - Round trip tickets for international travel available for trips beginning or ending on one of the Islands served.

⁴INTER-ISLAND FARES - Passenger fares included in Anacortes tolls.

⁵((MONTHLY PASS)) EMPLOYER PASSES - A monthly passenger pass is available for all routes except: Anacortes/San Juan Island/Sidney and Port Townsend/Keystone, as a pilot program. The pass is available through some local employers. It is a flash pass valid for the month printed on the pass and will be presented to Washington state ferries staff whenever a passenger fare is collected. This pass is based on 21 days of passenger travel with a ((40%)) 35% discount. The quarterly pass is based on 63 days of travel with a 35% discount and the annual pass is based on 252 days with a 35% discount.

⁶BICYCLE PASS - A bicycle pass is available on all routes except: Anacortes/San Juan Island/Sidney as a pilot program for a \$20.00 annual fee subject to meeting WSF specified conditions. The pass

is valid for one year. A cyclist with a valid pass shall have the bicycle surcharge waived.

HALF FARE - Children under five years of age will be carried free when accompanied by parent or guardian. Children five through eleven years of age will be charged half-fare. Children twelve years of age will be charged full-fare.

SENIOR CITIZENS - Passengers age 65 and over, with proper identification establishing proof of age, may travel at half-fare passenger tolls on any route where passenger fares are collected.

PERSONS OF DISABILITY - Any individual who, by reason of illness, injury, congenital malfunction, or other incapacity or disability is unable without special facilities or special planning or design to utilize ferry system services, upon presentation of a WSF Disability Travel Permit, Regional Reduced Fare Permit, or other identification which establishes a disability may travel at half-fare passenger tolls on any route. In addition, those persons with disabilities who require attendant care while traveling on the ferries, and are so certified by their physician, may obtain an endorsement on their WSF Disability Travel Permit and such endorsement shall allow the attendant to travel free as a passenger.

BUS PASSENGERS - Passengers traveling on public transit buses pay the applicable fare. Passengers traveling in private or commercial buses will be charged the half-fare rate.

MEDICARE CARD HOLDERS - Any person holding a Medicare card duly issued to that person pursuant to Title II or Title XVIII of the Social Security Act may travel at half-fare passenger tolls on any route upon presentation of a WSF Disability Travel Permit or a Regional Reduced Fare Permit at time of travel.

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FERRY/TRANSIT PASS - A combination ferry-transit monthly pass may be available for a particular route when determined by Washington state ferries and a local public transit agency to be a viable fare instrument. The WSF portion of the fare is based on 21 days of passenger travel at a 50% discount.

PROMOTIONAL TOLLS - A promotional rate may be established at the discretion of the secretary of transportation for a specific discount (not to exceed 50 percent of full fare) and effective only at designated times on designated routes (not to exceed 100 days per year on any one route).

Special passenger fare rate(s) may be established for a pilot program in conjunction with the Central Puget Sound Regional Fare Integration project on ferry route(s) serving King, Pierce, Snohomish and Kitsap counties. The rate(s) may be established at the discretion of the secretary of transportation for a specific discount not to exceed fifty percent of full fare.

SCHOOL GROUPS - Passengers traveling in authorized school groups for institution-sponsored activities will be charged a flat rate of \$1 per walk-on group or per vehicle of students and/or advisors and staff. Walk-on groups and private vehicles require a letter of authorization. Vehicles and drivers will be charged the fare applicable to vehicle size. The special school rate is \$2 on routes where one-point toll systems are in effect.

AMENDATORY SECTION (Amending Order 82, filed 9/12/96, effective 10/13/96)

WAC 468-300-020 Vehicle under 20', motorcycle, and stowage ferry tolls.

Effective 03:00 a.m. ((October 13, 1996)) May 10, 1998

ROUTES	Under 20' Incl. Driver One-Way	Vehicle- Under 20'- Citizen or Disabled- Driver ⁴	Vehicle- Under 20'- Over Height- Surcharge [†]	Frequent- User Ticket book 20- Rides ²	Motoreycle /Stowage ⁵ - Incl. Driver- Stowage ⁵ - One-Way	((Motoreycle- w/Sr-Citizen- or Disabled- Driver- Stowage ⁵ - One-Way	Frequent- User Ticket book 20- Rides ²
Fauntleroy-Southworth Seattle-Bremerton Seattle-Winslow Port Townsend-Keystone Edmonds-Kingston	5.90	5.05	5.90	94.15	2.60	1.75	41.55
*Fauntleroy-Vashon *Southworth-Vashon *Pt. Defiance-Tahlequah	7.95	6.85	7.95	63.60	3.40	2.25	27.15
Mukilteo-Clinton	4.00	3.40	4.00	63.60	1.70	1.15	27.15
	10 Rides						
*Anacortes-to-Lopez *Shaw-Oreas *Friday Harbor	12.30 14.70 16.80	9.85 12.20 14.35	12.30 14.70 16.80	49.20 58.75 67.20	6.40 6.90 7.30	3.95 4.45 4.85	51.30 55.15 58.55
Between Lopez, Shaw-Oreas and Friday Harbor^{@3}	7.00	7.00	7.00	27.50	2.00	2.00	N/A
<i>International Travel</i>							
Anacortes-to-Sidney and Sidney-to-all destinations	29.70	26.30	29.70	N/A	11.45	8.00	N/A
From Lopez, Shaw, Oreas and Friday Harbor to Sidney[@]	15.00	14.25	15.00	N/A	4.50	3.75	N/A
Lopez, Shaw, Oreas and Friday Harbor to Sidney (round trip)⁶	44.70	40.55	44.70	N/A	15.95	11.75	N/A))

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<u>ROUTES</u>	<u>Vehicle Under 20' Incl. Driver One Way</u>	<u>Vehicle Under 20' w/Sr Citizen or Disabled Driver⁴</u>	<u>Vehicle Under 20' Over Height Charge¹</u>	<u>Frequent User Ticket book 20 Rides²</u>	<u>Motorcycle³ Incl. Driver Stowage⁵ One Way@</u>	<u>Motorcycle w/Sr Citizen or Disabled Driver Stowage⁵ One Way@</u>	<u>Motorcycle Frequent User Ticket book 20 Rides²@</u>
<u>Fauntleroy-Southworth Seattle-Bremerton Seattle-Bainbridge Island Port Townsend-Keystone Edmonds-Kingston</u>	6.25	5.50	6.25	100.00	2.70	1.80	43.20
<u>*Fauntleroy-Vashon *Southworth-Vashon *Pt. Defiance-Tahlequah</u>	8.50	7.50	8.50	68.00	3.80	2.60	30.40
<u>Mukilteo-Clinton</u>	4.25	3.75	4.25	68.00	1.90	1.30	30.40
				<u>10 Rides - 5 Round Trips</u>			
<u>*Anacortes to Lopez</u>	12.75	10.25	12.75	51.00	6.70	4.20	53.60
<u>*Shaw, Orcas</u>	15.25	12.75	15.25	61.00	7.20	4.70	57.60
<u>*Friday Harbor</u>	17.25	14.75	17.25	69.00	7.60	5.10	60.80
<u>Between Lopez, Shaw, Orcas and Friday Harbor³</u>	7.25	7.25	7.25	29.00	2.25	2.25	N/A
<u>International Travel</u>							
<u>Anacortes to Sidney and Sidney to all destinations</u>	24.00	19.75	24.00	N/A	12.00	9.80	N/A
<u>Travelers with advanced reservations (\$15 fee) Anacortes to Sidney and Sidney to all destinations⁷</u>	9.00	4.75	24.00	N/A	N/A	N/A	N/A
<u>From Lopez, Shaw, Orcas and Friday Harbor to Sidney</u>	8.75	7.00	8.75	N/A	5.00	5.00	N/A
<u>Travelers with advanced reservations (\$7 fee) from Lopez, Shaw, Orcas and Friday Harbor to Sidney⁸</u>	1.75	0.00	8.75	N/A	N/A	N/A	N/A

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ROUTES	Vehicle Under 20' Incl. Driver One Way	Vehicle Under 20' w/Sr Citizen or Disabled Driver ⁴	Vehicle Under 20' Over Height Charge ¹	Frequent User Ticket book 20 Rides ²	Motorcycle ⁵ Incl. Driver Stowage ³ One Way@	Motorcycle w/Sr Citizen or Disabled Driver Stowage ³ One Way@	Motorcycle Frequent User Ticket book 20 Rides ² @
	Lopez, Shaw, Orcas and Friday Harbor to Sidney (round trip) ⁶	32.75	26.75	32.75	N/A	17.00	14.80

@ These fares rounded to the ((nearest)) next multiple of \$0.10. All other fares rounded to the next multiple of \$.25.

* These routes operate as a one-point toll collection system.

¹SIZE - All vehicles up to 20' in length and under 7'6" shall pay the vehicle under 20' toll. Vehicles up to 20' but over 7'6" in height shall pay ((a height surcharge)) an overheight charge of 100% of the vehicle full fare. Upon presentation by either the driver or passenger of a WSF Disability Travel Permit, Regional Reduced Fare Permit, or other identification which establishes disability, the height ((surcharge)) charge will be waived for vehicles equipped with wheel chair lift or other mechanism designed to accommodate the person with disability.

²FREQUENT USER TICKETS - Shall be valid only for 90 days from date of purchase after which time the ticket shall not be accepted for passage.

³INTER-ISLAND FARES - Tolls collected westbound only. Vehicles traveling between islands may request a single transfer ticket good for one transfer at an intermediate island. The transfer may only be obtained when purchasing the appropriate vehicle fare for inter-island travel (westbound at Lopez, Shaw, or Orcas) and is free of charge. Transfers shall be valid for 24 hours from time of purchase.

⁴SENIOR CITIZEN, DISABLED DRIVER OR DISABLED ATTENDANT DRIVER - Half fare discount applies to driver portion of the vehicle-driver fare and only when the driver is eligible. Those persons with disabilities who require attendant care while traveling on the ferries, and are so certified by their physician, may obtain an endorsement on their ((WSR)) WSF Disability Travel Permit and such endorsement shall allow the attendant, when driving, to have the driver portion of the vehicle fare waived.

⁵MOTORCYCLES - The motorcycle including driver fare includes motorcycles pulling trailers and motorcycles with side cars.

⁶ROUND TRIP - Round trip tickets for international travel available for trips beginning or ending on one of the islands served.

⁷RESERVATION FARES - These fares apply only to travelers that have made advanced reservations and paid the \$15 nonrefundable reservation fee. The reservation fee shall be a \$30 nonrefundable fee when the peak season surcharge is in effect.

⁸RESERVATION FARES - These fares apply only to travelers that have made advanced reservations and paid the \$7 nonrefundable

reservation fee. The reservation fee shall be a \$15 nonrefundable fee when the peak season surcharge is in effect.

VANPOOLS - A commuter vanpool which carries five or more persons on a regular and expense-sharing basis for the purpose of travel to and from work or school and which is certified as such by a local organization approved by the Washington state ferry system, may purchase for a \$10 fee, a permit valid for one year valid only during the hours shown on the permit. These hours are selectable by the purchaser but shall designate two periods of use each day not to exceed two hours per period. The \$10.00 fee shall include the driver. Remaining passengers shall pay the applicable passenger fare. Except that the minimum total paid for all passengers in the van shall not be less than four times the applicable passenger fare.

STOWAGE - Stowage carry-on items including kayaks, canoes and other items of comparable size which are typically stowed on the vehicle deck of the vessel shall be charged at the motorcycle rate. This rate includes the walk-on passenger carrying on the item to be stowed.

PEAK SEASON SURCHARGE - A ((20%)) 25% surcharge shall be applied ((effective)) to vehicles from the second Sunday in May ((through)) to the second Sunday in October ((to all vehicles)) except those using frequent user tickets. A 65% surcharge shall be applied on fares for international travel to reflect the reduced base fares on these routes.

PENALTY CHARGES - Owner of vehicle without driver will be assessed a \$100.00 penalty charge.

PROMOTIONAL TOLLS - A promotional rate may be established at the discretion of the secretary of transportation for a specified discount (not to exceed 50 percent of full fare) and effective only at designated times on designated routes (not to exceed 100 days per year on any one route).

AMENDATORY SECTION (Amending Order 82, filed 9/12/96, effective 10/13/96)

WAC 468-300-040 Oversize vehicle ferry tolls.

Effective 03:00 a.m. ((October 13, 1996)) May 10, 1998

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((Oversize Vehicle Ferry Tolls[†]
Overall Unit Length—Including Driver

ROUTES	20' To Under 30' incl. Driver	20' To Under 7'6" High	30' To Under 40'	40' To Under 50'	50' To-Under 60'	60' To Under 70'	70' To and Include 80'	Cost Per Ft. Over 80'
	Fauntleroy-Southworth Seattle-Bremerton Seattle-Winslow Port Townsend-Keystone Edmonds-Kingston	8.85	17.70	23.60	29.50	35.40	41.30	47.20
*Fauntleroy-Vashon *Southworth-Vashon *Pt. Defiance-Tahlequah	12.00	24.00	32.00	40.00	48.00	56.00	64.00	0.80
Mukilteo-Clinton	6.00	12.00	16.00	20.00	24.00	28.00	32.00	0.40
*Anacortes to Lopez ² *Shaw, Oreas *Friday Harbor	22.05	44.10	58.80	73.50	88.20	102.90	117.60	1.50
Between Lopez, Shaw, Oreas and Friday Harbor ³ @	10.50	17.50	18.25	19.25	42.00	49.00	56.00	N/A
Oct. 13, 1996		19.25	21.00	23.50	42.00	49.00	56.00	N/A
May 11, 1997		21.00	24.25	28.75	42.00	49.00	56.00	N/A
Oct. 12, 1997		21.00	28.00	35.00	42.00	49.00	56.00	N/A
May 10, 1998								
<i>International Travel</i>								
Anacortes to Sidney and Sidney to all destinations	44.55	89.10	118.80	148.50	178.20	207.90	237.60	2.40
From Lopez, Shaw, Oreas and Friday Harbor to Sidney@	22.50	45.00	60.00	75.00	90.00	105.00	120.00	1.00
Lopez, Shaw, Oreas and Friday Harbor to Sidney (round trip) ⁴	67.05	134.10	178.80	223.50	268.20	312.90	357.60	3.40))

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Oversize Vehicle Ferry Tolls¹
Overall Unit Length - Including Driver

ROUTES	20'	20'	30'	40'	50'	60'	70'	Cost Per
	To	To						
	Under	Under	To	To	To Under	To under	To and	Et. Over
	30'	30'	Under	Under	60'	70'	include	80'
	Under	Over	40'	50'			80'	@
	7'6"	7'6"						
	High	High						
<u>Fauntleroy-Southworth</u> <u>Seattle-Bremerton</u> <u>Seattle-Bainbridge Island</u> <u>Port Townsend-Keystone</u> <u>Edmonds-Kingston</u>	9.50	18.75	25.00	31.25	37.50	43.75	50.00	0.65
<u>*Fauntleroy-Vashon</u> <u>*Southworth-Vashon</u> <u>*Pt. Defiance-Tahlequah</u>	13.00	25.50	34.00	42.50	51.00	59.50	68.00	0.90
<u>Mukilteo-Clinton</u>	6.50	12.75	17.00	21.25	25.50	29.75	34.00	0.45
<u>*Anacortes to Lopez²</u> <u>*Shaw, Orcas</u> <u>*Friday Harbor</u>	23.00	45.75	61.00	76.25	91.50	106.75	122.00	1.50
<u>Between Lopez,</u> <u>Shaw, Orcas and</u> <u>Friday Harbor³</u> <u>May 10, 1998</u>	11.00	21.75	29.00	36.25	43.50	50.75	58.00	N/A
<i>International Travel</i>								
<u>Anacortes to Sidney</u> <u>and Sidney to all destinations</u>	36.00	72.00	96.00	120.00	144.00	168.00	192.00	2.40
<u>Travelers with advanced</u> <u>reservations (\$15 fee)</u> <u>Anacortes to Sidney and</u> <u>Sidney to all destinations³</u>	21.00	57.00	81.00	105.00	129.00	153.00	177.00	2.40
<u>From Lopez, Shaw, Orcas</u> <u>and Friday Harbor to</u> <u>Sidney</u>	13.00	26.25	35.00	43.75	52.50	61.25	70.00	0.90

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Oversize Vehicle Ferry Tolls¹
Overall Unit Length - Including Driver

<u>ROUTES</u>	<u>20'</u>	<u>20'</u>	<u>30'</u>	<u>40'</u>	<u>50'</u>	<u>60'</u>	<u>70'</u>	<u>Cost Per</u>
	<u>To</u>	<u>To</u>						
	<u>Under</u>	<u>Under</u>	<u>To</u>	<u>To</u>	<u>To Under</u>	<u>To under</u>	<u>To and</u>	<u>Ft. Over</u>
	<u>30'</u>	<u>30'</u>	<u>To</u>	<u>To</u>	<u>60'</u>	<u>70'</u>	<u>include</u>	<u>80'</u>
	<u>7'6"</u>	<u>7'6"</u>	<u>Under</u>	<u>Under</u>			<u>80'</u>	<u>@</u>
	<u>High</u>	<u>High</u>	<u>40'</u>	<u>50'</u>				
<u>Travelers with advanced reservations (\$7 fee) from Lopez, Shaw, Orcas and Friday Harbor to Sidney⁴</u>	6.00	19.25	28.00	36.75	45.50	54.25	63.00	0.90
<u>Lopez, Shaw, Orcas and Friday Harbor to Sidney (round trip)⁴</u>	49.25	98.25	131.00	163.75	196.50	229.25	262.00	3.30

@ These fares rounded to the ((nearest) next multiple of \$0.05. All other fares rounded to the next multiple of \$.25.

* These routes operate as a one-point toll collection system.

¹OVERSIZE VEHICLES - Includes all vehicles 20 feet in length and longer regardless of type: Commercial trucks, recreational vehicles, vehicles under 20' pulling trailers, etc. Length shall include vehicle and load to its furthest extension. Overheight charge is included in oversize vehicle toll((,except for 20 to 30 foot category under 7'6" in height)). Vehicles ((which are)) 11 feet in width or wider pay double the fare applicable to their length. Private and commercial passenger buses or other passenger vehicles pay the applicable oversize vehicle tolls. Public transit buses and drivers shall travel free upon display of an annual permit which may be purchased for \$10.

²STOPOVERS - Tolls collected westbound only. Oversize vehicles traveling westbound from Anacortes may purchase a single intermediate stopover ticket for \$2.50 when first purchasing the appropriate vehicle fare. The stopover is valid for a 24-hour period.

³INTER-ISLAND - Tolls collected westbound only. Vehicles traveling between islands may request a single transfer ticket good for one transfer at an intermediate island. The transfer may only be obtained when purchasing the appropriate vehicle fare for interisland travel (westbound at Lopez, Shaw, or Orcas) and is free of charge. Transfers shall be valid for 24 hours from time of purchase.

⁴ROUND TRIP - Round trip tickets for international travel available for trips beginning or ending on one of the islands served.

⁵RESERVATION FARES - These fares apply only to travelers that have made advanced reservations and paid the \$15 nonrefundable reservation fee. The reservation fee shall be a \$30 nonrefundable fee when the peak season surcharge is in effect.

⁶RESERVATION FARES - These fares apply only to travelers that have made advanced reservations and paid the \$7 nonrefundable reservation fee. The reservation fee shall be a \$15 nonrefundable fee when the peak season surcharge is in effect.

PEAK SEASON SURCHARGE - ((A 20% surcharge shall be applied effective the second Sunday in May through the second Sunday in October to all vehicles except those using frequent user tick-

ets-)) A peak season surcharge of 25% shall apply to all oversize vehicles, except for international travel. The senior citizen discount shall apply to the driver of an oversize vehicle. A 65% surcharge shall be applied on fares for international travel to reflect the reduced base fares on these routes.

SENIOR CITIZEN DISCOUNTS - Discounts of 50% for the driver of the above vehicles shall apply. Senior citizen discount is determined by subtracting full-fare passenger rate and adding half-fare passenger rate.

PENALTY CHARGES - Owner of vehicle without driver will be assessed a \$100.00 penalty charge.

DISCOUNT FROM REGULAR TOLL

Oversize vehicles making 12 or more, one-way crossings per week (Sunday thru Saturday) will qualify for a 20% discount from the regular ferry tolls.

EMERGENCY TRIPS DURING NONSERVICE HOURS - While at locations where crew is on duty charge shall be equal to the cost of fuel consumed to make emergency trip. Such trips shall only be offered as a result of official requests from an emergency services agency and only in the case of no reasonable alternative.

BULK NEWSPAPERS - Per 100 lbs. \$2.20 (Shipments exceeding 60,000 lbs. in any month shall be assessed \$1.10 per 100 lbs.)

Daily Newspapers, in bundles, and medical supplies, to be received and delivered without receipt and subject to owner's risk, will be transported between ferry terminals on regular scheduled sailings.

EXPRESS SHIPMENTS - A flat handling charge of \$25.00 per parcel is charged. (Shipments exceeding 100 lbs. assessed \$8.30 for each 25 lbs. or fraction thereof.)

Express shipments will be handled on scheduled sailings when no other means of shipment is available to shipper. Shipments must be of a size and weight that can easily be handled by carrier's employees. Carrier reserves the right to refuse shipment of any item. Carrier assumes no liability for loss or damage to any shipment. Minimum rate for any shipment shall be the rate for 100 pounds.

San Juan inter-island express shipments will be handled at \$5.00 per parcel.

MEDICAL SUPPLIES - A flat handling charge of \$5.00 per shipment is charged.

DISCLAIMER - Under no circumstances does Washington state ferries warrant the availability of ferry service at a given date or

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time; nor does it warrant the availability of space on board a vessel on a given sailing.

WSR 98-08-052

PERMANENT RULES

GAMBLING COMMISSION

[Filed March 27, 1998, 2:02 p.m., effective July 1, 1998]

AMENDATORY SECTION (Amending Order 83, filed 7/22/97, effective 8/22/97)

WAC 468-300-220 Calculation of charter rates for vessels owned by the Washington state ferry system. Pursuant to chapter 323, Laws of 1997, vessels owned by the Washington state ferry system may be made available for charter subject to operational availability. Execution of a charter agreement as set forth in the statute must precede a commitment to charter. The following actual hourly vessel operating costs have been calculated for establishing the rates to be charged for vessel charters from July 27, ((+1997)) 1998, through June 30, ((+1998)) 1999:

Vessel Class	Deck Crew On Overtime	Deck Crew Not On Overtime
Jumbo	((\$987.69) <u>\$966.58</u>)	808.53) <u>788.87</u>
Super	((949.27) <u>931.10</u>)	776.27) <u>759.61</u>
Evergreen	((725.99) <u>716.13</u>)	582.84) <u>574.06</u>
Issaquah	((723.97) <u>712.18</u>)	594.50) <u>583.83</u>
Steel	((602.60) <u>595.11</u>)	489.58) <u>482.75</u>
Rhododendron	((575.60) <u>571.11</u>)	462.58) <u>458.75</u>
Hiyu	((430.27) <u>428.15</u>)	356.31) <u>354.43</u>
Passenger Only	((420.05) <u>416.83</u>)	359.75) <u>356.83</u>

The rate for an individual charter will be calculated by:

(1) Multiplying the actual operating cost set forth above for the vessel that is chartered by the number of hours, or fraction thereof, for which the vessel is chartered;

(2) Adding labor costs, mileage and per diem expenses to determine the total actual costs if the particular charter requires a crew callout; and

(3) Increasing the total actual costs calculated pursuant to subsections (1) and (2) of this section by fifty percent, and rounding to the nearest fifty dollars.

In the case of charters for the transport of hazardous materials, the transporter is required to pay for all legs necessary to complete the charter, even if the vessel is simultaneously engaged in an operational voyage on behalf of the Washington state ferry system.

Date of Adoption: March 13, 1998.

Purpose: Change raffle rules to allow Class C or Class D raffle license holders to offer a single discount scheme for each raffle; ensure that discount schemes have proper internal controls and audit system.

Citation of Existing Rules Affected by this Order: Amending WAC 230-20-325 and 230-20-335.

Statutory Authority for Adoption: RCW 9.46.070 (3), (8), (11), and (14).

Adopted under notice filed as WSR 98-03-068 on January 20, 1998, with a publication date of February 4, 1998.

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: July 1, 1998.

Soojin Kim
Rules and Policy
Coordinator

AMENDATORY SECTION (Amending WSR 96-07-077, filed 3/19/96, effective 7/1/96)

WAC 230-20-335 Members-only raffles—Procedures—Restrictions. Organizations may conduct members-only raffles utilizing simplified procedures. For purposes of this section, "members-only raffle" means a raffle conducted by selling chances only to members of the organization and a limited number of guests, and determining the winners from among those members and guests that have purchased chances. The following procedures and restrictions supplement or modify WAC 230-08-070 and 230-20-325 and apply only to members-only raffles:

(1) In order to conduct raffles utilizing these simplified procedures, all phases of the raffle must be completed during a meeting of the members, and the meeting must be completed on the same day and at the same location without interruption;

(2) If guests are allowed to participate, the total number of guests, as a percentage of the total attendance of the meeting, shall not exceed twenty-five percent. Records shall be

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maintained that will allow commission staff to determine compliance with this requirement;

(3) All disclosures required to be imprinted on a raffle ticket or chance may be provided to participants by posting a sign at each ticket sales point;

(4) Chances to enter a raffle may be included as a part of a package that includes dues, entertainment, or other fund-raising activities if the value of each component of the package is disclosed to the purchaser and the value of each individual raffle chance does not exceed twenty-five dollars: *Provided*, That initial applications for membership and any fees paid for such shall not include chances to enter raffles or to participate in any gambling activities;

(5) The director may authorize an organization to deviate from the "same price" requirements of WAC 230-20-325(5). Approval for such schemes must be in writing and received prior to beginning ticket sale utilizing such sales. Approval of such schemes remain valid until the scheme is modified by the licensee or the approval is revoked by the director. The following pricing schemes may be approved:

(a) Chances to enter a raffle may be sold for different values, ranging from one cent to a maximum of ten dollars, if the following conditions are met:

~~((a))~~ (i) The scheme for assigning the cost of the ticket must be disclosed to the player before selling them a chance to participate. This disclosure shall include the total number of tickets in the population and the number of tickets at each price level;

(ii) Participants must be allowed to randomly select their ticket from the population of remaining tickets. Participants pay the amount imprinted upon the ticket they select:

(iii) The scheme provides an adequate audit trail that will allow commission staff and taxing authorities to determine gross gambling receipts:

(iv) The total gross gambling receipts available from raffles utilizing such schemes are limited to five thousand five dollars each drawing;

(v) No more than two such drawings are conducted during a meeting of the members.

~~(b) ((Participants must be allowed to randomly select their ticket from the population of remaining tickets. Participants pay the amount imprinted upon the ticket they select;~~

~~(c) The scheme provides an adequate audit trail that will allow commission staff and taxing authorities to determine gross gambling receipts;~~

~~(d) The total gross gambling receipts available from raffles utilizing such schemes are limited to five thousand five dollars each drawing;~~

~~(e) No more than two such drawings are conducted during a meeting of the members; and~~

~~(f) Approval must be obtained in writing from the director. Such approval shall be valid until revoked by commission staff;)) Chances may be sold for a discounted price that is based on the number of tickets a player purchases if:~~

(i) Participants are allowed to purchase a single ticket;

(ii) A single discount scheme is allowed for each raffle.

The amount of the discount must be set prior to beginning sales for the raffle and shall not be changed during the raffle;

(iii) The cost of a single ticket, without a discount, does not exceed two dollars;

(iv) The total cost of a discount package does not exceed twenty-five dollars;

(v) The cost of a single ticket shall be imprinted on each ticket (i.e., one dollar a piece or twelve for ten dollars; or two dollars a piece or fifteen for twenty dollars); and

(vi) The licensee shall establish an audit system that includes controls and procedures that will allow commission agents and taxing authorities the ability to determine gross gambling receipts from the sale of tickets utilizing discounts. Such system shall be submitted to the director as a part of the approval request;

(6) The following sales schemes may be used for members-only raffles:

(a) Multiple tickets to enter one or more drawings may be sold as a package as long as the total price of the package does not exceed twenty-five dollars; and

(b) Alternative sales methods may be used if specifically authorized by the commission. This authority will be issued on an individual basis and will require a detailed written request;

(7) Alternative drawing formats approved for members-only raffles shall be valid until revoked by the commission staff, if all the information required by this subsection is reported to the commission at least ten days before any drawing using such schemes. Notification for members-only raffles may be signed by the designated raffle manager;

(8) The limitations on noncash incentive awards for an individual raffle, set forth in WAC 230-20-325 ~~((6))~~ (8)(a) and (c), are modified to allow awards that do not exceed five percent of the combined gross gambling receipts for all raffles conducted during a membership meeting if a record of the name, address, and telephone number is maintained for all persons receiving awards valued in excess of fifty dollars;

(9) Raffle records, as required by WAC 230-08-070, are modified as follows:

(a) The threshold value for maintaining a record of the name, address, and telephone number of each winner of a prize is increased to include only prizes valued in excess of fifty dollars;

(b) Ticket disbursement records are not required; and

(c) Minimum record retention period is reduced to a period that is not less than one year following the date of each individual raffle drawing.

AMENDATORY SECTION (Amending Order 303, filed 11/21/96, effective 12/22/96)

WAC 230-20-325 Manner of conducting a raffle.

What are the general requirements for conducting a raffle?

(1) All raffles, except as otherwise provided in WAC 230-20-335, shall be conducted by selling individual chances for not more than twenty-five dollars and awarding prizes by selecting winners by a random drawing from among all chances sold~~(;)~~. The following operating procedures apply:

(2) All raffle chances shall be consecutively numbered tickets or other objects imprinted with letters or symbols that are not repeated within the population of all chances sold for a specific raffle;

(3) No person shall be required to obtain more than one chance to enter a raffle;

What additional requirements apply to raffles offered to the general public and raffles that do not require the winner to be present at the drawing?

(4) Raffle chances sold to the general public or for raffles that do not require the winner to be present at the drawing shall consist of a ticket that includes a stub or other detachable section bearing a duplicate number, letter, or symbol corresponding to the number, letter, or symbol on the ticket or object representing the player's chance. The portion retained by the raffle operator shall include the participant's name, complete address, telephone number, and/or other information necessary to notify the winner;

What information must be provided to raffle participants and when must such information be provided?

(5) All participants in a raffle must be informed of all rules by which such prizes may be won at the time of sale of a chance. This information shall be provided by either imprinting such on the participant's portion of the ticket or otherwise providing such to each participant in writing. The following information shall be provided to each participant:

- (a) The cost of each chance;
- (b) All prizes available, whether cash or merchandise;
- (c) Date and time of drawing;
- (d) Location of drawing;
- (e) Whether an entrant is required to be present at a raffle drawing in order to be eligible to win a prize; and
- (f) Name of organization conducting raffle;

What are the restrictions on raffle entry fees and ticket prices?

(6) No person shall be required to pay, directly or indirectly, more than twenty-five dollars in order to enter any raffle: *Provided*, That the sale of more than a single ticket to a single participant or the sale of a booklet of tickets under approval of the director, as authorized by subsection (7) of this section, shall not be deemed a violation of this section;

(7) Each raffle ticket must be sold for the same price as every other raffle ticket being used for that particular raffle: *Provided*, That the director may authorize a licensee to sell tickets at a discount if:

(a) A petition for approval for discount sales is received at the Lacey headquarters office at least thirty days prior to beginning the raffle for which such approval is requested. Each petition for approval to sell discounted raffle tickets shall include at least the following:

- (i) A full description of the discount scheme;
- (ii) The accounting controls and records to be used; and
- (iii) A facsimile of the tickets and booklet cover planned for the raffle.

(b) Any licensee requesting approval for this activity shall reimburse the commission for all costs in reviewing and approval of such under the guidelines set forth in WAC 230-08-017;

(c) The organization has a Class E or higher raffle license: *Provided*, That organizations that are licensed to

conduct raffles at Class C or Class D may participate in this activity if all requirements of WAC 230-08-070 are followed;

(d) Participants must be allowed to purchase a single ticket;

(e) A single discount scheme is allowed for each raffle. The amount of the discount must be set prior to beginning sales for the raffle and shall not be changed during any raffle. The following restrictions apply to such discounted tickets:

(i) Discounted tickets must be bundled into booklets that((+)

(i) ~~Contain not more than five tickets;~~

(ii) ~~Are not~~) contain the number of tickets set forth in the scheme (i.e., ten tickets if tickets are sold for two dollars a piece or ten for fifteen dollars, three tickets if tickets are sold for five dollars a piece or three for ten dollars, five tickets if tickets are sold for five dollars a piece or five for twenty dollars, etc.);

(ii) Tickets bundled into booklets shall not be removed from the booklet and sold individually; and

(iii) The booklet cover of each ticket booklet ((is)) shall be imprinted with a description of the sales scheme that includes the number of tickets included and the total cost of the booklet and a control number that meets the requirements of subsection ((+)) (2) of this section((-

(f) ~~The maximum discount for a ticket bundled into a booklet is twenty percent of the single ticket price;~~

(g) ~~The value of each ticket sold, net of the discount, shall be imprinted on the ticket; and~~

(h)); and

(f) Accounting procedures must be established that provide controls necessary to allow commission staff the ability to audit gross gambling receipts from such tickets;

What are the limits on what may be offered as a prize or reward for either selling or purchasing tickets?

(8) No free tickets, or any opportunity to participate in the drawing of any raffle, shall be awarded or given to a person as a prize or reward for selling raffle tickets or for purchasing a certain number of raffle tickets: *Provided*, That noncash incentive awards may be provided to members selling tickets if:

(a) Individual awards do not exceed a fair market value of ten dollars;

(b) The awards are based on the number of chances sold; and

(c) The fair market value of the total amount awarded for an individual raffle does not exceed two percent of the gross gambling receipts of the raffle;

What are the procedures for handling sold tickets?

(9) Each ticket seller shall return to the licensee the stubs or other detachable section of all tickets sold. The licensee shall then place each stub or other detachable section of each ticket sold into a receptacle from which the winning tickets are to be drawn;

What are the procedures for conducting a raffle drawing?

(10) The raffle license issued by the commission or a copy of the license shall be posted in plain view at the loca-

tion at all times during the occasion when a drawing is being conducted.

(11) The ticket collection receptacle shall be designed so that each ticket has an equal opportunity to be drawn: Provided, that an alternative drawing format to determine the winner may be utilized if such format is approved by the director before tickets are sold and the following requirements are complied with:

- (a) The organization must have a current raffle license;
- (b) The alternate format must meet the definition of a drawing as defined by WAC 230-02-500;
- (c) The random selection process used in the alternative format shall be fully disclosed to each player prior to selling a ticket;
- (d) Any alternate format utilized to determine the winners must be closely controlled by the licensee; and
- (e) The written request to utilize an alternative drawing format shall contain, at a minimum, the following information:
 - (i) The time, date and location of the drawing;
 - (ii) The type of random selection process to be used and complete details of its operation;
 - (iii) The name and telephone number of the raffles manager; and
 - (iv) The signature of the organization's chief executive officer.

WSR 98-08-054
PERMANENT RULES
EXECUTIVE ETHICS BOARD

[Filed March 27, 1998, 3:15 p.m.]

Date of Adoption: March 13, 1998.

Purpose: To amend WAC 292-110-010.

Citation of Existing Rules Affected by this Order:
 Amending WAC 292-110-010.

Statutory Authority for Adoption: RCW 42.52.360 (2)(b), 42.52.160(3).

Adopted under notice filed as WSR 97-21-076 on October 17, 1997.

Changes Other than Editing from Proposed to Adopted Version: 1. Adopted version of WAC 292-110-010 combines subsections (3) and (5) to consolidate substantially similar provisions.

2. Adopted WAC 292-110-010 (4)(b) allows a use to support, promote, or solicit for an outside organization or group only in those circumstances when the use is provided for by law or is approved by the agency head or designee.

3. Adopted WAC 292-110-010(3), (4) and (5), incorporates revised examples to clarify the principles that apply under this section.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

March 26, 1998

Margaret A. Grimaldi

Executive Secretary

AMENDATORY SECTION (Amending WSR 96-01-036, filed 12/13/95, effective 1/13/96)

WAC 292-110-010 Use of state resources. (1) ~~((No state officer or state employee may use state resources including any person, money, or property under the officer's or employee's official control or direction or in his or her custody for private benefit or gain of the officer or employee or any other person; PROVIDED, that this prohibition does not apply to the use of public resources to benefit another person as part of the officer's or employee's official duties.~~

(2) ~~Under circumstances described in sections three and four of this rule, a state officer or employee may make occasional but limited use of state resources for his or her private benefit if there is no actual cost to the state or the cost to the state is de minimis. The cost to the state is de minimis if the actual expenditure of state funds is so small as to be insignificant or negligible.)~~ State officers and state employees are obligated to conserve and protect state resources for the benefit of the public interest, rather than their private interests. When use of state resources supports organizational effectiveness, is reasonable and of negligible cost, and does not violate an ethics law or this rule, such use would not undermine public trust and confidence. Responsibility and accountability for the appropriate use of state resources ultimately rests with the individual state officer and state employee, or with the state officer or state employee who authorizes such use.

(2) State officers or state employees may not use state resources including any person, money, or property under the officer's or employee's official control or direction or in his or her custody for private benefit or gain of the officer or employee or any other person. This prohibition does not apply to the use of public resources to benefit another person as part of the officer's or employee's official duties.

(3) ~~Notwithstanding the prohibition in ((section one of this rule)) subsection (2) of this section,~~ a state officer or employee may make occasional but limited use of state resources ~~((for his or her private benefit,))~~ only if:

(a) There is no cost to the state; and

(b) The use of state resources does not interfere with the performance of the officer's or employee's official duties;

(c) The use is brief in duration and does not disrupt or distract from the conduct of state business due to volume or frequency; and

(d) The use does not compromise the security or integrity of state information or software:

(e) An agency may authorize a use that promotes organizational effectiveness or enhances the job-related skills of a state officer or state employee.

Example 1: An employee makes a local telephone call or sends an e-mail communication to his home ((every afternoon on his break)) to make sure his children have arrived home safely from school. This is not an ethical violation. There is no cost to the state, and ((since the call takes place on the employee's break)) because either the call or the e-mail is brief in duration, it ((will)) does not interfere with the performance of ((the employee's)) official duties.

Example 2: An employee ((operates an outside business. Everyday she makes or receives five to ten business calls on her state telephone. All of the calls are local calls)) uses her agency computer to send electronic mail to another employee regarding the agenda for an agency meeting that both will attend. She also wishes the other employee a happy birthday. This is not an ethical violation. ((Although there is no cost to the state, making and receiving private calls throughout the day interferes with the performance of the employee's official duties because she is conducting private business during working hours.)) The personal message is de minimis and improves organizational effectiveness by allowing informal communication among employees.

Example 3: ((An employee posts a notice to sell a used car on the office bulletin board. The notice gives his home telephone number for those interested in inquiring about the car. This is not an ethical violation. There is no cost to the state and posting the notice will not interfere with the performance of his official duties since those who want to inquire about the car can call the employee at home.

Example 4: Once a year, during a two week period, an employee sells candy bars to support a youth soccer team. She leaves the candy bars in the break room and employees may buy the bars on their breaks. This is not an ethical violation. There is no cost to the state and since the transactions are conducted during breaks the activity does not interfere with the performance of her official duties.

Example 5: Every spring a group of employees meet at lunch time to organize an agency softball team. The meeting is held in a conference room that is not needed for agency business during the lunch hour. This is not an ethical violation. There is no cost to the state and since the meeting takes place during the lunch hour it does not interfere with the performance of the employees' official duties.

~~(4) Notwithstanding the prohibition in section one of this rule, a state officer or employee may make occasional use of state resources for his or her private benefit, if:~~

~~(a) The cost to the state is de minimis;~~

~~(b) The use of state resources does not interfere with the performance of the officer's or employee's official duties; and~~

~~(c) The agency finds that there is some benefit to the public in addition to the private benefit to the officer or employee; a public benefit under this rule may be direct or indirect, such as improving employee morale or activities that improve the work-related job skills of an officer or employee.~~

Example 6: An employee is taking a night school class and after working hours uses her computer to do her homework. She prints her homework using the office printer and her own paper. The agency has determined that the class will enhance the employee's job skills. This is not an ethical violation. The use of the office computer and printer will result in some cost to the state. However, the cost is negligible and the employee is using her own paper. Since the class will enhance the employee's job skills there is a public benefit and, since the activity takes place after working hours it will not interfere with the performance of the employee's official duties.

Example 7: After working hours an employee uses the office computer and printer to compose and print reports for his private business using his own paper. This is an ethical violation. The use of the office computer and printer will result in some cost to the state. Although the cost is negligible, there is no public benefit to the state from the employee's conducting his private business. Every spring a group of employees meets during lunch to organize an agency softball team. The meeting is held in a conference room that is not needed for agency business during the lunch hour. This is not an ethical violation. There is no cost to the state and the meeting does not interfere with the performance of official duties because it is during a lunch hour.

Example 4: An agency determines that an evening class will enhance the job skills of an employee, and allows the employee to use her office computer to do homework. The employee prints her homework using the office printer and her own paper. This is not an ethical violation. The use of the office computer and printer will result in some cost to the state, but the cost is negligible and the employee is using her own paper. Because the class will enhance the employee's job skills, the effectiveness of the organization is improved. Since the activity takes place after working hours, it will not interfere with the performance of the employee's official duties.

(4) Occasional and limited use of state resources does not include the following private uses of state resources:

(a) Any use for the purpose of conducting an outside business;

(b) A use for the purpose of supporting, promoting, or soliciting for an outside organization or group unless provided for by law or authorized by an agency head or designee;

(c) Any campaign or political use;

(d) Commercial uses such as advertising or selling; or

(e) An illegal activity.

Example 5: An employee operates an outside business. Everyday she makes or receives five to ten business calls on her state telephone. All of the calls are local calls. This is an ethical violation. The employee is conducting a private business on state time, which is a cost to the state.

Example 6: After working hours, an employee uses the office computer and printer to prepare client billings for a private business using his own paper. This is an ethical violation. Although use of the office computer and printer may result in a negligible cost to the state, conducting a private business is an inappropriate use of state resources.

Example 7: An employee is active in a local PTA organization that holds fund-raising events to send children to the nation's capital. Although a parental contribution is expected, the more a parent raises, the less his or her contribution. An employee uses agency e-mail to solicit contributions for her child. This is an ethical violation. The employee is using state resources to further a private interest and to promote an outside organization.

(5) Use of state resources pursuant to ~~((sections three and four of this rule))~~ subsections (3) and (4) of this section subject to the following qualifications and limitations:

(a) A state officer or employee may not use state resources for the purpose of assisting a campaign for election of a person to an office or for the promotion of or opposition to a ballot proposition. Such a use of state resources is not authorized by this rule and is specifically prohibited by RCW 42.52.180, subject to the exceptions in RCW 42.52.180(2).

(b) A state officer or employee may not make private use of any state property which has been removed from state facilities or other official duty stations, even if there is no cost to the state.

(c) A state officer or employee may not make private use of any state property which is consumable such as paper, envelopes or spare parts, even if the actual cost to the state is de minimis.

(d) A state officer or employee may use computers and electronic mail provided such use conforms to ethical standards under section three of this rule, and the prohibitions contained in section four.

(e) A state officer or employee may not make private use of state computers or other equipment to access computer networks or other data bases including, but not limited to, electronic mail and electronic bulletin boards for personal use unrelated to an official business purpose.

Example 8: Agency equipment includes a video tape player. One night an employee takes the machine home to watch videos of her family vaca-

tion. This is an ethical violation. Although there is no cost to the state an employee may not make private use of state equipment removed from state facilities or other official duty station.

Example 9: An employee is assigned to do temporary work in another city away from his or her usual duty station. To perform ~~((his))~~ official duties the employee takes an ~~((office))~~ agency laptop computer ~~((which he has checked out for this purpose from the agency. The agency has previously approved the employee's use of the computer to do homework for a class that will enhance his job skills after working hours))~~. While away, the employee ~~((is on this temporary duty assignment he))~~ uses the ~~((laptop))~~ computer to do ~~((his homework after working hours))~~ tax work for a private client. This is ~~((not))~~ an ethical violation. ~~((The use of the computer for homework in this situation is not an ethical violation (Example 7).))~~ Although ~~((the))~~ it is permissible for an employee ~~((has removed his))~~ to use the laptop ~~((computer from the state facility its use is permissible because he is using it))~~ at a temporary ~~((official))~~ duty station(-

~~((e))~~ A state officer or employee may not make private use of any state property which is consumable such as paper, envelopes or spare parts, even if the actual cost to the state is de minimis.

~~((d))~~ A state officer or employee may not make private use of state computers or other equipment to access computer networks or other databases including, but not limited to, electronic mail and electronic bulletin boards for personal use unrelated to an official business purpose.

~~Example 10: An employee uses her agency computer to send electronic mail to another employee regarding the agenda for an agency meeting that both will attend. She also wishes the other employee a happy birthday. This is not an ethical violation. Although there is personal communication in the message, the message was sent for an official business purpose.~~

~~Example 11: Two employees use their agency computers to play a game of chess via electronic mail. This is an ethical violation because this use of electronic mail to play chess is not an official business purpose), it is not permissible for the employee to perform work related to his or her outside business on the laptop.~~

~~Example 10: An employee routinely uses the Internet to manage her personal investment portfolio and communicate information to her broker. This is an ethical violation. Use of the Internet is limited to official state business, and there is a cost to the state for the employee's time while he or she conducts personal business.~~

~~((e))~~ (6) In general, a state officer or employee may not make private use of state resources and then reimburse the

agency so there is no actual cost to the state. However, the board recognizes that in some limited situations, such as officers or employees working at remote locations, a system of reimbursement may be appropriate. Any system of reimbursement must be established by the agency in advance and must result in no cost to the state. To be valid under this rule a reimbursement system must be approved by the board.

~~(((6) State agencies are encouraged to adopt policies applying these principles to their unique circumstances. Nothing in this rule is intended to limit the ability of an agency to adopt policies that are more restrictive. However, violation of a more restrictive agency policy will not constitute a violation of RCW 42.52.160 but would constitute a violation of agency policy.))~~ (7) Electronic mail, facsimile transmissions, and voice mail are technologies that may create an electronic record. This is what separates these from other forms of communication such as a telephone conversation. An electronic record is reproducible and is therefore not private. Such records may be subject to disclosure under the public disclosure law, or may be disclosed for audit or legitimate state operational or management purposes.

(8) State agencies are encouraged to adopt policies applying these principles to their unique circumstances. Nothing in this rule is intended to limit the ability of an agency to adopt policies that are more restrictive. However, violation of a more restrictive agency policy by itself will not constitute a violation of RCW 42.52.160, it would constitute a violation of agency policy.

WSR 98-08-058

PERMANENT RULES

DEPARTMENT OF ECOLOGY

[Order 97-46—Filed March 30, 1998, 1:35 p.m.]

Date of Adoption: March 24, 1998.

Purpose: Coadopt with the Forest Practices Board rules that will provide a consistent regulatory and management process for special management areas of the Columbia Gorge National Scenic Area for both state and federal jurisdictions.

Citation of Existing Rules Affected by this Order: Amending chapter 173-202 WAC.

Statutory Authority for Adoption: RCW 90.48.420, 76.09.040, and chapter 34.05 RCW.

Adopted under notice filed as WSR 98-03-071 on January 21, 1998.

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.

March 24, 1998

Tom Fitzsimmons
Director

AMENDATORY SECTION (Amending Order 97-41, filed 3/10/98, effective 4/10/98)

WAC 173-202-020 Certain WAC sections adopted by reference. The following sections of the Washington Administrative Code existing on ~~((December 3, 1997))~~ March 13, 1998, are hereby adopted by reference as part of this chapter in all respects as though the sections were set forth herein in full:

WAC 222-08-035—Continuing review of forest practices regulations.

WAC 222-12-010—Authority.

WAC 222-12-040—Alternate plans.

WAC 222-12-045—Adaptive management.

WAC 222-12-046—Cumulative effect

WAC 222-12-070—Enforcement policy.

WAC 222-12-090—Forest practices board manual.

WAC 222-16-010—General definitions.

WAC 222-16-030—Water typing system.

WAC 222-16-035—Wetland typing system.

WAC 222-16-050 (1)(a), (1)(e), (1)(h), (1)(i), (3)(b), (3)(c), (3)(d), (3)(e), (3)(f), (3)(n), (3)(o), (3)(p), (4)(c), (4)(d), (4)(e), (5)(b), (5)(c), (5)(d), (5)(e), (5)(f), (5)(h), (5)(n)—Classes of forest practices.

WAC 222-16-070—Pesticide uses with the potential for a substantial impact on the environment.

WAC 222-22-010—Policy.

WAC 222-22-020—Watershed administrative units.

WAC 222-22-030—Qualification of watershed resource analysts, specialists, and field managers.

WAC 222-22-040—Watershed prioritization.

WAC 222-22-050—Level 1 watershed resource assessment.

WAC 222-22-060—Level 2 watershed resource assessment.

WAC 222-22-070—Prescription recommendation.

WAC 222-22-080—Approval of watershed analysis.

WAC 222-22-090—Use and review of watershed analysis.

WAC 222-22-100—Application review prior to watershed analysis.

WAC 222-24-010—Policy.

WAC 222-24-020 (2), (3), (4), (6)—Road location.

WAC 222-24-025 (2), (5), (6), (7), (8), (9), (10)—Road design.

WAC 222-24-030 (2), (4), (5), (6), (7), (8), (9)—Road construction.

WAC 222-24-035 (1), (2)(c), (2)(d), (2)(e), (2)(f)—Landing location and construction.

- WAC 222-24-040 (1), (2), (3), (4)—Water crossing structures.
- WAC 222-24-050—Road maintenance.
- WAC 222-24-060 (1), (2), (3), (6)—Rock quarries, gravel pits, borrow pits, and spoil disposal areas.
- WAC 222-30-010—Policy—Timber harvesting.
- WAC 222-30-020 (2), (3), (4), (5), (7)(a), (7)(e), (7)(f), (8)(c)—Harvest unit planning and design.
- WAC 222-30-025—Green-up: Even-aged harvest size and timing.
- WAC 222-30-030—Stream bank integrity.
- WAC 222-30-040—Shade requirements to maintain stream temperature.
- WAC 222-30-050 (1), (2), (3)—Felling and bucking.
- WAC 222-30-060 (1), (2), (3), (5)(c)—Cable yarding.
- WAC 222-30-070 (1), (2), (3), (4), (5), (7), (8), (9)—Tractor and wheeled skidding systems.
- WAC 222-30-080 (1), (2)—Landing cleanup.
- WAC 222-30-100 (1)(a), (1)(c), (4), (5)—Slash disposal.
- WAC 222-34-040—Site preparation and rehabilitation.
- WAC 222-38-010—Policy—Forest chemicals.
- WAC 222-38-020—Handling, storage, and application of pesticides.
- WAC 222-38-030—Handling, storage, and application of fertilizers.
- WAC 222-38-040—Handling, storage, and application of other forest chemicals.

WSR 98-08-062**PERMANENT RULES****DEPARTMENT OF ECOLOGY**

[Order 97-15—Filed March 30, 1998, 3:10 p.m.]

Date of Adoption: March 28, 1998.

Purpose: To ensure that any new water right permits for diversions or withdrawals from the Columbia River are conditioned with adequate instream flow protection requirements.

Citation of Existing Rules Affected by this Order: Repealing WAC 173-563-015 Withdrawal of unappropriated waters; and amending WAC 173-563-020(4) and 173-531A-060.

Statutory Authority for Adoption: Chapter 90.54 RCW, WAC 173-563-090, ESHB 1110 (1997).

Adopted under notice filed as WSR 97-22-084 on November 4, 1997.

Changes Other than Editing from Proposed to Adopted Version: The amendments have been rewritten for improved clarity and local officials have been added to the entities with whom ecology will consult when evaluating water right applications.

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 2, Repealed 1.

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.

March 28, 1998

Tom Fitzsimmons

Director

AMENDATORY SECTION (Amending Orders DE 82-35 and DE 82-35A, filed 10/7/82 and 10/8/82)

WAC 173-563-020 Applicability. (1) This chapter applies to public surface waters of the main stem Columbia River in Washington state and to any ground water the withdrawal of which is determined by the department of ecology to have a significant and direct impact on the surface waters of the main stem Columbia River.

The extent of the "main stem" Columbia River shall be the Columbia River from the upstream extent of tidal influence (Bonneville Dam-River Mile 146.1) upstream to the United States-Canada border (River Mile 745) and including those areas inundated by impounded waters at full pool elevations.

(2) Chapter 173-500 WAC, the general rules of the department of ecology for the implementation of the comprehensive water resources program mandated by RCW 90.54.040, applies to this chapter.

(3) Nothing in this chapter shall affect existing water rights, riparian, appropriative, or otherwise, existing on the effective date of this chapter, including existing rights relating to the operation of any navigation, hydroelectric, or water storage reservoir, or related facilities. This exemption includes rights embodied in all water right permits and certificates existing on the effective date of this chapter.

(4) ~~((Water right permits and certificates for domestic/municipal water supplies issued subsequent to the effective date of this rule shall not be subject to the provisions of this chapter.))~~ The instream flows established and implemented by this chapter for instream and out-of-stream uses, and the average weekly flows applied by this chapter to out-of-stream uses do not apply to any application for water from the main stem Columbia River on which a decision is made by the department of ecology on or after July 27, 1997. Any water right application considered for approval or denial after that date will be evaluated for possible impacts on fish and existing water rights. The department will consult with appropriate local, state, and federal agencies and Indian tribes in making this evaluation. Any permit which is then approved for the use of such waters will be, if deemed necessary, subjected to instream flow protection or mitigation con-

ditions determined on a case-by-case basis through the evaluation conducted with the agencies and tribes.

(5) Waters withdrawn by the United States pursuant to RCW 90.40.030 prior to the effective date of this rule relating to the second half of the Columbia basin project, and water right permits and certificates hereafter issued by the department of ecology pertaining to such withdrawn waters, are not subject to the provisions of this chapter.

(6) For the purposes of this chapter, average weekly flows shall be the average of the daily average flows reported in the Columbia River operational hydromet and management system (CROHMS) for a seven-day period beginning at 12:01 a.m. Monday and ending at midnight on Sunday. When the beginning of the seven-day period defined in this section does not correspond to the dates on which flows are established in WAC 173-563-040, the flow requirements for that week shall be the arithmetic average of the required flows listed in WAC 173-563-040 for each of the seven days, rounded to the nearest 1,000 cfs.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 173-563-015	Withdrawal of unappropriated waters.
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AMENDATORY SECTION (Amending Order DE 80-19, filed 6/24/80)

WAC 173-531A-060 Permit conditions. All permits issued for waters reserved under WAC 173-531A-040 or 173-531A-050 after the effective date of this chapter and prior to July 27, 1997, shall be subject to the provisions of chapter 173-563 WAC - instream resources protection program for the main stem ((of the)) Columbia River in Washington state. Any application for waters reserved under WAC 173-531A-040 or 173-531A-050 which is considered for approval or denial after July 27, 1997, will be evaluated for possible impacts on fish and existing water rights. The department will consult with appropriate local, state, and federal agencies and Indian tribes in making this evaluation. Any permit which is then approved for the use of such waters will be, if deemed necessary, subjected to instream flow protection or mitigation conditions determined on a case-by-case basis through the evaluation conducted with the agencies and tribes.

WSR 98-08-063
PERMANENT RULES
LOTTERY COMMISSION
[Filed March 30, 1998, 3:28 p.m.]

Date of Adoption: March 27, 1998.

Purpose: Amends WAC 315-34-055 to extend the payment period for Lotto jackpot winners.

Citation of Existing Rules Affected by this Order:
Amending WAC 315-34-055.

Statutory Authority for Adoption: RCW 67.70.040.

Adopted under notice filed as WSR 98-05-070 on February 17, 1998.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

March 30, 1998

Mary Jane Ferguson
Rules Coordinator

AMENDATORY SECTION (Amending WSR 97-24-076, filed 12/2/97, effective 1/2/98)

WAC 315-34-055 Lotto prize claim and payment methods. The following sets forth requirements for claims and payment of Lotto prizes:

(1) Claims for prize payment shall be made in accordance with WAC 315-30-030(6).

(2) Prize payments shall be made as follows:

(a) **Annuity:** A player who elects their prize to be paid annually shall be paid as follows:

(i) If the player's share of the announced jackpot prize is \$500,000 or more, the player shall be paid in ((twenty)) twenty-five annual installment payments.

(ii) If the player's share of the announced jackpot prize is less than \$500,000, the director shall have the discretion of paying the winner as follows:

(A) The present cash value of the jackpot prize share based on the cost to purchase a ((twenty-year)) twenty-five-year annuity: *Provided*, That the present cash value is equal to or greater than fifty percent of their share of the announced jackpot;

(B) If the present cash value of the player's share of the announced jackpot is less than fifty percent of their share of the announced jackpot, then the player shall receive a one-time single cash payment of fifty percent of their share of the announced jackpot; or

(C) The player shall be paid in ((twenty)) twenty-five annual installment payments.

(b) **Cash option:** A player who elects the cash option shall be paid as follows:

(i) The player shall receive a one-time single cash payment of fifty percent of their share of the announced jackpot; or

(ii) If the director exercises his or her discretion as set forth in (a)(ii)(A) or (B) of this subsection, a player who elects the cash option will receive the same amount as those who have chosen to receive an annuity.

WSR 98-08-067
PERMANENT RULES
LOTTERY COMMISSION
[Filed March 30, 1998, 3:41 p.m.]

Date of Adoption: March 20, 1998.

Purpose: Amends chapter 315-02 WAC to correct outdated information. Amends chapter 315-10 WAC to streamline the process for producing instant game rules and allow the lottery to produce new games more efficiently.

Citation of Existing Rules Affected by this Order: Amending chapters 315-02 and 315-10 WAC.

Statutory Authority for Adoption: RCW 67.70.040.

Adopted under notice filed as WSR 98-04-073 on February 4, 1998.

Changes Other than Editing from Proposed to Adopted Version: To WAC 315-02-080, added that the director may select a designee to sign rule-making orders (CR-103s).

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 12, 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.

March 27, 1998

Mary Jane Ferguson
Rules Coordinator

AMENDATORY SECTION (Amending Order 3, filed 10/15/82)

WAC 315-02-030 Address of commission. Unless specifically provided elsewhere in these rules, submission of materials or requests for notice or information of any kind, may be made by addressing correspondence to: Washington State Lottery Commission, P.O. Box ((9770)) 43000, Olympia, Washington 98504-3000.

AMENDATORY SECTION (Amending Order 3, filed 10/15/82)

WAC 315-02-040 Commission activities exempt from Environmental Protection Act. The commission has reviewed its authorized activities and has found them to be exempt pursuant to WAC ((197-10-040(2), 197-10-150 through 197-10-190 and the State Environmental Policy Act, chapter 43.21 RCW)) 197-11-800.

AMENDATORY SECTION (Amending Order 3, filed 10/15/82)

WAC 315-02-060 Address of the office of the director. Unless specifically provided elsewhere in these rules, submission of materials or requests for notice or information of any kind, may be made by addressing correspondence to: Office of the Director, Washington State Lottery, P.O. Box ((9770)) 43000, Olympia, Washington 98504-3000.

AMENDATORY SECTION (Amending Order 3, filed 10/15/82)

WAC 315-02-070 Office of the director activities exempt from Environmental Protection Act. The director has reviewed his or her authorized activities and has found them to be exempt pursuant to WAC ((197-10-040(2), 197-10-150 through 197-10-190 and the State Environmental Policy Act, chapter 43.21 RCW)) 197-11-800.

AMENDATORY SECTION (Amending Order 83, filed 12/16/85)

WAC 315-02-080 Filing of adopted rules. The commission hereby authorizes each of the following to act as an agent of the commission for the purpose of signing Form ((CR-8)) CR-103 promulgated by the code reviser for the purpose of filing adopted rules:

- (1) Each member of the commission;
- (2) Director or designee;
- (3) Deputy director.

AMENDATORY SECTION (Amending WSR 89-21-029, filed 10/10/89, effective 11/10/89)

WAC 315-02-220 Ticket defined. "Ticket" means a lottery ticket or share issued by the director for sale to the general public or for use in authorized ((media promotions)) promotional events and activities and authorized retailer incentive programs.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 315-02-170	Lottery defined.
WAC 315-02-180	Person defined.

AMENDATORY SECTION (Amending WSR 97-04-047, filed 1/31/97, effective 3/3/97)

WAC 315-10-010 Instant games—Authorized—Director's authority. It is the commission's intent to provide the director broad authority in carrying out the following duties:

(1) The commission hereby authorizes the director to select, operate, and contract relating to and for the operation of instant games meeting the criteria set forth in this chapter.

(2) The director shall establish final instant game specifications, including the determination of winning tickets, in executed working papers. The director shall keep executed working papers on file at the headquarters office location and make them available for public review during normal business hours.

(3) The director or designee shall inform commission members of instant game development.

AMENDATORY SECTION (Amending WSR 97-04-047, filed 1/31/97, effective 3/3/97)

WAC 315-10-020 Definitions. (1) Ticket. The ticket purchased for participation in an instant game and any ticket used in media promotions and retailer incentive programs authorized by the director for an instant game.

(2) Instant game. A game in which a ticket is purchased and upon removal of a latex covering on the front of the ticket, the ticket bearer determines his or her winnings, if any.

(3) Ticket bearer. The person who has signed the ticket or has possession of the unsigned ticket.

(4) Play symbols. The numbers or symbols appearing in the designated areas under the removable covering on the front of the ticket. Play symbols were formerly called play numbers. Both terms shall have the same meaning.

(5) Your(s). The ticket bearer's play area or areas (for example, "your hand(s)," "your card(s)," or "your roll(s)").

(6) Their(s). The opponent's play area or areas (for example, "their card(s)," or "their roll(s)").

(7) Validation number. The multi-digit number found on the ticket and on any ticket stub. There must be a validation number on the ticket or any stub.

~~((6))~~ (8) Working papers. The documents providing production and winning ticket specifications for each instant ticket game. Executed working papers (including amendments, if any) are signed and dated by the lottery director.

(9) Scratch game. Instant game as defined in subsection (1) of this section.

NEW SECTION

WAC 315-10-023 What are the prizes available for instant games? Prizes available are as set forth on the instant game ticket. Prizes may range from one dollar up to and including one million dollars. Prizes may also include Win for Life prizes. Win for Life prizes will be paid in accordance with WAC 315-06-120(14) and may include prizes exceeding one million dollars.

NEW SECTION

WAC 315-10-024 What are the methods of selecting winning tickets? (1) Methods for selecting winning tickets shall be as set forth on the instant game ticket and in the executed working papers on file at lottery headquarters in Olympia, Washington. Methods for selecting winning tickets include:

(a) Higher number. Your (the player's) number is greater than their number.

(b) Match one or more. Match your play symbols to the winning play symbol(s).

(c) Bonus play. Uncover a bonus symbol to win a bonus prize instantly.

(d) Match two or more consecutive. Match two or more consecutive "Game Cards" within a game to the "Draw Cards" to win the corresponding amount shown on the ticket.

(e) Match two or more. Match two or more "Game Cards" within a game to the "Draw Cards" to win the corresponding amount shown on the legend on the ticket.

(f) Three like cards. Get three like cards with one hand to win the corresponding amount shown on the ticket.

(g) Grand prize drawing. Uncover a bonus symbol that qualifies you to enter a grand prize drawing or submit one or more nonwinning tickets to enter a grand prize drawing.

(h) Match symbols. Uncover a specified number of identical play symbols on a play area.

(i) Add up "yours." Add up the play symbols designated as "yours" and the total is greater than or equal to the symbol or symbols designated as "theirs."

(j) Add up. Add up the play symbols and the amount is greater than or equal to the designated symbols on the ticket.

(k) Tic tac toe. Uncover three identical play symbols, in a row, column, or diagonal, on a 9 symbol grid on the play area.

(l) Sequence. Uncover the designated play symbols in the specified sequential order.

(m) Spellout. Uncover the play symbols to form the designated word or words.

(n) In between. Uncover the play symbol or symbols designated as "yours" with a value less than the play symbol or symbols designated as "their high card" and greater than the play symbol or symbols designated as "their low card."

(2) Each of the methods described in subsection (1) of this section may include a special variant such as "automatic win feature," "doubler," "wild card," or "free space" that provides added or alternative methods of winning.

AMENDATORY SECTION (Amending WSR 97-04-047, filed 1/31/97, effective 3/3/97)

WAC 315-10-025 How much does it cost to purchase an instant game ticket? The price of an instant game ticket shall not be less than \$1.00 and not more than ~~(\$5.00)~~ \$20.00, except for those tickets used in media promotions and retailer incentive programs authorized by the director.

AMENDATORY SECTION (Amending WSR 97-04-047, filed 1/31/97, effective 3/3/97)

WAC 315-10-030 Instant games criteria. (1) The total of all prizes available to be won in an instant game shall not be less than forty-five percent of the instant game's projected revenue.

~~(2) ((The instant game shall pay out both lower tier prizes and higher tier prizes. Lower tier prizes are of \$25.00 or less. Higher tier prizes are of more than \$25.00. The director shall determine the number of lower and higher tier prizes.~~

~~(3))~~ There is no required frequency of drawing or method of selection of a winner in an instant game.

~~((4))~~ (3) At the director's discretion, an instant game may include a grand prize drawing(s). The criteria for the grand prize drawing shall be as follows:

(a) Finalists for a grand prize drawing shall be selected in an elimination drawing(s) from redeemed tickets meeting the criteria stated ~~((in specific game rules as determined by))~~ on the ticket and in executed working papers on file at lottery headquarters or stated in lottery promotional materials, at the discretion of the director. Participation in the elimination drawing(s) shall be limited to such tickets which are actually received and validated by the director on or before a date to be announced by the director. The director may reserve the right to place any semi-finalist whose entry was not entered in the elimination drawing(s) and who is subsequently determined to have been entitled to such entry into an elimination drawing of a subsequent instant game, and the determination of the director shall be final.

(b) The number of prizes and the amount of each prize in the grand prize drawing(s) shall be determined by the director to correspond with the size and length of the instant game and to comply with subsection (1) of this section.

(c) The dates and times as well as the procedures for conducting the elimination drawing and grand prize drawing shall be determined by the director.

WSR 98-08-068
PERMANENT RULES
STATE BOARD OF EDUCATION

[Filed March 30, 1998, 3:45 p.m.]

Date of Adoption: March 19, 1998.

Purpose: The amendment to this rule made it possible for educational staff associates to obtain exchange permits in addition to teachers and principals.

Citation of Existing Rules Affected by this Order: Amending WAC 180-79A-220.

Statutory Authority for Adoption: RCW 28A.410.010.

Adopted under notice filed as WSR 98-04-089 on February 4, 1998.

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.

March 30, 1998

Larry Davis

Executive Director

AMENDATORY SECTION (Amending WSR 97-04-088, filed 2/5/97, effective 3/8/97)

WAC 180-79A-220 Teacher ~~((and)), principal, and educational staff associate~~ exchange permits. Teacher ~~((and)), principal, and educational staff associate~~ exchange permits may be issued by the superintendent of public instruction to an individual admitted to the United States for the purpose of serving as an exchange teacher ~~((or)), principal, or educational staff associate.~~ Such teacher ~~((or)), principal, or educational staff associate~~ exchange permits shall be valid for one year and may be renewed once.

WSR 98-08-069

PERMANENT RULES

PUBLIC DISCLOSURE COMMISSION

[Filed March 30, 1998, 4:14 p.m., effective May 1, 1998]

Date of Adoption: March 24, 1998.

Purpose: Initiative 134 requires the Public Disclosure Commission, at the beginning of each even-numbered year, to increase or decrease dollar amounts found therein, based on changes in economic conditions, as reflected by an inflationary index recommended by the Office of Financial Management.

Citation of Existing Rules Affected by this Order: Amending WAC 390-05-400.

Statutory Authority for Adoption: RCW 42.17.690.

Adopted under notice filed as WSR 98-05-107 on February 18, 1998.

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.

PERMANENT

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: May 1, 1998.

March 31 [30], 1998

Melissa Warheit

Executive Director

AMENDATORY SECTION (Amending WSR 96-04-021, filed 1/30/96)

WAC 390-05-400 Changes in dollar amounts. Pursuant to the requirement in RCW 42.17.690 that the commission biennially revise the dollar amounts found in Initiative 134 to reflect changes in economic conditions, the following revisions are made:

Code Section	Subject Matter	Amount Enacted or Last Revised	((1996)) 1998 Revision
.020	Definition of Independent Expenditure	((\$500) \$550)	((\$550) \$575)
.125	Reimbursement of candidate for loan to own campaign	((\$3,000) \$3,500)	\$3,500
.180(1)	Report— Applicability of provisions to Persons who made contributions	((\$10,000) \$11,000)	((\$11,000) \$11,500)
	Persons who made independent expenditures	((\$500) \$550)	((\$550) \$575)
.640(1)	Contribution Limits— Candidates for state leg. office	((\$500) \$550)	((\$550) \$575)
	Candidates for other state office	((\$1,000) \$1,100)	((\$1,100) \$1,150)
.640(2)	Contribution Limits— State official up for recall or pol comm. supporting recall— State Legislative Office	((\$500) \$550)	((\$550) \$575)
	Other State Office	((\$1,000) \$1,100)	((\$1,100) \$1,150)
.640(3)	Contribution Limits— Contributions made by political parties and caucus committees		
	State parties and caucus committees	((.50) .55 per voter)	((.55) .58 per voter)
	County and leg. district parties	((.25) .28 per voter)	((.28) .29 per voter)
	Limit for all county and leg. district parties to a candidate	((.25) .28 per voter)	((.28) .29 per voter)
.640(4)	Contribution Limits— Contributions made by pol. parties and caucus committees to state official up for recall or committee supporting recall		
	State parties and caucuses	((.50) .55 per voter)	((.55) .58 per voter)
	County and leg. district parties	((.25) .28 per voter)	((.28) .29 per voter)
	Limit for all county and leg. district parties to state official up for recall or pol. comm. supporting recall	((.25) .28 per voter)	((.28) .29 per voter)
.640((5)) (6)	Limits on contributions to political parties and caucus committees		
	To caucus committee	((\$500) \$550)	((\$550) \$575)
	To political party	((\$2,500) \$2,750)	((\$2,750) \$2,875)

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Code Section	Subject Matter	Amount Enacted or Last Revised	((1996)) 1998 Revision
.740	Contribution must be made by written instrument	(((\$50)) \$55	\$55

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 98-08-070
PERMANENT RULES
DEPARTMENT OF LICENSING
 [Filed March 30, 1998, 4:35 p.m.]

Purpose: (1) Clarify the requirements to register snowmobiles in a variety of situations; and (2) to meet the criteria set forth in Governor Locke's Executive Order 97-02.

Citation of Existing Rules Affected by this Order: Repealing WAC 308-94-040, 308-94-070, 308-94-090, and 308-94-110; and amending WAC 308-94-030, 308-94-050, 308-94-080, and 308-94-100.

Statutory Authority for Adoption: RCW 46.01.110.

Adopted under notice filed as WSR 98-04-072 on February 3, 1998.

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 4, Repealed 4.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 4, Repealed 4; 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.

March 30, 1998

Evelyn P. Yenson
Director

AMENDATORY SECTION (Amending WSR 96-04-004, filed 1/25/96, effective 2/25/96)

WAC 308-94-030 (~~Application for registration~~)
Snowmobile registration application—Registration year.
 ((An application for registration of a snowmobile shall include:

- (1) ~~Name and address, and department assigned customer account number upon request, of each registered and legal owner(s);~~
- (2) ~~Make and model year of snowmobile;~~

~~(3) Method of propulsion, including but not limited to skis, tracks, wheels or combination thereof;~~

~~(4) Purchase price and year of purchase or declared value and year of declaration;~~

~~(5) Proof of payment of sales tax or a bill of sale establishing the price paid for the vehicle;~~

~~(6) The previously issued registration certificate or a duplicate thereof, or a bill of sale if the application is for the transfer of a registered snowmobile. If the snowmobile has not been previously registered in this state, a bill of sale or a purchase agreement shall be provided;~~

~~(7) Vehicle identification number; and~~

~~(8) Appropriate fees.)) (1) An application for an original or transfer registration of a snowmobile shall include:~~

(a) The name and address, and department assigned customer account number upon request, of each registered owner(s); and

(b) The make, vehicle identification number, model year, and method of propulsion of the snowmobile; and

(c) The purchase price and year of purchase or declared value and year of declaration; and

(d) Proof of payment of sales tax, satisfactory proof that sales or use tax is not due as established by the department of revenue, or the payment of use tax; and

(e) A copy of any of the following:

(i) Previously issued registration certificate;

(ii) Certificate of ownership;

(iii) Manufacturer's certificate of origin;

(iv) A bill of sale;

(v) A purchase agreement; or

(vi) Other department approved documentation; and

(f) A notarized or certified release of interest from owner(s) of record or certificate of fact explaining how the snowmobile was acquired; and

(g) Appropriate fees.

(2) Security interests shall be recorded with the Uniform Commercial Code Section of the department, and shall not be recorded on the snowmobile registration.

(3) The registration year for snowmobiles shall be October 1 through September 30 of the following year. Regardless of the date acquired, there is no abatement of the snowmobile registration fee.

AMENDATORY SECTION (Amending Order TL/RG 29, filed 1/16/87)

WAC 308-94-050 Snowmobile registration (~~certificate~~), ~~decals and validating tabs—Display.~~ ((The)) (1) A snowmobile registration certificate ((must)) shall be:

(a) Carried in the snowmobile(;) for which it was issued; or ((en))

(b) Carried on the person of the snowmobile operator; and ((must))

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(c) Be made available for inspection by any person having the authority to enforce the provisions of the snowmobile act.

(2) Snowmobile decals showing the registration number shall be:

(a) Affixed to the right and left sides or on the front and rear of the snowmobile; and

(b) Located so that snow, passenger, driver or load will not obscure them.

(3) Month tabs shall be located no more than two inches from the front of the decals showing the registration number. Validating year tabs shall be located no more than two inches from the last digit of the decals showing the registration number.

AMENDATORY SECTION (Amending WSR 92-15-021, filed 7/6/92, effective 8/6/92)

WAC 308-94-080 Nonresident temporary snowmobile permit. An application for a nonresident temporary permit shall include:

(1) Name and address of the applicant;
(2) Plate or registration number and expiration date, if registered in another jurisdiction;

(3) Make ~~((and year of vehicle;~~
(4) ~~Vehicle identification number;~~
(5) ~~Method of propulsion, including but not limited to skis, tracks, wheels, or combination thereof;~~

(6) ~~Appropriate fees; and~~
(7) ~~Expiration date of the foreign registration if registered in another jurisdiction)), vehicle identification number, model year, and method of propulsion of the snowmobile; and~~

(4) Appropriate fees.

AMENDATORY SECTION (Amending Order TL/RG 29, filed 1/16/87)

WAC 308-94-100 Snowmobile dealer ~~((permit)) license, license plates, costs, rented snowmobiles.~~ ~~((The snowmobile dealer permit will be effective for one calendar year, except for the initial staggered dealer permit period when the director will assign staggered renewal dates. If a dealer purchases snowmobile dealer plates, they must be used for testing or demonstrating a snowmobile. A dealer may not test or demonstrate a snowmobile without either a valid registration or a valid dealer plate.))~~ Snowmobile dealer licenses shall be effective for one year from the date of issue.

(1) A dealer may not test or demonstrate a snowmobile without either a valid Washington snowmobile registration or a valid snowmobile dealer license plate.

(2) A snowmobile dealer shall pay three dollars and fifty cents plus the fifty cent reflectorization fee for each dealer plate ordered from the department.

(3) Snowmobile dealer license plates may be used only for testing or demonstrating a snowmobile and shall be displayed on the snowmobile so that snow, passenger, driver or load will not obscure the license plate.

(4) Snowmobile dealer license plates shall not be used on rented snowmobiles.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 308-94-040	Snowmobile registration year.
WAC 308-94-070	Display of snowmobile registration number, decals and validation tabs.
WAC 308-94-090	Rented snowmobiles.
WAC 308-94-110	Snowmobile dealer plates—Cost.

WSR 98-08-077

PERMANENT RULES

DEPARTMENT OF SOCIAL AND HEALTH SERVICES

(Medical Assistance Administration)

[Filed March 31, 1998, 3:52 p.m., effective April 1, 1998]

Date of Adoption: March 31, 1998.

Purpose: This rule was proposed with chapter 388-79 WAC, and is being adopted separately because the federal standards for the community spouse needs allowance and shelter allocation must be in place by April 1, 1998. This rule sets fees allowable for a guardianship to charge a department client, and adopts the federal standards for community spouse needs allowance and for shelter allocation.

Citation of Existing Rules Affected by this Order: Amending WAC 388-513-1380.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.057, 74.08.090, 74.09.500.

Other Authority: RCW 43.20B.460, 11.92.180, and Section 1924 (42 USC 396r-5).

Adopted under notice filed as WSR 98-03-085 on January 21, 1998 and WSR 98-05-053 on February 13, 1998.

Changes Other than Editing from Proposed to Adopted Version: The new guardianship fee provisions (that will be adopted in chapter 388-79 WAC) will be implemented for MAA clients on June 15, 1998, rather than March 15, 1998.

A community spouse's needs allowance standard is raised from \$1,327 to \$1,358 to implement new federal standards.

The standard shelter allocation is raised from \$399 to \$408 to implement new federal standards.

The rule has been rewritten to improve understanding and readability.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 1, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: RCW 34.05.380 (3)(a) applies to this rule because federal law requires an April 1, 1998, implementation date.

Effective Date of Rule: April 1, 1998.

March 31, 1998

Edith M. Rice, Chief
Office of Legal Affairs

AMENDATORY SECTION (Amending WSR 97-16-008, filed 7/24/97, effective 7/24/97)

WAC 388-513-1380 Institutional—Participation—Client share of monthly institutional payments. This section describes the allocations which can be deducted from the institutional client's income and excess resources in order to determine the amount available for the client's participation in the cost of care.

(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) The client's excess resources are available to meet the cost of care after the following ((allocations)) deductions in this order:~~

(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)) (2) The ((department shall not use)) allocations used to reduce excess resources under subsection ((2)) (1) of this section cannot be used to reduce income under subsection ((4)) (3) 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))~~

(3) The client's nonexempt income is available to meet the cost of care after the following deductions in this order:

(a) ~~((Specified)) Deductions described in subsection (3)(a) may not total more than the one-person medically needy income level (MNIL):~~

(i) A personal needs allowance (PNA) as follows:
~~((+)) (A) One hundred sixty dollars for a veteran living in a Medicaid-certified state veteran's home nursing facility;
~~((+)) (B) Ninety dollars for a single veteran, or widow or widower of a veteran receiving an improved veteran's pension; or~~~~

~~((+)) (C) Forty-one dollars and sixty-two cents for all other clients in a medical ((institutions)) facility.~~

~~((b)) (ii) Federal, state, or local income taxes:~~

~~((+)) (A) Mandatorily withheld from earned or unearned income for income tax purposes before receipt by the client; or~~

~~((+)) (B) 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:~~

~~(e)) Wages ((not to exceed the one-person medically needy income level (MNIL) less the client's personal needs allowance)) for a client who:~~

~~((+)) (A) Is SSI-related; and~~

~~((+)) (B) 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) The total amounts deducted under subsection (4) (a), (b), and (c) of this section shall not exceed the one-person MNIL.~~

~~(e)) are not deducted.~~

~~(iv) Guardianship fees and administrative costs including any attorney fees paid by the guardian, after June 15, 1998, only as allowed by chapter 388-79 WAC.~~

(b) A monthly needs allowance for the community spouse not to exceed, effective January 1, ~~((1997, one thousand nine hundred seventy-six)) 1998, two thousand nineteen dollars, unless specified in subsection ~~((6)) (5)~~ 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 three hundred ~~((twenty-seven)) fifty-eight dollars;~~~~

(ii) Excess shelter expenses as specified under subsection ~~((5)) (4)~~ of this section; and

(iii) Allowed only to the extent the client's income ((of the institutionalized spouse)) is made available to the community spouse.

~~((f) An amount for the))~~

(c) A monthly maintenance needs ((ef)) amount for each dependent ((family member)) or minor child, dependent parent or dependent sibling:

(i) Residing with the community spouse((-and
~~((+))~~, equal to one-third of the amount that one thousand three hundred ~~((twenty-seven)) fifty-eight 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) Not residing with the community spouse, equal to the ~~((medically needy income level))~~ MNIL for the number of ~~((legal dependents))~~ family members in the home less the income of the ~~((dependents))~~ family members.

~~((h) Amounts for))~~ (d) 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, deductions, and coinsurance ~~((, or deductible charges))~~ amounts; and

(ii) Necessary medical care recognized under state law, but not covered under Medicaid.

~~((i))~~ (e) Maintenance of the home of a single person or institutionalized couple:

(i) Up to one hundred 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 documents initial need for the income exemption and reviews the person's circumstances after ninety days.

~~((5))~~ (4) For the purposes of this section, ~~((the department shall))~~ "excess shelter expenses" equal the actual expenses under subsection (4)(a) of this section less the standard shelter allocation under subsection (4)(b) of this section:

(a) ~~((Determine))~~ Shelter expenses ~~((to be))~~ are 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 utility 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))~~ is four hundred ~~((ninety-nine))~~ eight dollars, effective April 1, 1997.

~~((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))~~ (5) The ~~((department shall determine the))~~ amount the institutional spouse may allocate ~~((s))~~ to the community spouse may ~~((only))~~ be greater than the amount in subsection ~~((4)(e)(i))~~ (3)(b) of this section only when:

(a) A court enters an order against the institutionalized client for the ~~((community spouse))~~ support of the community spouse; or

(b) A hearing 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))~~ (6) 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))~~ (a) Stay in the institution or facility is not expected to exceed three months; and

~~((ii) SSI-related))~~ (b) The client(s) plans to return to former living arrangements.

~~((b) The department shall not consider the SSI payment when computing the client's participation amount.~~

~~((9) The department shall not consider income from reparation payments made by the Federal Republic of Germany when computing the client's participation amount.)~~

WSR 98-08-096

PERMANENT RULES

SUPERINTENDENT OF PUBLIC INSTRUCTION

[Order 98-06—Filed April 1, 1998, 10:28 a.m.]

Date of Adoption: April 1, 1998.

Purpose: To implement changes in school district levy authority and local effort assistance calculations as required by chapter 259, Laws of 1997.

Citation of Existing Rules Affected by this Order: Repealing WAC 392-139-120, 392-139-122, 392-139-126, 392-139-128, 392-139-129, 392-139-130, 392-139-132, 392-139-134, 392-139-150, 392-139-152, 392-139-154, 392-139-156, 392-139-158, 392-139-160, 392-139-162, 392-139-164, 392-139-168, 392-139-170, 392-139-172, 392-139-174, 392-139-176, 392-139-178, 392-139-180, 392-139-182, 392-139-184, 392-139-186, 392-139-611, 392-139-616, 392-139-621, 392-139-626, 392-139-680, 392-139-681, 392-139-685, 392-139-690, and 392-139-691.

Statutory Authority for Adoption: RCW 84.52.0531(a) and 28A.150.290(2).

Adopted under notice filed as WSR 98-05-040 on February 11, 1998.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 3, Amended 9, 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 35.

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 1, 1998

Dr. Terry Bergeson
Superintendent of
Public Instruction

PERMANENT

AMENDATORY SECTION (Amending Order 93-20, filed 10/20/93, effective 11/20/93)

WAC 392-139-007 Organization of this chapter. This chapter contains rules for excess levy authority and state matching money for excess levies also known as local effort assistance. The general organization of the chapter is as follows:

Sections 001-099 General provisions and definitions.
Sections 100-299 Definitions for excess levy authority.
Sections 300-399 Determination of excess levy authority.

Sections 600-649 Definitions for local effort assistance.
Sections 660-679 Determination of local effort assistance for ~~((1993, 1996))~~ 1998 and thereafter.

~~((Sections 680-699 Determination of local effort assistance for 1994 and 1995-))~~

Sections 900-999 Notification, petitions and requests for review.

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

WAC 392-139-215 Definition—P-223H. As used in this chapter, "P-223H" means the form printed by the superintendent of public instruction and distributed annually to all school districts for reporting of ~~((handicapped))~~ special education students pursuant to chapter 28A.155 RCW.

AMENDATORY SECTION (Amending Order 96-13, filed 9/11/96, effective 10/12/96)

WAC 392-139-310 Determination of excess levy base. The superintendent of public instruction shall calculate each school district's excess levy base as provided in this section. Levy base adjustments pursuant to WAC 392-139-901 shall be included in revenues shown in this section.

(1) Sum the following state and federal allocations for the prior school year:

(a) The basic education allocation as defined in WAC 392-139-115 and as reported on the August Report 1191;

(b) The state and federal categorical allocations for the following:

(i) Pupil transportation. Allocations for pupil transportation include allocations for the following accounts:

4199 Transportation - operations; and
4499 Transportation ~~((reimbursement))~~ - depreciation.

(ii) Special education. Allocations for special education include allocations for the following accounts:

4121 Special education ~~((of children))~~; and
6124 Special education supplemental ~~((, EHA, Part B;~~

and

~~6127 Special education deinstitutionalized))~~.

(iii) Education of highly capable students. Allocations for education of highly capable students include allocations identified by account 4174 Highly capable.

(iv) Compensatory education. Allocations for compensatory education include allocations identified by the following accounts:

4155 Learning assistance;

4165 Transitional bilingual;
6151 Remediation ~~((, ESEA, Chapter 1))~~;
6153 Migrant ~~((, ESEA, Chapter 1))~~;
6164 Bilingual ~~((, P.L. 93-380 (SPB))~~ Title VII Part A;
6167 Indian education ~~((;))~~ - JOM;
6264 Bilingual ~~((, P.L. 93-380))~~ (direct); and
6268 Indian education ~~((;))~~ - ED.

(v) Food services. Allocations for food services include allocations identified by the following accounts:

4198 School food services (state);
6198 School food services (federal); and
6998 USDA commodities.

(vi) State-wide block grant programs. Allocations for state-wide block grant programs include allocations identified by the following accounts:

4175 Local education program enhancement (including student learning improvement allocations); and
6176 ~~((ESEA, Chapter 2))~~ Targeted assistance.

(c) General federal programs. Allocations for general federal programs identified by the following accounts:

5200 General purpose direct federal grants ~~((;))~~ - unassigned;

6100 Special purpose ~~((;))~~ - OSPI ~~((;))~~ - unassigned;

6138 Secondary vocational education;

6146 Skills center;

6177 ~~((Mathematics and science))~~ Eisenhower professional development;

6200 Direct special purpose grants; and

6246 Skills center ~~((;))~~ - direct federal grant.

(2) Increase the result obtained in subsection (1) of this section by the percentage increase per full-time equivalent student in the state basic education appropriation between the prior school year and the current school year as stated in the state Operating Appropriations Act divided by 0.55.

(3) Revenue accounts referenced in this section are ~~((from))~~ defined in the accounting manual for public school districts in the state of Washington, revised ~~((1996))~~ 1997.

(4) The dollar amount of revenues for state and federal categorical allocations identified in this section shall come from the following sources:

(a) The following state and federal categorical allocations are taken from the Report 1197 Column A (Annual Allotment Due):

4121 Special education;

4155 Learning assistance;

4165 Transitional bilingual;

4174 Highly capable;

4175 Local education program enhancement;

4198 School food services (state);

4199 Transportation - operations;

4499 Transportation ~~((reimbursement))~~ - depreciation;

6124 Special education - supplemental;

~~((6127 Special education deinstitutionalized;))~~

6138 Secondary vocational education;

6146 Skills center;

6151 Remediation ~~((, ESEA, Chapter 1))~~;

6153 Migrant ~~((, ESEA, Chapter 1))~~;

6176 ~~((ESEA, Chapter 2))~~ Targeted assistance;

6177 ~~((Mathematics and science))~~ Eisenhower professional development; and

6198 School food services (federal).

(b) The following state and federal allocations are taken from the F-195:

5200 General purpose direct federal grants(~~(:)~~)_unasigned;

6100 Special purpose(~~(, SPI,))~~_OSPI_unassigned;

6164 Bilingual(~~(, P.L. 93-380 (SPI))~~)_Title VII Part A;

6167 Indian education(~~(:)~~)_JOM;

6200 Direct special purpose grants;

6246 Skills center(~~(:)~~)_direct federal grant;

6264 Bilingual(~~(, P.L. 93-380))~~ (direct);

6268 Indian education(~~(:)~~)_ED; and

6998 USDA commodities.

(5) State moneys generated by a school district's students and redirected by the superintendent of public instruction to an educational service district at the request of the school district shall be included in the district's levy base.

(6) State basic education moneys generated by a school district's students and allocated directly to a technical college shall be included in the district's levy base.

AMENDATORY SECTION (Amending Order 96-13, filed 9/11/96, effective 10/12/96)

WAC 392-139-320 Determination of maximum excess levy percentage. (1) For (~~(1994, 1995, 1996 and 1997)~~) 1998, each school district's maximum excess levy percentage equals the district's 1993 excess levy percentage plus (~~(four)~~) two percent (e.g., 21.5% plus (~~(4%)~~) 2% equals (~~(25.5%)~~) 23.5%).

(2) For (~~(1993, 1998)~~) 1999 and thereafter, the superintendent of public instruction shall calculate each school district's maximum excess levy percentage as the greater of twenty-~~four~~ percent or the percentage calculated as follows:

(a) Multiply the district's excess levy base determined pursuant to WAC 392-139-310 by:

(i) For (~~(1993,)~~) 1999 (~~(and thereafter)~~), the school district's 1993 maximum excess levy percentage (~~(for the prior calendar year)~~) plus four percent (e.g., 21.5% plus 4% equals 25.5%);

(ii) For (~~(1998)~~) 2000 and thereafter, the school district's maximum levy percentage for (~~(1993)~~) the prior calendar year;

(b) Subtract from the result obtained in (a) of this subsection the school district's levy reduction funds for the year of the levy; and

(c) Divide the result obtained in (b) of this subsection by the school district's excess levy base.

AMENDATORY SECTION (Amending Order 93-20, filed 10/20/93, effective 11/20/93)

WAC 392-139-620 Definition—Eligible school district—(~~(1993, 1996)~~) 1998 and thereafter. As used in this chapter, "eligible school district" for (~~(1993, 1996)~~) 1998 and thereafter means a school district whose ten percent levy rate exceeds the state-wide average ten percent levy rate.

NEW SECTION

WAC 392-139-622 Definition—Districts eligible for ten percent equalization—1999 and thereafter. As used in this chapter, "districts eligible for ten percent equalization" in 1999 and thereafter means school districts with a ten percent levy rate that exceeds the state-wide average ten percent levy rate but that is not in the top quartile of district ten percent levy rates ranked from highest to lowest.

NEW SECTION

WAC 392-139-623 Definition—Districts eligible for twelve percent equalization—1999 and thereafter. As used in this chapter, "districts eligible for twelve percent equalization" in 1999 and thereafter means school districts with a ten percent levy rate in the top quartile of district ten percent levy rates ranked from highest to lowest.

AMENDATORY SECTION (Amending Order 93-20, filed 10/20/93, effective 11/20/93)

WAC 392-139-625 Definition—State matching ratio—(~~(1993, 1996)~~) 1998 and thereafter. As used in this chapter, "state matching ratio" for (~~(1993, 1996)~~) 1998 and thereafter, means the ratio calculated for each school district as follows:

(1) Subtract the state-wide average ten percent levy rate from the district ten percent levy rate; and

(2) Divide the result by the state-wide average ten percent levy rate.

DETERMINATION OF LOCAL EFFORT ASSISTANCE FOR (~~(1993, 1996)~~) 1998 AND THEREAFTER

AMENDATORY SECTION (Amending Order 93-20, filed 10/20/93, effective 11/20/93)

WAC 392-139-660 Determination of maximum local effort assistance—(~~(1993, 1996 and thereafter)~~) 1998. The superintendent of public instruction shall calculate maximum local effort assistance for each eligible school district for calendar years (~~(1993, 1996 and thereafter)~~) 1998 as follows:

(1) Subtract the state-wide average ten percent levy rate from the district ten percent levy rate;

(2) Divide the result obtained in subsection (1) of this section by the district ten percent levy rate; and

(3) Multiply the result obtained in subsection (2) of this section by the district ten percent levy amount.

NEW SECTION

WAC 392-139-661 Determination of maximum local effort assistance—1999 and thereafter. The superintendent of public instruction shall calculate maximum local effort assistance for each eligible school district in calendar year 1999 and thereafter as follows:

(1) Subtract the state-wide average ten percent levy rate from the district ten percent levy rate;

(2) Divide the result obtained in subsection (1) of this section by the district ten percent levy rate; and

(3)(a) For districts eligible for ten percent equalization, multiply the result obtained in subsection (2) of this section by the district ten percent levy amount; and

(b) For districts eligible for twelve percent equalization, multiply the result obtained in subsection (2) of this section by the district twelve percent levy amount.

AMENDATORY SECTION (Amending Order 93-20, filed 10/20/93, effective 11/20/93)

WAC 392-139-670 Local effort assistance allocations—((1993, 1996)) 1998 and thereafter. The superintendent of public instruction shall calculate each eligible school district's local effort assistance entitlement for ((1993, 1996)) 1998 and thereafter as the lesser of the following amounts:

(1) The school district's certified excess levy for the calendar year as reported to the superintendent of public instruction pursuant to WAC 392-139-665 times the school district's state matching ratio for the calendar year calculated pursuant to WAC 392-139-625; or

(2) The school district's maximum local effort assistance for ((the calendar year)) 1998 calculated pursuant to WAC 392-139-660, and for 1999 and thereafter calculated pursuant to WAC 392-139-661.

AMENDATORY SECTION (Amending Order 93-20, filed 10/20/93, effective 11/20/93)

WAC 392-139-676 Monthly payments of local effort assistance—1993, 1996 and thereafter. For ((1993, 1996)) 1998 and thereafter, the superintendent of public instruction shall distribute local effort assistance moneys pursuant to the schedule provided in RCW 28A.500.010 (4)((b)).

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 392-139-150	Definition—5200 General purpose direct federal grants, unassigned.
WAC 392-139-152	Definition—6100 Special purpose, OSPI, unassigned.
WAC 392-139-154	Definition—6124 Special education, supplemental Part B.
WAC 392-139-156	Definition—6127 Special education, deinstitutionalized.
WAC 392-139-158	Definition—6138 Secondary vocational education.
WAC 392-139-160	Definition—6146 Skills center.
WAC 392-139-162	Definition—6151 Remediation, ESEA, Chapter 1.
WAC 392-139-164	Definition—6153 Migrant, ESEA, Chapter 1.
WAC 392-139-168	Definition—6164 Bilingual, P.L. 93-380.
WAC 392-139-170	Definition—6167 Indian education, JOM.
WAC 392-139-172	Definition—6176 ESEA, Chapter 2, P.L. 100-297.
WAC 392-139-174	Definition—6177 Mathematics and science.
WAC 392-139-176	Definition—6198 School food services.
WAC 392-139-178	Definition—6200 Direct special purpose grants.
WAC 392-139-180	Definition—6246 Skills center, direct federal grant.
WAC 392-139-182	Definition—6264 Bilingual, P.L. 93-380.
WAC 392-139-184	Definition—6268 Indian education, ED.
WAC 392-139-186	Definition—6998 USDA commodities.
WAC 392-139-611	Definition—District twelve percent levy rate.
WAC 392-139-616	Definition—State-wide average twelve percent levy rate.
WAC 392-139-621	Definition—Eligible district—1994 and 1995.
WAC 392-139-626	Definition—State matching ratio—1994 and 1995.
WAC 392-139-680	Determination of maximum local effort assistance—1994 and 1995.
WAC 392-139-681	Determination of local effort assistance allocations—1994 and 1995.
WAC 392-139-685	Determination of safety net allocations.
WAC 392-139-690	Determination of proration percentages.
WAC 392-139-691	Monthly payments of local effort assistance—1994 and 1995.

WAC 392-139-120	Definition—4121 Special education.
WAC 392-139-122	Definition—4155 Learning assistance.
WAC 392-139-126	Definition—4165 Transitional bilingual.
WAC 392-139-128	Definition—4174 Highly capable.
WAC 392-139-129	Definition—4175 Local education program enhancement.
WAC 392-139-130	Definition—4198 School food services.
WAC 392-139-132	Definition—4199 Transportation—Operations.
WAC 392-139-134	Definition—4499 Transportation reimbursement—Depreciation.

PERMANENT



WSR 98-08-027
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 98-35—Filed March 23, 1998, 8:30 a.m.]

Date of Adoption: March 20, 1998.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order:
 Amending WAC 220-32-057.

Statutory Authority for Adoption: RCW 75.08.080.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Harvestable numbers of sturgeon are available and these rules are adopted to conform with regulations adopted by treaty tribes to harvest their allotment of available sturgeon. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 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.

March 20, 1998

Larry Peck
 for Bern Shanks
 Director

NEW SECTION

WAC 220-32-05700Y Columbia River sturgeon seasons above Bonneville. (1) Notwithstanding the provisions of WAC 220-32-057, effective immediately until further notice, it is unlawful for a person to take sturgeon with set line gear or to possess sturgeon taken with set line gear for commercial purposes from Columbia River Salmon Management Catch Reporting Areas 1F, 1G, and 1H, except that those individuals possessing treaty fishing rights under the Yakama, Warm Springs, Umatilla and Nez Perce treaties may fish for sturgeon in Columbia River Salmon Management Catch Reporting Area 1H using set line gear effective 6:00 a.m. March 23, 1998 until sturgeon harvest guideline is met.

(2) During the season specified in section 1, it is unlawful:

(a) To retain for commercial purposes sturgeon less than 48 inches or greater than 60 inches in length.

(b) To remove the head or tail from a sturgeon prior to its sale to a wholesale dealer licensed under RCW 75.28.300.

(c) To sell, barter, or attempt to sell or barter sturgeon eggs that have been removed from the body cavity of the sturgeon prior to the time the sturgeon is sold to a wholesale dealer licensed under RCW 75.28.300.

(d) To deliver to a wholesale dealer or fish buyer sturgeon that have been dressed (not in the round).

(3) During the season specified in section 1, it shall be unlawful to use set line gear:

(a) With more than 100 hooks per set line;

(b) With hooks less than the minimum size of 9/0;

(c) With treble hooks; or

(d) Without visible buoys attached and with buoys that do not specify operator and tribal identification.

(4) Notwithstanding the provisions of WAC 220-22-010, during the season specified in section 1:

(a) Area 1F (Bonneville Pool) includes those waters of the Columbia River upstream from the Bridge of Gods, and downstream from the west end of the 3 mile rapids.

(b) Area 1G includes those waters of the Columbia River upstream from a line drawn between a point one mile above the fishway exit on the Washington shore and a point one mile above the fishway exit on the Oregon shore, and downstream from Preacher's Eddy light below John day Dam

(c) Area 1H includes those waters of the Columbia River upstream from a fishing boundary marker approximately one-half mile above the John day River, Oregon, to a fishing boundary marker on the Washington shore and downstream from a line at a right angle across the thread of the river one mile downstream from McNary Dam.

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

WSR 98-08-045
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 98-42—Filed March 25, 1998, 4:47 p.m., effective April 1, 1998, 12:01 a.m.]

Date of Adoption: March 25, 1998.

Purpose: Commercial and personal use rules.

Citation of Existing Rules Affected by this Order:
 Repealing WAC 220-49-02000K and 220-56-27200A; and amending WAC 220-49-020.

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: Herring have historically spawned along the entire shoreline from Lummi Island north and west to Point Roberts. Herring spawning is now con-

fined to approximately three linear miles of shore in the vicinity of Cherry Point. The Department of Fish and Wildlife and the Indian Tribes have closed the 1998 spawn-on-kelp fishery to provide maximum escapement. There is a very small commercial bait fishery and some recreational harvest in these waters. The closure period will provide protection from prespawning staging through the concentrated presence in the spawning grounds. The department is proposing to close these fisheries to provide for maximum escapement for spawning. This closure should have minimal effect. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 2, Amended 0, Repealed 2.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: April 1, 1998, 12:01 a.m.
March 25, 1998
Bern Shanks
Director

NEW SECTION

WAC 220-49-02000K Herring seasons. Notwithstanding the provisions of WAC 220-49-020, effective 12:01 a.m. April 1 through June 15, 1998, it is unlawful to fish for or possess herring taken for commercial purposes from Marine Fish-Shellfish Management and Catch Reporting Area 20A.

NEW SECTION

WAC 220-56-27200A Herring—Areas and seasons. Effective 12:01 a.m. April 1 through June 15, 1998, it is unlawful to fish for or possess herring taken for personal use from those waters of Catch Record Card Area 7 north and west of a line projected from Gooseberry Point to Point Migley on Lummi Island, thence to the northernmost point of Patos Island, thence due west to an intersection with the United States-Canada boundary.

REPEALER

The following sections of the Washington Administrative Code are repealed effective 11:59 p.m. June 15, 1998:

WAC 220-49-02000K Herring seasons.

WAC 220-56-27200A Herring areas and seasons.

**WSR 98-08-046
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 98-41—Filed March 25, 1998, 4:50 p.m., effective April 29, 1998, 7:00 p.m.]

Date of Adoption: March 24, 1998.
Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-33-01000Z and 220-33-03000L; and amending WAC 220-20-010, 220-33-010, and 220-33-030.

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: WAC 220-20-01000B: Allows fishers participating in the select area fisheries of Blind Slough and Deep River, where gill nets with lead line in excess of two pounds per fathom are legal, to participate in the Tongue Point select area fishery without removal of their nets. The intent of the select area fisheries is to provide maximum harvest opportunity for fish returning to net pen sites. This rule is consistent with actions of the January 29, 1998, Columbia River Compact hearing. There is insufficient time to promulgate permanent rules.

WAC 220-33-01000Z: These select areas (terminal areas) are part of an ongoing BPA funded study to design fisheries in areas outside of the mainstem Columbia River. Several stocks of salmon have been released from net pens in these select areas to provide for fisheries. All salmon returning to these net pens are harvestable. This rule is consistent with actions of the Columbia River Compact hearing of January 29, 1998, and is consistent with requirements of the Endangered Species Act. There is insufficient time to promulgate permanent rules.

WAC 220-33-03000L: This regulation sets the standard shad commercial fishery in the lower Columbia River. Harvestable numbers of shad are expected in 1998. This rule is consistent with actions of the Columbia River Compact hearing of January 29, 1998, and is consistent with requirements of the ESA. There is insufficient time to promulgate permanent regulations.

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.

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Number of Sections Adopted on the Agency's Own Initiative: New 3, Amended 0, Repealed 2.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: April 29, 1998, 7:00 p.m.

March 24, 1998

Bern Shanks

Director

7 P.M. Wednesdays to 5 A.M. Thursdays
7 P.M. Thursdays to 5 A.M. Fridays
May 6 to June 12, 1998
Gear: 8 inch maximum mesh
50 fathoms maximum length
no weight restriction on lead line
For the Tongue Point and Blind Slough Select Areas the following miscellaneous regulation applies:
Transportation or possession of fish outside of the fishing area when the mainstem is closed is unlawful unless by licensed buyer. Fishers may transport their catch out of the fishing area with a permit issued by an authorized agency employee after examining the catch.

NEW SECTION

WAC 220-20-01000B General provisions. Notwithstanding the provisions of WAC 220-20-010, effective immediately, it shall be lawful for participants in the Tongue Point Select Area fishery to have stored onboard their boats, while fishing, gill nets with lead line in excess of two pounds per fathom.

NEW SECTION

WAC 220-33-01000Z Columbia River gillnet seasons below Bonneville-select area commercial fisheries Notwithstanding the provisions of WAC 220-33-010, WAC 220-33-020, and WAC 220-33-030, it is unlawful for a person to take or possess salmon, shad, and sturgeon taken for commercial purposes from Columbia River Salmon Management and Catch Reporting Areas 1A, 1B, 1C, 1D, and 1E except during the times and conditions listed:

1) Tongue Point Select Area

Area: Tongue Point Basin is open to fishing in all waters bounded by a line from the red light at Tongue Point to the flashing green light at the rock jetty on the northwesterly tip of Mott Island, a line from a marker at the south end of Mott Island easterly to a marker on the northwest bank on Lois Island, and a line from a marker on the southwest end of Lois Island due westerly to a marker on the opposite bank. All open waters are under concurrent Washington/Oregon jurisdiction.

Dates: 7 P.M. Wednesday April 29 to 5 A.M. Thursday April 30, 1998, and

7 P.M. Sundays to 5 A.M. Mondays

7 P.M. Tuesdays to 5 A.M. Wednesdays

May 3 to June 10, 1998

Gear: 8 inch maximum mesh

250 fathoms maximum length

lead line cannot exceed 2 pounds per fathom

2) Blind Slough Select Area

Area: Open waters extend from the mouth of Gnat Creek located approximately 1/2 mile upstream of the county road bridge downstream to markers at the mouth of Blind Slough. Concurrent waters extend downstream of the railroad bridge. Oregon state waters extend upstream of the railroad bridge and require an Oregon license.

Dates: 7 P.M. Wednesday April 29 to 5 A.M. Thursday April 30, 1998, and

REPEALER

The following section of the Washington Administrative Code is repealed effective 5:01 a.m. June 12, 1998:

WAC 220-33-01000Z Columbia River gillnet seasons below Bonneville select area commercial fisheries.

NEW SECTION

WAC 220-33-03000L Commercial shad - Columbia River Notwithstanding the provisions of WAC 220-33-030, it is unlawful to take, fish for or possess shad taken for commercial purposes except as provided for in this section:

FISHING PERIODS

1) Shad Area 2S is open daily, 3 p.m. to 10 p.m. from:

May 26 - May 29, 1998

June 1 - June 5, 1998

June 8 - June 12, 1998

June 15 - June 19, 1998

June 22 - June 26, 1998

2) The Camas-Washougal Reef Area is open weekly, 4 p.m. Mondays to midnight Fridays from:

May 18 - May 22, 1998

May 26 - May 29, 1998

June 1 - June 5, 1998

June 8 - June 12, 1998

June 15 - June 19, 1998

June 22 - June 26, 1998

June 29 - June 30, 1998

GEAR

Gill net gear may be used to fish for shad as provided in WAC 220-33-030(1), except that in Area 2S the net may not exceed 150 fathoms in length nor 40 meshes in depth and that in the Camas-Washougal Reef Area the webbing of the gear may be constructed of mesh having a breaking strength of less than 30 pounds.

GENERAL

During the fishing periods provided in this section, only shad may be kept and sold. All salmonids, walleye and stur-

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geon must be immediately returned to the water and those alive must be released unharmed.

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. July 1, 1998:

WAC 220-33-03000L Commercial shad—Columbia River.

WSR 98-08-057

EMERGENCY RULES

DEPARTMENT OF TRANSPORTATION

[Filed March 30, 1998, 1:35 p.m., effective April 1, 1998]

Date of Adoption: April 1 [March 30], 1998.

Purpose: To create a rule for the movement of manufactured housing up to 16' wide plus up to a twelve inch eave on each side. This rule adaptation will allow Washington industry to remain competitive with Oregon and Idaho industry. Oregon's rule will also be effective April 1, 1998, and complements the Washington rule.

Citation of Existing Rules Affected by this Order: Amending WAC 468-38-120.

Statutory Authority for Adoption: RCW 46.44.090.

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: Will avoid an economic hardship to the Washington manufactured housing industry by providing rule that will allow continued competition with Oregon and Idaho industries.

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 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 1, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: April 1, 1998.

March 30, 1998
Gerald E. Smith
Deputy Secretary
Operations

AMENDATORY SECTION (Amending WSR 96-18-053, filed 8/30/96, effective 9/30/96)

~~WAC 468-38-120 ((Oversize manufactured home transport regulations-)) Transport of extra-legal manufactured housing. ((1) The purpose of this section is to supplement the provisions of chapter 468-38 WAC as they relate to the movement of manufactured homes. Where conflicts with other sections of this chapter occur, the following rules apply:~~

~~(2) Definitions:~~

~~(a) "Manufactured home" means all trailers of the semi-trailer type with hitch ball coupler designed as structures for human habitation which may have been subsequently adapted to other uses, which are capable of being towed upon the public highways and are more than thirty-six feet in length and more than eight and one-half feet in width.~~

~~(b) "Modular homes and sectional buildings" means any factory-built housing designed for human habitation which does not contain a permanent frame and must be mounted on a permanent foundation. Modular homes or sectional buildings with their own attached running gear which can be towed are considered to be manufactured homes for purpose of this regulation. Modular homes or sectional buildings moved on legally registered trailers are subject to the provisions of chapter 46.44 RCW and the provisions of this chapter of the Washington Administrative Code regulating the movement of overlegal loads.~~

~~(c) Oversize permits may be issued to transporters, dealers or owners who shall assume full responsibility while operating under a permit. Operators of tow vehicles and others assisting in the transport must function as agents or employees of the permittee.~~

~~(d) A "unit" is a complete or irreducible part of an oversize manufactured home.~~

~~(3) Manufactured homes of semi-trailer design whose width, including eaves, exceeds eight and one-half feet but whose box width does not exceed fourteen feet, and/or whose length exceeds fifty-three feet but does not exceed seventy-five feet including tongue, may be moved under the provisions of an oversize load permit issued by the department: *Provided*, That the permitted oversize limits, incorporating box width and eave location when traveling, are as follows:~~

~~(a) The box may not exceed fourteen feet in width.~~

~~(b) The box plus eave may not exceed fifteen feet in width.~~

~~(c) With any combination of box and eave width, up to fourteen feet, the eave(s) may be traveled on either or both sides.~~

~~(d) Any eave in addition to the permitted combination of fourteen foot box and eave(s) shall be traveled on the right side in the direction of traffic.~~

~~The procedure for measuring box width shall not include external appurtenances such as door knobs, window fasten-~~

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ers, drip cap at roof edge, clearance lights, load securing devices and closure materials. *Provided*, That such external appurtenances do not exceed two inches on any side.

(4) Oversize manufactured home permits may be issued as follows:

(a) Annual permits may be issued only to permittees who are qualified as dealers or manufacturers as provided in chapter 46.70 RCW or to transporters licensed as provided in chapter 46.76 RCW.

Annual permits shall apply only to transport of manufactured homes fourteen feet or less in height, above level ground, while being transported.

(b) Monthly permits may be issued to dealers, manufacturers, and transporters under the same conditions as annual permits except that fourteen-foot height limitations may be waived.

(c) Single trip permits may be issued to dealers, transporters and owners for a specific combination of tow vehicle and mobile home to travel from a point of origin to a prescribed destination.

(5) The permittee must have insurance in effect while operating under the permit in the minimum amounts of one hundred thousand dollars—three hundred thousand dollars public liability and fifty thousand dollars property damage. Pilot car operators shall meet the insurance requirements of RCW 46.44.180.

(6) If an accident occurs while transporting a manufactured home under permit, the permittee shall immediately notify the nearest state patrol office if the damage is greater than two hundred fifty dollars to the manufactured home or greater than one hundred dollars to other vehicles or structures. Permission to continue the movement must be obtained from the state patrol.

(7) Dealers selling twelve to fourteen-foot wide manufactured homes must advise the prospective purchaser in writing that not all state highways are approved for the transport of twelve to fourteen-foot wide manufactured homes.

(8) Permits issued in accordance with the Uniform Mobile and Modular Home Transportation Regulations of WASHTO will be subject to those regulations and will be honored by the state of Washington if issued by other states.

(9) Manufactured homes:

(a) Overall dimensions shall not exceed those stated in the permit except for minor protrusions not to exceed two inches, such as door and window hardware. Eaves will be included in the measurement of maximum width. All dimensions shall be reduced to the practical minimum. Manufactured homes having a single eave overhang along their length will be transported to allow for safe passing distances.

(b) The complete system of the manufactured home, including running gear assembly, shall comply with the rules and regulations adopted by the United States Department of Housing and Urban Development (24 CFR 280 (1976) and as thereafter amended). Tires shall comply with applicable Federal Motor Carrier Safety Regulations, Title 49, chapter 111. Those manufactured homes not certified as qualifying to the minimum H.U.D. specifications shall have brakes on at least two axles and on four wheels. Units of sixty feet or more in length shall have at least three full axles, except that twelve-foot wide homes manufactured prior to November 1, 1970,

may be moved with a minimum of two axles. The brakes shall be under the control of the driver from the cab of the towing vehicle, and shall be adequate to control the manufactured home and its load. They shall be so designed and connected that they shall automatically apply in case of accidental breakaway from the towing vehicle. A wet cell or approved battery with a full charged rating of twelve volts will be installed in the manufactured home to actuate electric brakes in the event of a breakaway. The minimum track width between two wheels on the same axle shall be eight feet. Track width shall be measured from the outer edges of the road bearing tread of tires on a single axle. Tires shall have no signs of separation or excessive aging and shall be inflated to the maximum recommended tire pressure and have tread depth no less than 3/32nd inch in any part of tire contacting the road. Recapped or retreaded tires are not allowed. Minimum combined load rating of manufactured home tires must be in excess of their in-transit load. Axles and wheels must be properly aligned to minimize wear and overheating of tires.

(c) The open side of half sections of manufactured homes shall be covered in such a way as to prevent billowing of the covering material.

(d) Furnishings or loose objects within the manufactured home shall be secured in positions to achieve proper weight and balance.

(10) Tow vehicles:

(a) Tow vehicles shall comply with the following minimum requirements:

Manufactured Home Width to be Towed	Drive Axle Gross				
	Tire Width	Tire Rating	Curb Weight	(1) Weight	Rear Axle Rating
Over 8 1/2' to 10'	7.00"	6 ply	(2)	6,000#	(2)
Over 10' to 12'	8.00"	8 ply	35,000(3)	8,000#	15,000#
Over 12' to 14'	8.25"	10 ply	35,000#	9,000#	15,000#

(1) Includes fuel and accessories prior to hook up with manufactured home.

(2) Not required.

(3) May be waived for older vehicles.

(b) Conventional or cab forward configuration shall have a minimum wheelbase of one hundred twenty inches. Cab over engine tow vehicles shall have a minimum wheelbase of eighty nine inches. Tow vehicles shall have a minimum 4 speed transmission. Power shall be sufficient to meet the requirements listed.

(c) Electrical brake controls, wiring and connections to manufactured home brake systems will be capable of producing rated voltage and amperage at the manufactured home brake magnets in accordance with the manufactured home brake manufacturer's specifications.

(11) Signs and flags: In addition to the requirements of WAC 468-38-190, the OVERSIZE LOAD sign will be attached horizontally on the rear of the unit with the bottom edge between five and seven feet above the road surface. Sign material shall be impervious to moisture, clean and mounted

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with adequate supporting anchorage to provide legibility at all times.

(12) Lights: In addition to provisions of WAC 468-38-170, six-inch diameter flashing amber lights with a minimum of thirty-five candle power shall be mounted at the rear of the trailing unit, on a horizontal plane, at least ten feet above the roadway surface. They shall be operated with a flashing cycle of sixty to one hundred twenty times per minute during transit. Wiring and connections shall be in good working order.

(13) Travel speeds for manufactured homes shall be as set forth in WAC 468-38-340.

(14) Manufactured homes traveling in rural areas shall maintain adequate spacing of at least one-half mile between any two manufactured home units. All units shall maintain a minimum distance of from four hundred to five hundred feet behind any truck, truck tractor or trailer which could impair the visibility of an overtaking vehicle.

(15) The manufactured home unit shall be operated in the right lane except when passing. On two-lane highways, units shall not pass other vehicles except when required to pass a vehicle being operated at a speed so slow as to hinder the safe flow of traffic.

(16)(a) A decal issued by the county treasurer shall be displayed on any manufactured or modular home being transported on public highways in this state. The decal is not required if one of the following conditions is met:

(i) When a manufactured home is to enter the state;

(ii) When a manufactured home is being moved from the manufacturer or distributor to a retail sales outlet;

(iii) When a manufactured home is being moved from the manufacturer or distributor to a purchaser's designated location; or

(iv) When a manufactured home is being moved between retail sales outlets.

(b) The county treasurer's decal shall be displayed on the rear of the manufactured home while in transport. It shall be issued at the same time as the tax certificate for manufactured home movement. If the tax certification is for a double-wide manufactured home, two manufactured home movement decals shall be issued.

(c) The decal shall meet the following requirements:

(i) It shall be at least eight and one-half inches square.

(ii) It shall be printed on Appleton Radiant Fluorescent Bristol (weight .010) or paper of comparable quality.

(iii) It shall be of fluorescent orange color.

(iv) It shall show the make, model and serial number of the manufactured home, the date issued, the name of the transporter, the transporter's WUTC permit number if required, the department of transportation special motor vehicle permit number, and the name of the county issuing the decal.

(v) It shall display in readily legible script the expiration date of the decal, which shall be not more than fifteen days after the date the decal is issued.

(d) Manufactured home movement decals may not be transferred.)) (1) Purpose: To supplement the provisions of chapter 468-38 WAC as they relate to the transport of extra-legal manufactured housing on state highways. Where conflicts with other sections of this chapter occur, the following rules apply.

(2) Vehicle combination and size limits:

(a) Combination of vehicles - The combination shall be limited to two vehicles composed of the towing vehicle and the semi-trailer designed housing unit.

(b) Length - The length of the manufactured housing unit must not exceed seventy-five feet, including tongue.

(c) Width - The width of the manufactured housing unit must not exceed a box (base) width of sixteen feet. The unit may have an eave provided it does not extend beyond either side by:

(i) More than thirty inches for units with box width less than sixteen feet; or

(ii) More than sixteen inches for units with box width of sixteen feet, however, the overall width shall not, under any circumstance, exceed eighteen feet.

(d) Width exemptions - External features, such as door-knobs, window fasteners, eave cap, clearance lights, and load securing devices, that extend no more than two inches on each side of the unit, are exempt from the overall width measurement.

(e) Height - The height of the unit is limited to the actual overhead clearance of the route.

(3) Permits for transport: Permits to transport extra-legal manufactured housing units are issued as follows:

(a) Annual/monthly permits are issued only to dealers or manufacturers described in chapter 46.70 RCW or to licensed transporters described in chapter 46.76 RCW. Annual/monthly permits are restricted to units with a width less than, or equal to, a fourteen foot box plus twelve inch eave and/or a height of fifteen feet or less measured from level ground.

(b) Single trip permits are required for units with an overall width greater than fifteen feet or greater and/or height greater than fifteen feet measured from level ground. A single trip permit may also be issued for any unit of a lesser dimension. Units with an overall width or height greater than sixteen feet must comply with WAC 468-38-405, superloads prior to having a permit issued.

(c) Permits issued in accordance with the Uniform Mobile and Modular Home Transportation Regulations of WASHTO will be subject to those regulations and will be honored by the state of Washington if issued by other states.

(4) Escort vehicles: Escort vehicles must comply with WAC 468-38-100, except a front escort vehicle with height pole is not required until the overall height of the unit, measured from the road surface, exceeds fifteen feet. Vehicle or load width referenced in WAC 468-38-100 must be interpreted as overall width.

(5) Insurance:

(a) The transporter must have insurance in effect while operating under the permit in the minimum amounts of one hundred thousand/three hundred thousand dollars bodily injury and fifty thousand dollars property damage. Escort vehicle operators shall meet the insurance requirements of RCW 46.44.180.

(b) If an accident occurs while transporting a manufactured home under permit, the transporter must immediately notify the nearest state patrol office if the damage is greater than two hundred fifty dollars to the manufactured home or

greater than one hundred dollars to other vehicles or structures. Permission to continue the movement must be obtained from the state patrol.

(6) **Axles, tires and brakes** for manufactured housing unit:

<u>width of unit at base</u>	<u>number of axles required</u>	<u>wheels w/ brakes</u>
<u>> 8' 6" but < 10'</u>	<u>2 or more</u>	<u>all wheels on 2 axles (towing unit w/min. 9,000 GVW¹, all wheels on 1 axle)</u>
<u>10' to 14' (under 60' long)</u>	<u>2 or more (3 or more if > 60' long)</u>	<u>all wheels on 2 axles (tires minimum 8:00 x 14.5, 10 ply)</u>

¹ Gross vehicle weight rating which is assigned by the vehicle manufacturer.

(c) **All units exceeding fourteen feet in width at the base must:**

- (i) Have a minimum of four axles;
- (ii) Have operating brakes on all wheels;
- (iii) Not exceed the manufacturer's maximum weight rating on any tire as specified on the tire side wall;
- (iv) Not exceed the manufacturer's rating for any wheel, axle, draw bar, hitch, or other suspension component; and
- (v) Carry a minimum of two spare tires, inflated and ready for use.

(d) **Brakes must be designed** and installed to activate if the unit accidentally breaks away from the towing vehicle.

(7) **Towing vehicle requirements:**

- (a) Towing vehicles must be equipped with dual wheels on the drive axle; and
- (b) If the unit exceeds fourteen feet in width, the towing vehicle must have a minimum GAWR² of thirty-two thousand (32,000) pounds.

² Gross axle weight rating which is the sum of the axle ratings assigned by the axle manufacturer.

(c) Engine horsepower must be enough to maintain speeds of 45 MPH on the interstate and 35 MPH on other highways.

(8) **Signs and lights:**

(a) The *oversize load* sign must be mounted on the rear of the unit, on a horizontal plane, between five and seven feet above the road surface.

(b) In addition to any other lighting requirements by law or rule, two six-inch flashing amber lights, with a minimum of thirty-five candle power, a flashing cycle of sixty to one hundred twenty times per minute during transit, must be mounted at the rear of the trailing unit, on a horizontal plane, at least ten feet above the road surface, and above the roof line of the towing vehicle. The lights at both locations must be separated as far as practical.

(9) **Travel requirements:**

(a) **Routes:** Extra-legal units must comply with the route restrictions published by the department. All units with an overall width or height of sixteen feet or greater must be approved for travel by the department on a case-by-case basis, see also WAC 468-38-405, superloads. In addition, dealers selling extra-legal manufactured homes must advise the prospective purchaser in writing that not all

(a) Units manufactured on or after June 15, 1976, must conform to federal HUD rules Title 24, Chapter II, Subpart J of Part 280, as in effect on September 1, 1979, and as thereafter amended.

(b) Units manufactured prior to June 15, 1976, or not bearing the official HUD label, must comply as follows:

state highways are approved for the transport of manufactured homes in excess of twelve feet wide.

(b) **Speed in transit** is governed by WAC 468-38-340.

(c) **Open side covering:** Units with an open side must be covered with a rigid material such as plywood or hard-board. In lieu of the rigid material, plastic covering can be used, provided a grillwork of lumber or similar material is applied to prevent tears and/or billowing of the plastic material.

(d) **Rural travel** must maintain adequate spacing between units in transit of at least one-half mile. When following a truck, truck-tractor or trailer units must maintain a space of four hundred to five hundred feet to avoid impairing the visibility of an overtaking vehicle.

(e) **Travel in the right lane** is required except when passing or avoiding an obstacle. On two-lane highways, units must not pass other vehicles except when required to pass a slow moving vehicle which is hindering the safe flow of traffic.

(10) **Decals:**

(a) A decal issued by the county treasurer must be displayed on any manufactured home being transported on public highways in this state (RCW 46.44.170), except:

- (i) When a unit is to enter the state;
- (ii) When a unit is being moved from the manufacturer or distributor to a retail sales outlet;
- (iii) When a unit is being moved from the manufacturer or distributor to a purchaser's designated location; or
- (iv) When a unit is being moved between retail sales outlets.

(b) The county treasurer's transport decal shall be displayed on the rear of the manufactured home while in transport. It shall be issued at the same time as the tax certificate for manufactured home movement. If the tax certification is for a double-wide (or more) manufactured home, there must be a transport decal issued for each unit.

(c) The decal must meet the following requirements:

- (i) Be at least eight and one-half inches square.
- (ii) Be printed on Appleton Radiant Florescent Bristol (weight .010) or paper of comparable quality.
- (iii) Be fluorescent orange in color.
- (iv) Show the make, model and serial number of the manufactured home, the date issued, the name of the transporter, the transporter's WUTC permit number if required,

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the department of transportation special motor vehicle permit number, and the name of the county issuing the decal.

(v) Clearly display the expiration date of the decal, which must not be more than fifteen days after the date issued.

(d) Decals must not be transferred.

**WSR 98-08-085
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES**

(Medical Assistance Administration)

[Filed April 1, 1998, 9:24 a.m.]

Date of Adoption: March 31, 1998.

Purpose: These amendments change income levels to reflect the new federal poverty level. These changes will increase the number of pregnant women and children who are eligible for medical assistance.

Citation of Existing Rules Affected by this Order: Amending WAC 388-508-0805, 388-509-0920, and 388-509-0960.

Statutory Authority for Adoption: RCW 74.08.090, 74.04.050, 74.04.057, 74.09.530, and poverty guidelines updated annually in the Federal Register by the United States Department of Health and Human Services under authority of Section 673(2) of the Omnibus Budget Reconciliation Act of 1981 (42 USC 9902(2)).

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: These changes must go into effect by April 1, 1998, to comply with federal requirements.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 3, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Immediately.

March 31, 1998
Edith M. Rice, Chief
Office of Legal Affairs

AMENDATORY SECTION (Amending WSR 97-16-008, filed 7/24/97, effective 7/24/97)

WAC 388-508-0805 Pregnant woman—Income standards. ~~((1) The department shall find))~~ This chapter describes the income standards used to determine the eligibility of a pregnant woman for a medical program. A pregnant woman is eligible for categorically needy Medicaid ~~((as categorically needy))~~ when the ~~((pregnant woman meets the income requirements of this section.~~

~~(2) The department shall ensure total family income with))~~ countable family income does not exceed one hundred eighty-five percent of the Federal Poverty Level (FPL). One hundred eighty-five percent of the ~~((current))~~ FPL is:

Family Size	Monthly Income
((a)) (1) One	\$(1,217) <u>1,242</u>
((b)) (2) Two	\$(1,636) <u>1,673</u>
((c)) (3) Three	\$(2,056) <u>2,105</u>
((d)) (4) Four	\$(2,475) <u>2,537</u>
((e)) (5) Five	\$(2,894) <u>2,968</u>
((f)) (6) Six	\$(3,314) <u>3,400</u>
((g)) (7) Seven	\$(3,733) <u>3,832</u>
((h)) (8) Eight	\$(4,152) <u>4,263</u>
((i)) (9) Nine	\$(4,572) <u>4,695</u>
((j)) (10) Ten	\$(4,994) <u>5,127</u>

~~((k))~~ (11) For ~~((family))~~ assistance units with more than ten members, add ~~\$(420)~~ 432 to the monthly income for each additional member.

AMENDATORY SECTION (Amending WSR 97-16-008, filed 7/24/97, effective 7/24/97)

WAC 388-509-0920 Children's health program. This section describes the children's health program for children who are ineligible for Medicaid. (1) ~~((The department shall consider))~~ A child ~~((seventeen years of))~~ under age ~~((or younger,))~~ eighteen is eligible for state-funded medical services, with the same coverage as categorically needy, when ~~((:~~

~~((a))~~ the child is not eligible for a federally-funded Medicaid program ~~((; and~~

~~((b))~~ The child's nonexempt family income does not exceed one hundred percent of the current federal poverty level (FPL). See income guidelines as described under subsection (4) of this section.

~~(2) The department shall determine nonexempt family income by:~~

~~(a) Following AFDC methodology; and~~

~~(b) Applying the medical income rules as described under WAC 388-506-0610.~~

~~(3) The department shall not require a child to meet the following eligibility factors:~~

~~(a) Citizenship;~~

~~(b) Social Security number; or~~

~~(c) Resources limits.~~

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~~(4) The department shall find that~~ and meets the come standards described in subsection (4).

(2) Citizenship, Social Security number, and resource standards are not eligibility factors for the children's health program.

(3) Countable family income is determined using TANF methodology and the medical income rules as described under WAC 388-506-0610.

(4) The countable income in the child's assistance unit may not exceed one hundred percent of the federal poverty level (FPL). One hundred percent of the current FPL equals:

Family Size	Monthly Income
(a) One	\$((658)) <u>671</u>
(b) Two	\$((885)) <u>905</u>
(c) Three	\$((1,111)) <u>1,138</u>
(d) Four	\$((1,338)) <u>1,371</u>
(e) Five	\$((1,565)) <u>1,605</u>
(f) Six	\$((1,791)) <u>1,838</u>
(g) Seven	\$((2,018)) <u>2,071</u>
(h) Eight	\$((2,245)) <u>2,305</u>
(i) Nine	\$((2,471)) <u>2,538</u>
(j) Ten	\$((2,698)) <u>2,771</u>

(k) For ~~((family))~~ assistance units with more than ten members, add \$((227)) 234 to the monthly income for each additional member.

(5) ~~((For a child determined eligible under this section, the department shall not consider))~~ A change in family income during the certification period does not effect eligibility for a child determined eligible under this section.

AMENDATORY SECTION (Amending WSR 97-16-008, filed 7/24/97, effective 7/24/97)

WAC 388-509-0960 Children's income standards. This section describes income standards used to determine a child's Medicaid eligibility. (1) ~~((The department shall determine))~~ A child meeting the eligibility requirements under WAC 388-509-0910 is eligible as categorically needy when the ~~((total family))~~ countable income in the child's assistance unit does not exceed two hundred percent of the federal poverty level (FPL). ~~((The department shall find that))~~ Two hundred percent of the ~~((current))~~ FPL equals:

Family Size	Monthly Income
(a) One	\$((1,315)) <u>1,342</u>
(b) Two	\$((1,769)) <u>1,809</u>
(c) Three	\$((2,222)) <u>2,275</u>
(d) Four	\$((2,675)) <u>2,742</u>
(e) Five	\$((3,129)) <u>3,209</u>
(f) Six	\$((3,582)) <u>3,675</u>
(g) Seven	\$((4,035)) <u>4,142</u>
(h) Eight	\$((4,489)) <u>4,609</u>

- (i) Nine \$((4,942)) 5,075
- (j) Ten \$((5,395)) 5,542

(k) For ~~((family))~~ assistance units with more than ten members, add \$((454)) 467 to the monthly income for each additional member.

(2) ~~((For a child determined eligible under WAC 388-509-0910, the department shall not consider))~~ A change in ~~((family))~~ the assistance unit's income during the certification period does not effect eligibility for a child determined eligible under WAC 388-509-0910.

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 98-08-086
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Medical Assistance Administration)
 [Filed April 1, 1998, 9:25 a.m.]

Date of Adoption: March 31, 1998.

Purpose: These rules implement provisions in the Balanced Budget Act, which expand the coverage group for Medicare cost-sharing.

Citation of Existing Rules Affected by this Order: Repealing WAC 388-517-1720, 388-517-1740 and 388-517-1760; and amending WAC 388-517-1710, 388-517-1715, 388-517-1730, 388-517-1750, and 388-521-2160.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.057, 74.08.090, 74.09.530.

Other Authority: H.R. 2015, section 4732, the Balanced Budget Act of 1997.

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: The provisions in these rules must go into effect by April 1, 1998, in order to comply with federal law (1997 Federal Balanced Budget Act).

Number of Sections Adopted in Order to Comply with Federal Statute: New 1, Amended 5, 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 3.

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.

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Effective Date of Rule: Immediately.

March 31, 1998
Edith M. Rice, Chief
Office of Legal Affairs

AMENDATORY SECTION (Amending WSR 95-14-046, filed 6/28/95, effective 7/29/95)

WAC 388-517-1710 Medicare ("buy-in") cost-sharing programs. (1) ~~((The department shall pay Medicare "buy-in" for)) This section describes the benefits and eligibility criteria common to the following Medicare cost-sharing programs:~~

- ~~(a) The qualified Medicare beneficiary (QMB) program;~~
- ~~(b) The special low-income Medicare beneficiary (SLMB) program;~~
- ~~(c) The qualified disabled working individual (QDWI) program;~~
- ~~(d) The qualified individual (QI) program; and~~
- ~~(e) The buy-in program.~~

~~(2) A person must be entitled to Medicare Part A and ((who receives:~~

- ~~(a) AFDC cash grant;~~
- ~~(b) SSI cash assistance;~~
- ~~(c) Categorically needy medical assistance; or~~
- ~~(d) Medically needy medical assistance.~~

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

- ~~(a) Supplementary medical insurance Part B premium, under Title XVIII of the Social Security Act;~~
- ~~(b) Coinsurance; and~~
- ~~(c) Deductibles.~~

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

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

~~(5) The department shall only pay Part A premium, under Title XVIII of the Social Security Act, for a person eligible under WAC 388-517-1750 and 388-517-1760)) have resources which do not exceed twice the standard described in WAC 388-511-1110 to receive Medicare cost-sharing benefits.~~

(3) A person determined eligible for the QMB program under WAC 388-517-1715 is eligible to receive Part A and Part B Medicare premiums, coinsurance, and deductibles.

(4) A person determined eligible for the SLMB program, levels one and two, under WAC 388-517-1730 is eligible to receive only the Part B Medicare premium.

(5) A person determined eligible for the QDWI program under WAC 388-516-1750 is eligible to receive only the Part A Medicare premium.

(6) A person determined eligible for the QI program under WAC 388-517-1770 is eligible to receive one dollar

and seven cents per month reimbursement for Medicare premiums.

(7) A person determined ineligible for the QMB, SLMB (level one), or QDWI programs, is eligible for Part B Medicare premium, coinsurance and deductibles when the person is entitled to Medicare Part A and receives categorically needy or medically needy medical assistance.

AMENDATORY SECTION (Amending WSR 95-14-046, filed 6/28/95, effective 7/29/95)

WAC 388-517-1715 Qualified Medicare beneficiary (QMB) ((eligible for Medicare cost sharing)) program. ~~((The department shall provide)) This section describes who is eligible for the QMB program.~~

~~(1) A person is eligible for Medicare cost sharing ((under)) described in WAC 388-517-1710(((3) for a person:~~

- ~~(1) Meeting the general nonfinancial requirements for an SSI-related person under chapter 388-511 WAC; and~~
- ~~(2) Entitled to Medicare hospital insurance benefits, Part A, under Title XVIII of the Social Security Act)) (2) when the person's income does not exceed one hundred percent of the federal poverty level (FPL). One hundred percent of the current FPL is:~~

Family Size	Monthly
One	\$671
Two	\$905

~~(2) A QMB client's Social Security cost-of-living increase is not counted until April 1st of each year.~~

AMENDATORY SECTION (Amending WSR 95-14-046, filed 6/28/95, effective 7/29/95)

WAC 388-517-1730 Special low-income Medicare beneficiaries (SLMB) ((eligible for Medicare cost sharing)) program. ~~((The department shall provide)) This section describes who is eligible for the SLMB program.~~

~~(1) A person is eligible for Medicare cost sharing ((under)) described in WAC 388-517-1710(((4) for a person)) (3) when the person has countable income for:~~

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

~~(a) Level one of SLMB countable income, which is over one hundred percent of the FPL, but does not exceed one hundred twenty percent of the FPL. One hundred twenty percent of the FPL is:~~

Family Size	Monthly
One	\$805
Two	\$1085

~~(b) Level two of SLMB countable income, which is over one hundred twenty percent of the FPL, but does not exceed one hundred thirty-five percent of the FPL. One hundred thirty-five percent of the FPL is:~~

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<u>Family Size</u>	<u>Monthly</u>
<u>One</u>	<u>\$906</u>
<u>Two</u>	<u>\$1221</u>

(2) ~~((Entitled to Medicare hospital insurance benefits, Part A, under Title XVIII of the Social Security Act))~~ A person whose income is described in level two is eligible for the SLMB program only if the person is not eligible for another medical assistance program.

(3) An SLMB client's Social Security cost-of-living increase is not counted until April 1st of each year.

AMENDATORY SECTION (Amending WSR 95-14-046, filed 6/28/95, effective 7/29/95)

~~WAC 388-517-1750 ((Hospital premium insurance enrollment for the))~~ Qualified disabled working individuals (QDWI) program. ((The department shall pay premiums)) This section describes who is eligible for the QDWI program. A person is eligible for Medicare ((Part A under)) cost-sharing described in WAC 388-517-1710(((4) for an SSI-related)) (4) when the person:

- (1) ~~((Who))~~ Is not otherwise entitled to medical assistance; and
- (2) ~~((Entitled to enroll for Medicare hospital insurance benefits, Part A, under section 1818A of the Social Security Act.))~~ Has countable income which does not exceed two hundred percent of the FPL. Two hundred percent of current FPL is:

<u>Family Size</u>	<u>Monthly</u>
<u>One</u>	<u>\$1342</u>
<u>Two</u>	<u>\$1809</u>

NEW SECTION

WAC 388-517-1770 Qualified individuals (QI) program. This section describes who is eligible for the QI program. A person is eligible for Medicare cost-sharing described in WAC 388-517-1710(5) when the person:

- (1) Is not otherwise eligible for medical assistance; and
- (2) Has countable income over one hundred thirty-five percent of the FPL, but does not exceed one hundred seventy-five percent of the FPL. One hundred seventy-five percent of the FPL is:

<u>Family Size</u>	<u>Monthly</u>
<u>One</u>	<u>\$1174</u>
<u>Two</u>	<u>\$1583</u>

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 388-517-1720	Qualified Medicare Beneficiaries—Income and resources.
WAC 388-517-1740	Special low-income Medicare beneficiaries (SLMB)—Income and resources.
WAC 388-517-1760	Qualified disabled working individuals (QDWI) income and resources.

AMENDATORY SECTION (Amending WSR 94-10-065, filed 5/3/94, effective 6/3/94)

WAC 388-521-2160 Effective date and certification period for the special low-income Medicare beneficiary (SLMB) program. ~~((The department shall ensure the effective date of eligibility for))~~ (1) A client is eligible for Medicare cost-sharing under the SLMB program ((shall be the later of the)) beginning:

- ~~((+))~~ (a) The first day of the month ((in which)) the client ((is enrolled in Part B)) applies; or
- ~~((2) Retroactive period described under))~~ (b) Retroactively according to WAC 388-521-2105(2).
- (2) A client who is eligible for level one SLMB, according to WAC 388-517-1730 (1)(a), is certified for twelve months from the date of application.
- (3) A client who qualifies for level two SLMB, according to WAC 388-517-1730 (1)(b) on or after January 1, 1998, is certified through the end of the calendar year in which the client applied while funds remain available.
- (4) A client who qualifies for the qualified individual (QI) program, according to WAC 388-517-1770(2) on or after January 1, 1998, is certified through the end of the calendar year in which the client applied while funds remain available.

**WSR 98-08-087
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES**

(Medical Assistance Administration)
[Filed April 1, 1998, 9:26 a.m., effective May 1, 1998]

Date of Adoption: March 31, 1998.

Purpose: These rules implement an annual increase for the one-person income level for the medically needy program, and the resource standard for an institutionalized person's spouse (who is not institutionalized), as required by federal legislation.

Citation of Existing Rules Affected by this Order: Amending WAC 388-507-0710 and 388-513-1350.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.057, 74.08.090, 74.09.530, 74.09.575.

Other Authority: Section 1924 (42 USC 1396r-5).

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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: The Department of Social and Health Services was required to implement the federal increase in standards, effective January 1, 1998, in order to continue to receive federal funds. These rules have been adopted on an emergency basis (WSR 98-01-190) and this emergency order will keep them in effect while the department completes steps to make them permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 2, 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: May 1, 1998.

March 31, 1998

Edith M. Rice, Chief

Office of Legal Affairs

AMENDATORY SECTION (Amending WSR 97-09-112, filed 4/23/97, effective 5/24/97)

WAC 388-507-0710 ((AFDC)) TANF-related medical program income standards. (1) ~~((The department shall determine income standards for AFDC-related clients as described under))~~ A TANF-related client's countable income is determined according to the provisions in WAC 388-505-0590 ~~((2) and (4))~~.

(2) Effective January 1, ~~((1997, the department shall set))~~ 1998, the medically needy income level (MNIL) ~~((at))~~ is:

(a) One person	\$ ((512)) <u>521</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 WSR 97-09-112, filed 4/23/97, effective 5/24/97)

WAC 388-513-1350 Institutional—Available resources. This section describes those resources which are considered available to an institutionalized client. (1) Resources are defined under chapter 388-511 WAC for an SSI-related client and under ~~chapter 388-216 WAC ((388-22-030))~~ for ~~((an AFDC))~~ a TANF-related client.

(2) The methodology and standards for determining and evaluating resources are under WAC 388-513-1310, ~~((388-513-1330, 388-513-1340))~~ 388-513-1350, and 388-513-1360. Transfers of resources are evaluated under WAC 388-513-1365. Trusts are described under WAC 388-505-0595.

(3) ~~((The department shall determine ownership of resources following Washington state community property principles))~~ "Continuously institutionalized" means that for thirty consecutive days, a person:

- (a) Is not absent from an institution; or
- (b) Does not receive home-based or community-based waived services.

(4) For a person((:

- (a)) whose most recent period of continuous 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)) Available resources ((when jointly)) are one-half of the total value of nonexempt resources held in the:

- (i) Names of both the institutionalized spouse and the community spouse; or
- (ii) Name of the institutionalized spouse only.
- (b) ~~((The separate property of the community spouse when))~~ Unavailable resources are:

(i) The other half of the total value of nonexempt resources determined under subsection (3)(a) of this section;

(ii) Held solely in the ((separate)) name of the community spouse; or

(((ii)) (iii)) Transferred between spouses as described under ((WAC 388-513-1350(7))) subsection (4)(b) of this section.

(((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)) (5) For ((the purpose of determining Medicaid eligibility of)) a person, whose most recent ((continuous)) period of continuous institutionalization 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 with-

out regard to use or value when the institutionalized person has a community spouse;

~~(b) Consider available to the community spouse;)) available resources include all nonexempt resources in the name of either the community spouse or the institutionalized spouse, except resources exceeding the greater of) spouse except:~~

~~(a) The following resources are exempt when the institutionalized person has a community spouse:~~

~~(i) ((Seventy-nine)) One vehicle without regard to use or value; and~~

~~(ii) Effective January 1, 1998, eighty thousand ((twenty)) seven hundred sixty dollars ((effective January 1, 1997;~~

~~(ii) An amount); or~~

~~(b) An amount greater than the amount in subsection (4)(a)(ii) of this section if:~~

~~(i) 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) (ii) Transferred to the community spouse by ((the)) court order.~~

~~((e) Ensure)~~

~~(6) Resources ((available to the community spouse are in the name of the community spouse or)) of the institutional spouse must be 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)) possible, taking into account ((such)) the 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))~~

~~(7) The resources of the community spouse are:~~

~~(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)) is continuously institutionalized.~~

~~(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)) Is not continuously institutionalized.~~

WSR 98-08-088

EMERGENCY RULES

DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

(Medical Assistance Administration)

[Filed April 1, 1998, 9:27 a.m.]

Date of Adoption: March 31, 1998.

Purpose: These rules implement state and federal legislation concerning welfare and immigration reform as it impacts eligibility for medical assistance programs. Changes include eligibility criteria for several categories of aliens, and methodology for calculating a client's income (by exempting diversion cash) to determine eligibility for medical services.

Citation of Existing Rules Affected by this Order: Amending WAC 388-500-0005, 388-503-0310, 388-505-0520, 388-507-0740, 388-510-1020, and 388-523-2305.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.057, 74.08.090, 74.09.530.

Other Authority: RCW 74.04.005, 74.08.331, 74.08A.010, [74.08A.]100, [74.08A.]210, [74.08A.]230, 74.09.510, 74.12.255, Public Law 104-193 (1997), and the Federal Balanced Budget Act of 1997.

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: The department was required to implement, and comply with, state and federal welfare reform legislation by August 1, 1997. This rule has been in effect on an emergency basis, and has been proposed for permanent adoption.

Number of Sections Adopted in Order to Comply with Federal Statute: New 1, Amended 6, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 1, Amended 6, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 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.

March 31, 1998

Edith M. Rice, Chief
Office of Legal Affairs

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 98-09 issue of the Register.



OFFICE OF THE CODE REVISER
Quarterly Rule Making Report
Covering Registers 98-01 through 98-06

Type of Activity	New	Amended	Repealed
ACCOUNTANCY, BOARD OF			
Type of Activity	New	Amended	Repealed
Number of Rules Proposed for Permanent Adoption	1	9	2
AGRICULTURE, DEPARTMENT OF			
Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	20	29	2
Number of Rules Adopted as Emergency Rules	0	6	0
Number of Rules Proposed for Permanent Adoption	0	9	8
Number of Sections Adopted at Request of a Nongovernmental Entity	11	12	2
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	3	23	2
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	9	1	0
Number of Sections Adopted on the Agency's own Initiative	11	35	2
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	20	35	2
Number of Sections Adopted using Pilot Rule Making	0	0	0
ATTORNEY GENERAL'S OFFICE			
Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	0	9	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	9	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	9	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0
BELLEVUE COMMUNITY COLLEGE			
Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	0	1	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	1	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	1	0
Number of Sections Adopted on the Agency's own Initiative	0	1	0

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Type of Activity	New	Amended	Repealed
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	1	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

BUILDING CODE COUNCIL

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	216	61	260
Number of Rules Withdrawn	1	3	0
Number of Sections Adopted at Request of a Nongovernmental Entity	92	48	6
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	28	6	28
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	29	5	1
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	3	1	0
Number of Sections Adopted on the Agency's own Initiative	31	1	228
Number of Sections Adopted using Negotiated Rule Making	215	60	262
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

COMMUNITY AND TECHNICAL COLLEGES, STATE BOARD FOR

Type of Activity	New	Amended	Repealed
Number of Rules Adopted as Emergency Rules	0	9	0
Number of Rules Proposed for Permanent Adoption	2	32	33
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	9	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	9	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	9	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

COMMUNITY, TRADE AND ECONOMIC DEVELOPMENT, DEPARTMENT OF

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	0	0	44
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	0	44
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	0	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

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Type of Activity	New	Amended	Repealed
CORRECTIONS, DEPARTMENT OF			
Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	0	2	0
Number of Rules Proposed for Permanent Adoption	1	6	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	0	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	2	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0
COUNTY ROAD ADMINISTRATION BOARD			
Type of Activity	New	Amended	Repealed
Number of Rules Proposed for Permanent Adoption	0	18	0
Number of Rules Withdrawn	0	9	0
ECOLOGY, DEPARTMENT OF			
Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	42	60	18
Number of Rules Adopted as Emergency Rules	5	0	0
Number of Rules Withdrawn	0	3	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	6	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	6	8	18
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	3	35	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	35	4	0
Number of Sections Adopted on the Agency's own Initiative	13	19	17
Number of Sections Adopted using Negotiated Rule Making	0	3	0
Number of Sections Adopted using Other Alternative Rule Making	47	2	0
Number of Sections Adopted using Pilot Rule Making	0	0	0
EDUCATION, STATE BOARD OF			
Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	2	35	54
Number of Rules Proposed for Permanent Adoption	1	11	55
Number of Sections Adopted at Request of a Nongovernmental Entity	1	3	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	1	3	54
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	1	32	54
Number of Sections Adopted using Negotiated Rule Making	0	0	0

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Type of Activity	New	Amended	Repealed
Number of Sections Adopted using Other Alternative Rule Making	2	35	54
Number of Sections Adopted using Pilot Rule Making	0	0	0

EMPLOYMENT SECURITY DEPARTMENT

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	5	14	5
Number of Rules Proposed for Permanent Adoption	5	12	5
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	2	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	5	11	5
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	5	11	5
Number of Sections Adopted using Pilot Rule Making	0	2	0

ENERGY FACILITY SITE EVALUATION COUNCIL

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	0	13	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	0	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	13	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

EXECUTIVE ETHICS BOARD

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	2	0	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	2	0	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	2	0	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

FINANCIAL INSTITUTIONS, DEPARTMENT OF

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	0	0	12

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Type of Activity	New	Amended	Repealed
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	0	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	3
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	0	9
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	12
Number of Sections Adopted using Pilot Rule Making	0	0	0

FINANCIAL MANAGEMENT, OFFICE OF

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	0	0	12
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	0	12
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	0	12
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

FISH AND WILDLIFE, DEPARTMENT OF

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	24	166	14
Number of Rules Adopted as Emergency Rules	112	0	82
Number of Rules Proposed for Permanent Adoption	12	26	30
Number of Rules Withdrawn	2	2	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	15	3
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	1	0
Number of Sections Adopted on the Agency's own Initiative	58	83	36
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

FRUIT COMMISSION

Type of Activity	New	Amended	Repealed
Number of Rules Proposed for Permanent Adoption	0	1	0

GAMBLING COMMISSION

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	1	4	0

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Type of Activity	New	Amended	Repealed
Number of Rules Proposed for Permanent Adoption	1	4	0
Number of Rules Withdrawn	0	2	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	0	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	5	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

GENERAL ADMINISTRATION, DEPARTMENT OF

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	10	0	15
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	0	15
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	10	0	0
Number of Sections Adopted on the Agency's own Initiative	0	0	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

GRAYS HARBOR COLLEGE

Type of Activity	New	Amended	Repealed
Number of Rules Proposed for Permanent Adoption	7	11	0

GROWTH MANAGEMENT HEARINGS BOARDS

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	10	25	6
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	15	6
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	10	10	0
Number of Sections Adopted on the Agency's own Initiative	0	15	6
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

HEALTH CARE AUTHORITY

Type of Activity	New	Amended	Repealed
Number of Rules Proposed for Permanent Adoption	0	9	0

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Type of Activity	New	Amended	Repealed
HEALTH, DEPARTMENT OF			
Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	118	396	146
Number of Rules Adopted as Emergency Rules	0	2	0
Number of Rules Proposed for Permanent Adoption	108	312	140
Number of Rules Withdrawn	4	6	2
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	57	182	73
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	1	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	1	15	0
Number of Sections Adopted on the Agency's own Initiative	57	185	73
Number of Sections Adopted using Negotiated Rule Making	8	26	4
Number of Sections Adopted using Other Alternative Rule Making	50	172	69
Number of Sections Adopted using Pilot Rule Making	0	0	0
HORSE RACING COMMISSION			
Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	22	1	48
Number of Rules Proposed for Permanent Adoption	0	1	1
Number of Sections Adopted at Request of a Nongovernmental Entity	21	1	48
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	22	1	48
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	0	0
Number of Sections Adopted using Negotiated Rule Making	22	0	48
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0
HUMAN RIGHTS COMMISSION			
Type of Activity	New	Amended	Repealed
Number of Rules Proposed for Permanent Adoption	2	33	0
INSURANCE COMMISSIONER'S OFFICE			
Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	32	10	27
Number of Rules Proposed for Permanent Adoption	3	7	2
Number of Sections Adopted at Request of a Nongovernmental Entity	1	6	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	16	9	16
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	5	0
Number of Sections Adopted in Order to Comply with Federal Statute	4	5	8
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	31	10	27
Number of Sections Adopted using Negotiated Rule Making	0	0	0

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Type of Activity	New	Amended	Repealed
Number of Sections Adopted using Other Alternative Rule Making	39	1	27
Number of Sections Adopted using Pilot Rule Making	0	0	0

INVESTMENT BOARD

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	6	1	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	6	1	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	6	1	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

LABOR AND INDUSTRIES, DEPARTMENT OF

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	36	45	30
Number of Rules Adopted as Emergency Rules	0	1	0
Number of Rules Proposed for Permanent Adoption	1	7	0
Number of Sections Adopted at Request of a Nongovernmental Entity	1	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	7	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	20	33	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	16	19	30
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	36	36	30
Number of Sections Adopted using Pilot Rule Making	0	0	0

LAKE WASHINGTON TECHNICAL COLLEGE

Type of Activity	New	Amended	Repealed
Number of Rules Proposed for Permanent Adoption	0	1	0

LICENSING, DEPARTMENT OF

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	33	27	18
Number of Rules Proposed for Permanent Adoption	9	57	18
Number of Rules Withdrawn	6	6	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	11	4	2
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	11	7	4
Number of Sections Adopted on the Agency's own Initiative	0	0	2

MISC.

Type of Activity	New	Amended	Repealed
Number of Sections Adopted using Negotiated Rule Making	3	7	3
Number of Sections Adopted using Other Alternative Rule Making	8	0	3
Number of Sections Adopted using Pilot Rule Making	0	0	0

LIQUOR CONTROL BOARD

Type of Activity	New	Amended	Repealed
Number of Rules Proposed for Permanent Adoption	2	0	0

LOTTERY COMMISSION

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	3	1	0
Number of Rules Proposed for Permanent Adoption	17	11	2
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	0	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	3	1	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

OUTDOOR RECREATION, INTERAGENCY COMMITTEE FOR

Type of Activity	New	Amended	Repealed
Number of Rules Proposed for Permanent Adoption	1	16	0

PARKS AND RECREATION COMMISSION

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	2	24	27
Number of Rules Proposed for Permanent Adoption	2	10	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	2	25	27
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	2	25	27
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

PERSONNEL RESOURCES BOARD/PERSONNEL, DEPARTMENT OF

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	4	3	0
Number of Rules Proposed for Permanent Adoption	0	2	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	3	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0

MISC.

Type of Activity	New	Amended	Repealed
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	3	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	3	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

POLLUTION LIABILITY INSURANCE AGENCY

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	0	0	10
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	0	10
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	0	10
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

PUBLIC DISCLOSURE COMMISSION

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	0	2	0
Number of Rules Adopted as Emergency Rules	0	1	0
Number of Rules Proposed for Permanent Adoption	0	1	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	1	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	3	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	1	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

PUBLIC INSTRUCTION, SUPERINTENDENT OF

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	1	19	0
Number of Rules Proposed for Permanent Adoption	4	10	35
Number of Rules Withdrawn	9	13	1
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	19	16	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0

MISC.

Washington State Register, Issue 98-08

Type of Activity	New	Amended	Repealed
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	19	0	0
Number of Sections Adopted on the Agency's own Initiative	19	17	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

RENTON TECHNICAL COLLEGE

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	0	0	1
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	0	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	0	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

RETIREMENT SYSTEMS, DEPARTMENT OF

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	3	0	0
Number of Rules Proposed for Permanent Adoption	28	4	3
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	3	0	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	3	0	0
Number of Sections Adopted on the Agency's own Initiative	3	0	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

REVENUE, DEPARTMENT OF

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	0	6	2
Number of Rules Adopted as Emergency Rules	0	1	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	0	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	1	0
Number of Sections Adopted on the Agency's own Initiative	0	1	2
Number of Sections Adopted using Negotiated Rule Making	0	0	0

MISC

Type of Activity	New	Amended	Repealed
Number of Sections Adopted using Other Alternative Rule Making	0	6	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

SECRETARY OF STATE, OFFICE OF THE

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	2	18	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	2	17	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	2	17	0
Number of Sections Adopted using Negotiated Rule Making	2	17	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

SOCIAL AND HEALTH SERVICES, DEPARTMENT OF

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	518	119	1071
Number of Rules Adopted as Emergency Rules	14	35	21
Number of Rules Proposed for Permanent Adoption	63	140	49
Number of Rules Withdrawn	0	21	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	148	16	152
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	2	9	3
Number of Sections Adopted in Order to Comply with Federal Statute	3	10	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	5	15	3
Number of Sections Adopted on the Agency's own Initiative	144	6	16
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	2	13	1
Number of Sections Adopted using Pilot Rule Making	0	0	0

TRANSPORTATION, COMMISSION AND DEPARTMENT OF

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	4	0	0
Number of Rules Adopted as Emergency Rules	5	1	0
Number of Rules Proposed for Permanent Adoption	3	5	0
Number of Sections Adopted at Request of a Nongovernmental Entity	4	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	1	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	1	0	0
Number of Sections Adopted on the Agency's own Initiative	8	1	0
Number of Sections Adopted using Negotiated Rule Making	8	0	0

MISC.

Washington State Register, Issue 98-08

Type of Activity	New	Amended	Repealed
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

UNIVERSITY OF WASHINGTON

Type of Activity	New	Amended	Repealed
Number of Rules Proposed for Permanent Adoption	2	9	1

UTILITIES AND TRANSPORTATION COMMISSION

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	1	18	28
Number of Rules Proposed for Permanent Adoption	1	0	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	16	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	1	2	28
Number of Sections Adopted on the Agency's own Initiative	0	16	28
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

WASHINGTON STATE PATROL

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	9	14	26
Number of Sections Adopted at Request of a Nongovernmental Entity	0	5	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	10	5
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	7	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	9	1	0
Number of Sections Adopted on the Agency's own Initiative	0	3	26
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	9	1	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

WESTERN WASHINGTON UNIVERSITY

Type of Activity	New	Amended	Repealed
Number of Rules Proposed for Permanent Adoption	0	1	15

MISC.

Type of Activity	New	Amended	Repealed
TOTALS FOR THE QUARTER:			
Number of Permanent Rules Adopted	1126	1123	1876
Number of Rules Adopted as Emergency Rules	136	56	103
Number of Rules Proposed for Permanent Adoption	276	775	399
Number of Rules Withdrawn	22	65	3
Number of Sections Adopted at Request of a Nongovernmental Entity	131	81	56
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	326	400	515
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	54	104	4
Number of Sections Adopted in Order to Comply with Federal Statute	7	15	11
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	117	59	35
Number of Sections Adopted on the Agency's own Initiative	412	543	610
Number of Sections Adopted using Negotiated Rule Making	258	113	317
Number of Sections Adopted using Other Alternative Rule Making	218	317	203
Number of Sections Adopted using Pilot Rule Making	0	2	0

WSR 98-08-010
SECRETARY OF STATE
 [Filed March 18, 1998, 2:35 p.m.]

Several sections of Title 434 WAC have been recodified to new code numbers. To ensure that all sections are consistently numbered, we request that the following remaining sections be recodified to the numbers indicated.

The following sections of the Washington Administrative Code are recodified as follows:

Old WAC Number	New WAC Number
434-08-010	434-208-010
434-08-020	434-208-020
434-08-030	434-208-030
434-08-040	434-208-040
434-08-050	434-208-050
434-08-060	434-208-060
434-08-070	434-208-070
434-08-080	434-208-080
434-08-090	434-208-090
434-24-065	434-324-065
434-26-005	434-326-005
434-26-010	434-326-010
434-26-015	434-326-015
434-26-020	434-326-020
434-26-025	434-326-025

Old WAC Number	New WAC Number
434-26-030	434-326-030
434-26-035	434-326-035
434-26-040	434-326-040
434-26-045	434-326-045
434-26-050	434-326-050
434-26-055	434-326-055
434-26-060	434-326-060
434-26-065	434-326-065
434-26-900	434-326-900
434-32-010	434-332-010
434-57-010	434-257-010
434-57-020	434-257-020
434-57-030	434-257-030
434-57-040	434-257-040
434-57-050	434-257-050
434-57-070	434-257-070
434-57-080	434-257-080
434-57-090	434-257-090
434-57-100	434-257-100
434-57-120	434-257-120
434-57-130	434-257-130
434-57-150	434-257-150
434-60-010	434-260-010

MISC.

Old WAC Number	New WAC Number	Old WAC Number	New WAC Number
434-60-020	434-260-020	434-80-010	434-380-010
434-60-030	434-260-030	434-80-020	434-380-020
434-60-040	434-260-040	434-80-030	434-380-030
434-60-050	434-260-050	434-80-040	434-380-040
434-60-060	434-260-060	434-80-050	434-380-050
434-60-070	434-260-070	434-80-060	434-380-060
434-60-080	434-260-080	434-80-070	434-380-070
434-60-090	434-260-090		
434-60-100	434-260-100	434-81-010	434-381-010
434-60-110	434-260-110	434-81-020	434-381-020
434-60-120	434-260-120	434-81-030	434-381-030
434-60-130	434-260-130	434-81-040	434-381-040
434-60-140	434-260-140	434-81-050	434-381-050
434-60-150	434-260-150	434-81-060	434-381-060
434-60-160	434-260-160	434-81-070	434-381-070
434-60-170	434-260-170	434-81-080	434-381-080
434-60-180	434-260-180	434-81-090	434-381-090
434-60-190	434-260-190	434-81-100	434-381-100
434-60-200	434-260-200		
434-60-210	434-260-210	434-91-010	434-291-010
434-60-215	434-260-215	434-91-020	434-291-020
434-60-220	434-260-220	434-91-030	434-291-030
434-60-230	434-260-230	434-91-040	434-291-040
434-60-240	434-260-240	434-91-050	434-291-050
434-60-250	434-260-250	434-91-060	434-291-060
434-60-260	434-260-260	434-91-070	434-291-070
434-60-270	434-260-270	434-91-080	434-291-080
434-60-280	434-260-280	434-91-090	434-291-090
434-60-290	434-260-290	434-91-100	434-291-100
434-60-300	434-260-300	434-91-110	434-291-110
434-60-310	434-260-310	434-91-120	434-291-120
434-60-320	434-260-320	434-91-130	434-291-130
434-60-330	434-260-330	434-91-140	434-291-140
434-60-340	434-260-340	434-91-150	434-291-150
434-60-350	434-260-350	434-91-160	434-291-160
		434-91-170	434-291-170
434-69-005	434-369-005		
434-69-010	434-369-010		
434-69-020	434-369-020		
434-69-030	434-369-030		
434-69-040	434-369-040		
434-69-050	434-369-050		
434-69-060	434-369-060		
434-69-070	434-369-070		
434-69-080	434-369-080		

Donald F. Whiting
Assistant Secretary of State

MISC.

WSR 98-08-015**ATTORNEY GENERAL OPINION**

Cite as: AGO 1998 No. 4
[March 3, 1998]

PLATTING AND SUBDIVISIONS - COUNTIES - CITIES AND TOWNS - GROWTH MANAGEMENT ACT - Effect of Growth Management Act on option of counties to require resubdivision of lands platted before 1937.

The Growth Management Act does not obligate a county to require the replatting or resubdivision of lands in the county which are outside any urban growth area and which were platted before 1937, but allows local flexibility in applying GMA standards to such lands.

The Honorable David Skeen
Jefferson County Prosecuting Attorney
Courthouse - P.O. Box 1220
Port Townsend, WA 98368

WSR 98-08-016**ATTORNEY GENERAL OPINION**

Cite as: AGO 1998 No. 5
[March 3, 1998]

STATE TREASURER - INITIATIVE NO. 601 - FUNDS

The State Treasurer is not authorized to withdraw monies previously deposited in the emergency reserve fund or in the education construction fund pursuant to Initiative 601 (RCW 43.135.045); however, the Treasurer may take into account possible changes in circumstances in deciding how much to transfer quarterly into either of these two funds.

The Honorable Michael J. Murphy
State Treasurer
Legislative Building
P.O. Box 40200
Olympia, Washington 98504-0200

WSR 98-08-017**ATTORNEY GENERAL OPINION**

Cite as: AGO 1998 No. 6
[March 19, 1998]

SUPERINTENDENT OF PUBLIC INSTRUCTION - STATE CONSTITUTION - LEGISLATURE - SCHOOLS - EDUCATION - Authority of the Legislature to define powers and duties of the Superintendent of Public Instruction.

1. The Legislature has discretion to prescribe the specific duties of the Superintendent of Public Instruction and to create agencies and institutions to administer the state's public education system; however, it must respect the constitutional language granting the Superintendent "supervisory" power over the public school system.

2. The public school system, for purposes of defining the constitutional "supervision" authority of the Superintendent of public Instruction, includes the common school system of elementary, intermediate, and high schools, and would also include normal schools and technical schools if the Legislature were to create any.

3. The Legislature may not "delegate" to another officer or agency the "supervision" authority of the Superintendent of Public Instruction over the public schools; however, with this restriction, the Legislature has broad discretion to create state and local agencies and institutions to administer the public education system, and to define their respective powers and duties.

The Honorable Peggy Johnson,
State Representative, 35th District
The Honorable Harold Hochstatter,
State Senator, 13th District
Co-Chairs
Joint Select Committee
on Education Restructuring
P.O. Box 40600
Olympia, WA 98504-0600

WSR 98-08-029

**NOTICE OF PUBLIC MEETINGS
PUBLIC EMPLOYEES
BENEFITS BOARD**

[Memorandum—March 23, 1998]

Public Employees Benefits Board
Lacey/Woodland Community Center
Lacey, Washington
1:00 p.m., March 24, 1998

If you are a person with a disability and need a special accommodation, please contact Judy Lamm at (360) 923-2828.

WSR 98-08-033

**NOTICE OF PUBLIC MEETINGS
WHATCOM COMMUNITY COLLEGE**

[Memorandum—March 19, 1998]

The board of trustees of Whatcom Community College, District Number Twenty-One, has rescheduled its regular meeting of Tuesday, April 14, 1998, at 2:00 p.m. in the Board Room at 237 West Kellogg Road; Bellingham, WA. The rescheduled meeting will be held on Tuesday, April 7, 1998.

WSR 98-08-040
NOTICE OF PUBLIC MEETINGS
SOUTH PUGET SOUND
COMMUNITY COLLEGE
 [Memorandum—March 20, 1998]

At their March 19, 1998, regular meeting, the board of trustees of Community College District 24 voted to hold a special meeting on Tuesday, March 24, 1998, beginning at 3:00 p.m. in the boardroom of the Administrative and Student Services Building on the main campus.

If you have any questions, please contact 754-7711, ext. 202.

WSR 98-08-042
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF
NATURAL RESOURCES
 [Memorandum—March 18, 1998]

NOTICE OF MEETING
FOR THE
NATURAL HERITAGE ADVISORY COUNCIL
1998

The Natural Heritage Advisory Council will meet on May 28, 1998, 10:00 a.m. to 5:00 p.m. at the Double Tree Hotel, Chief Joseph Room at 1225 North Wenatchee Avenue, Wenatchee, WA.

Regular council business will include consideration of natural area preserve proposals, site proposals for the registry program and NAP management activities.

For further information contact Department of Natural Resources, Washington Natural Heritage Program, Forest Resource Division, 1111 Washington Street S.E., P.O. Box 47016, Olympia, WA 98504-7016, (360) 902-1340.

WSR 98-08-044
NOTICE OF PUBLIC MEETINGS
PIERCE COLLEGE
 [Memorandum—March 23, 1998]

The board of trustees of Community College District Number Eleven (Pierce College) would like to announce a change of date for their regular April board meeting. The time and location remain the same. This meeting is open to the public.

Meeting Date/Location	Time
Wednesday, April 15, 1998	12:30 p.m.
Officer's Club Fireside Lounge	
McChord Air Force Base	
Tacoma, Washington	

WSR 98-08-047
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF
GENERAL ADMINISTRATION
 (Capitol Campus Design Advisory Committee)
 [Memorandum—March 24, 1998]

Please record the following Capitol Campus Design Advisory Committee rescheduled meeting date in the Washington State Register: Thursday, June 4, 1998.

The meeting will begin at 1:00 p.m. in the General Administration Building, Room 207.

Also, please publish notice of cancellation for the May 28, 1998, Capitol Campus Design Advisory Committee meeting.

Please contact 664-9212 with any questions.

WSR 98-08-048
NOTICE OF PUBLIC MEETINGS
WHATCOM COMMUNITY COLLEGE
 [Memorandum—March 26, 1998]

Note: This is an updated schedule that replaces all previous schedules, effective March 10, 1998.

1998 Meeting Schedule of the Board of Trustees
 Second Tuesday of the Month at 2:00 p.m.
 Board Room in the Laidlaw Center

Whatcom Community College
 237 West Kellogg Road
 Bellingham, WA 98226

- January 13
- February 10
- March 10
- April 7
- May 12
- June 9
- July 14
- August 11 (no meeting)
- September 1
- October 13
- November 10
- December 8

WSR 98-08-050
DEPARTMENT OF ECOLOGY
 [Filed March 26, 1998, 1:10 p.m.]

March 26, 1998

MISC.

Notice of Issuance of General Permit for Biosolids Management

General permit. The Washington State Department of Ecology issued a general permit for *Biosolids Management* on March 25, 1998. The permit applies statewide, except on Indian lands and will be effective on May 15, 1998. Interested persons should call or write Kyle Dorsey, Biosolids Coordinator, Washington State Department of Ecology, PO Box 47600, Olympia, WA 98504-7600. E-mail may be addressed to kdor461@ecy.wa.gov or phone (360) 407-6107; FAX 407-6102 or -7157. Ecology is an equal opportunity agency. If you have special accommodation needs or require this document in an alternative format, please contact Kyle Dorsey or TDD at (360) 407-6006.

Applying for coverage. Facilities which meet the definition of treatment works treating domestic sewage in WAC 173-308-080 are required to apply for a permit. There are limited exceptions provided for under WAC 173-308-310 (1)(a). Treatment works treating domestic sewage include publicly owned treatment works, privately owned treatment works that treat only domestic sewage; compost facilities; septage management facilities; some land application sites which elect to be permitted as beneficial use facilities; and other facilities that meet the definition. A list of most potentially applicable facilities was published in the *State Register* under WSR 97-23-079.

Notice of Intent. Applicable facilities must submit a *notice of intent* to be covered under the general permit by June 23, 1998. Ecology will directly notify known facilities. When a *notice of intent* has been submitted, provisional approval to engage in applicable biosolids management activities under the permit is granted. Provisionally approved facilities must operate in accordance with the requirements of the basic general permit and Chapter 173-308 WAC. Facilities must submit a complete permit application at a later date, in accordance with the schedule established in WAC 173-308-310(4).

Approval of coverage. Facilities are accepted for provisional approval under the general permit if they are treatment works treating domestic sewage and engage in biosolids management activities applicable under the permit. Activities covered under the permit include preparation of biosolids for distribution to others, for direct application to the land, for disposal in a municipal solid waste landfill, or for transfer to another facility. Additional or more stringent requirements may be imposed for a facility or specific management site as a condition of final approval under the general permit.

Appeals. In accordance with RCW 43.21B.310, the terms and conditions of the general permit for biosolids management may be appealed only by filing an appeal with the Pollution Control Hearings Board, PO Box 40903, Olympia, WA 98504-0903, and by serving it upon the Department of Ecology before May 15, 1998. Additional or more stringent requirements imposed on specific facilities or application sites after receipt of a permit application by the department

may be similarly appealed within thirty days of notice by the department. Appellants must identify the statewide general permit for biosolids management effective May 15, 1998 as the subject of their appeal, and if appropriate any plan or other element required under the permit if it is the subject of the appeal. The appeal must contain the appellant's name and address; a clear, separate, and concise statement of every error alleged to have been committed; a clear and concise statement of facts upon which the requester relies to sustain his or her settlements of error; and a statement setting forth the relief sought.

Comments received. Comments received during the public comment period on the December 3, 1997 draft of the general permit resulted in changes to the final permit. A brief summary of those changes follows. More detailed information can be found in the responsiveness summary prepared for the final general permit, which is available on request.

"Treatment works treating domestic sewage" was replaced by the simpler term "facility" in appropriate locations throughout the permit for clarity and to correspond to changes in the rule.

The following changes were made to individual sections as indicated below. The changes are listed by topic and include references to the sections where they appear in the general permit. References to specific comments in the responsiveness summary are included as appropriate.

"Transfer" of biosolids - Language was added to emphasize that transfer of biosolids from one facility to another is an applicable biosolids management activity covered under this general permit. (*Section 1-second paragraph; Section 2.1-second paragraph; Section 2.4(1)-second bullet*).

Applicability - Text was amended (and footnotes were added) to clarify when compost facilities, centralized septage facilities, and individual septage haulers are required to apply for coverage. Section 2.5(3) was deleted because it repeated applicability information already stated in Section 2.4. Section 2.4(6) was deleted because it repeated applicability for incinerators already covered in Table 2-1. (*Sections 2.4 and 2.5; Section 2.8.1-new footnote (4)*).

"Categories of coverage" - Terminology was changed to "activities covered under this general permit." The new term clarifies that coverage includes all activities in the general permit and applicants do not need to apply under certain categories. (*Sections 2.8, 2.8.1, and 2.8.2*).

Automatic coverage - Wording was added to clarify that automatic coverage (for temporary and emergency disposal in a municipal solid waste landfill and for transferring biosolids to another facility) applies to facilities that have submitted a notice of intent or a complete application. (*Section 3-second paragraph*).

Requirements for sending biosolids to another facility - Number (3) in Section 3.4 was deleted. (*See Comment 13-01*).

Application forms - Wording was added to indicate that applications for coverage must be made on forms or in a for-

mat authorized by the department. (*Section 4.1-second paragraph*).

"When to apply" - Table 4-1 was amended to clarify when facilities must apply based on their size and whether they are new or existing. These changes were made to correspond to the underlying rule. (*Section 4.1; See Comments 02-02, and 07-01*).

Complying with SEPA - Text was added to clarify that when the SEPA process is used for public notice, the requirements of WAC 173-308-310(11) must be met. The changes were made to clarify that public comment periods must be established and comments must be directed to the regulatory authority as well as the responsible SEPA official. (*Section 4.2; Section 5.2.1; See Comments 09-03, 09-04, 09-05, and 10-11*).

Information required in a complete application - Text in Section 4.4.2 was amended to reflect changes in the underlying rule. In number (10), the third bullet was deleted. In number (12), wording was changed to clarify biosolids production. (*Section 4.4.2*).

Public notice requirement when applying for coverage - Text changed to indicate that public notice is required when a complete application is submitted but not for a notice of intent. This change was made to correspond with the underlying rule. (*Section 4.5.1(1)*).

Newspaper notice - Text was added to clarify that newspaper notice is not required for new sites proposed via an approved general land application plan. (*Section 4.5.2(1)*).

Land application plans (when are they required?) - Sections 5.1 and 5.2 in the draft general permit were combined. Text was amended to clarify when site specific land application plans and general land application plans are required. Also, text was added (in 5.5.1) to refer to Section 5.1. (*Sections 5.1 and 5.2; See Comments 06-01, 07-06, 07-08, and 07-07*).

Site specific land application plans - Information requirements for site specific land application plans were added or amended in the following numbered items of Section 5.5: 2, 3, 6, 9, 10, and 11. Numbers (2) and (3) were amended to reflect changes in the underlying rule. Number (11) was added to clarify the requirement for site access restrictions as part of site management. (*For changes to (3) see Comment 13-04. For changes to (6), see Comment 14-17. For changes to (9), see Comment 07-11. For changes to (10), see Comment 10-05*).

General land application plans - A new section was added to instruct owners or operators of lagoons to submit information to the best of their ability and then update their general land application plan at a later date (if necessary) by modifying their coverage. (*Section 5.5.2*).

Record keeping requirements - The table in Section 6.2.1 was amended to include record keeping requirements for site management and access restrictions. (*Section 6.2.1 - middle of unlabeled table*).

Septage monitoring - A new numbered item (6) was added to emphasize the monitoring required when septage has undergone alkaline stabilization. (*Section 7.1(6)*).

Nitrogen monitoring - A bullet was added to the list in Section 7.2 to include nitrogen monitoring. In order to calculate agronomic rates, permittees must know the concentration of nitrogen in biosolids applied to the land. (*Section 7.2-bullet list in paragraph 2*).

Frequency of monitoring - The title of Table 7.1 was amended to include "Minimum" frequency of monitoring. The change reflects a requirement in the underlying rule. (*Section 7.2-Table 7.1*).

Using reference documents - Section 8.3 was deleted to avoid repeating the information that appears in Section 2.7. The numbering in Section 8 was adjusted accordingly.

Distance to groundwater - The trigger for requiring a groundwater protection plan (for sites needing a site specific land application plan) was changed from two feet to three feet. (*Section 8.3(4) and Section 5.4(10). See Comment 10-05*).

Agronomic rate - Text was added to clarify that biosolids must be applied "at, or below" agronomic rate. (*Section 8.4(2) of draft general permit. See Comment 11-07*).

Landowner approval - Text was inserted to clarify that written approval from a landowner is required prior to application of non-exceptional quality biosolids "for the first time". This change reflects a change made to the underlying rule. (*Section 8.5(1)-second bullet*).

Transportation of biosolids - A requirement was added to notify the department of any biosolids spills that occur during transportation. (*Section 8.6(2). See Comment 07-18*).

Notice of intent - The term "notice of intent" was included in several sections to clarify the application process and signatory requirements. (*Section 4.3-title, first paragraph; Section 4.4.1(2); Section 8.16(1)*).

Appeals - A new section was added to address how terms and conditions of the general permit can be appealed. The new section also includes how appeals can be made in reference to additional or more stringent requirements imposed on a facility or site. (*Section 8.21*).

Labeling requirements - Numbered item (7) was added to the list in Section 14.4 to correspond to requirements in the underlying rule.

Class I septage (definition) - The definition of Class I septage was changed to include 25 percent of Class II septage or grease trap waste. This change corresponds to changes in the underlying rule. (*Section 15.1.1; Section 19*).

Septage screening - The requirement for screening septage was amended to include "another approved method" to remove recognizable material when septage is applied to the land. This change reflects changes made to the underlying rule before adoption. (*Section 15.2*).

Class II septage - Text was added to clarify that Class II septage must meet Class B pathogen requirements if it does not

undergo alkaline stabilization prior to being applied to the land. This change reflects provisions in the underlying rule. (Section 15.3(1)(a)).

Distance from surface water for septage application sites - The setback distance from surface waters of the state was increased from 10 meters to 100 feet for all sites where septage is applied to the land. (Sections 15.3.3 and 15.4. See Comments 14-68, 14-64, and 14-41).

Compliance schedules - A provision was added to Section 17 allowing compliance schedules to be established under this general permit. (Section 17 - last paragraph).

Permit fees - Substantial text was added to clarify the fee structure for this general permit and to include provisions in the underlying rule. Permit fees were capped or reduced for incinerators and beneficial use facilities. (Section 18. See Comment 08-01).

Definitions - Four entries were added to the list of definitions: "composting," "local health department," "surface waters of the state," waters of the state." Two entries were deleted: "permitting authority," "regulatory authority." Two entries were amended: "facility," and "domestic septage - Class I." (Section 19).

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

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

Emergency Management Plan. State agencies and departments are directed to utilize state resources to do everything possible to assist the affected political subdivision in an effort to cope with the emergency.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the state of Washington to be affixed at Olympia, this 25th day of March, A.D., nineteen hundred and ninety-eight.

Gary Locke

Governor of Washington

BY THE GOVERNOR

Tracy A. Guerin

Deputy Secretary of State

WSR 98-08-056

**NOTICE OF PUBLIC MEETINGS
EASTERN WASHINGTON UNIVERSITY**

[Memorandum—March 30, 1998]

Eastern Washington University

BOARD OF TRUSTEES

April 3, 1998, 9:00 a.m.

Spokane Center

Second Floor Mall

Breakfast, which is open to the public, will be served to board members prior to the meeting at 8:00 a.m. in the Spokane Center, Room 222.

Eastern Washington University strives to satisfy all requests for special access needs for persons with disabilities. Requests for such accommodation are welcome and may be made by calling President's Office, 359-2371.

WSR 98-08-059

DEPARTMENT OF ECOLOGY

[Filed March 30, 1998, 3:00 p.m.]

Notice of SEPA Determination

Public Notice and Request for Comments

RE: Land Recovery Inc.'s "Green Mulch" Environmental Excellence Program Agreement

General Description: Our region generates more yard waste than existing facilities can process into compost. We dispose of the excess in landfills, thereby wasting a potential nutrient source and consuming limited landfill capacity. Land Recovery, Incorporated (LRI) has developed a method of partially composting yard waste into "Green Mulch" for application as a soil amendment and nutrient to agricultural crops.

WSR 98-08-053

PROCLAMATION

OFFICE OF THE GOVERNOR

[March 25, 1998]

PROCLAMATION BY THE GOVERNOR

WHEREAS, a unique combination of events occurred on March 3, 1998, that resulted in the catastrophic failure of the Carbon River Bridge on State Route 165 in Pierce County, Washington;

WHEREAS, this situation is severely impacting the residents and communities that depend upon this sole access;

WHEREAS, the Washington State Department of Transportation, following the state's Comprehensive Emergency Management Plan is coordinating resources to support local officials in alleviating the immediate social and economic impacts to people and property. The severity of the situation is beyond the capabilities of the affected political subdivision and state agencies.

NOW THEREFORE, I, GARY LOCKE, Governor of the state of Washington, as a result of the aforementioned situation and under RCW 43.06 and 38.52, do hereby proclaim that a State of Emergency exists in Pierce County and direct the implementation of the Washington State Comprehensive

MISC.

Under Washington's Solid Waste Management Act, chapter 70.95 RCW, partially composted yard waste is considered "solid waste"—subject to disposal permit requirements. LRI's process transforms that "potential waste" into a valuable agricultural product. By authority of chapter 43.21K RCW, LRI and the Department of Ecology (and specified county health departments) can agree that Green Mulch is exempt from the Solid Waste Management Act's definition and requirements, so long as operators of the farms where Green Mulch is land-applied adhere to the agreement's conditions for storing, handling, and applying the product.

This proposed environmental excellence program agreement (EEPA) would not exempt LRI's Green Mulch facilities from applicable statutory, regulatory, or permit requirements. To use the product and benefit from the exemption (1) a farm must be located in a county where officials are parties to the EEPA, and (2) the farm operator must have completed the preapplication work sheet and signed the agricultural partner addendum to the EEPA.

State Environmental Policy Act (SEPA) Determination: The Department of Ecology has determined that the application of Green Mulch to agricultural soils will have no significant adverse environmental impact. Accordingly, the agency has issued a determination of nonsignificance (DNS) for this project.

To Obtain Copies: Electronic copies of the proposed agreement, a fact sheet, and the SEPA checklist and DNS are available via the Internet. From ecology's homepage, "<http://www.wa.gov/ecology>," link to the "Environmental Excellence Program." Hard copies of these materials are also available; phone Brenda Mercado at (360) 407-6095.

To Comment: Submit specific comments by May 1, 1998, via e-mail or postal mail, to John Williams, Department of Ecology, P.O. Box 47600, Olympia, WA 98504-7600, e-mail jowi461@ecy.wa.gov, phone (360) 407-6968, FAX (360) 407-7157.

WSR 98-08-095

NOTICE OF PUBLIC MEETINGS

BELLINGHAM TECHNICAL COLLEGE

[Memorandum—April 1, 1998]

The regularly scheduled meeting of the board of trustees of Bellingham Technical College will be held on Thursday, April 16, 1998, 9-11 a.m., in the College Services Building Board Room on the Bellingham Technical College campus. Call 738-3105 ext. 334 for information.



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:

- C = Continuance of previous proposal
- E = Emergency action
- P = Proposed action
- S = Supplemental notice
- W = Withdrawal of proposed action
- XA = Expedited adoption
- XR = Expedited repeal

Note: These filings will appear in a special section of Issue 98-09

No suffix means permanent action

WAC # shows the section number under which an agency rule is or will be codified in the Washington Administrative Code.

WSR # shows the issue of the Washington State Register where the document may be found; the last three digits identify the document within the issue.

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16-167-040	AMD-XA	98-04-076	16-400-100	AMD-P	98-07-032	25-36-070	REP	98-05-027
16-167-050	AMD-XA	98-04-076	16-400-210	AMD-P	98-07-032	25-36-080	REP	98-05-027
16-167-060	AMD-XA	98-04-076	16-470-100	AMD-P	98-08-108	25-36-090	REP	98-05-027
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16-168-080	AMD	98-03-089	16-532-0412	REP-P	98-02-073	51-11-0101	AMD	98-03-003
16-168-090	AMD	98-03-089	16-532-0414	REP-P	98-02-073	51-11-0104	AMD	98-03-003
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Table of WAC Sections Affected

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51-11-1422	AMD	98-03-003	51-30-0310	REP	98-02-054	51-30-31210	REP	98-02-054
51-11-1423	AMD	98-03-003	51-30-0313	REP	98-02-054	51-30-3400	REP	98-02-054
51-11-1433	AMD	98-03-003	51-30-0400	REP	98-02-054	51-30-3404	REP	98-02-054
51-11-1452	AMD	98-03-003	51-30-0403	REP	98-02-054	51-30-93115	REP	98-02-054
51-11-1454	AMD	98-03-003	51-30-0405	REP	98-02-054	51-30-93116	REP	98-02-054
51-11-1512	AMD	98-03-003	51-30-0500	REP	98-02-054	51-30-93117	REP	98-02-054
51-11-1530	AMD	98-03-003	51-30-0510	REP	98-02-054	51-30-93118	REP	98-02-054
51-11-1701	AMD	98-03-003	51-30-0600	REP	98-02-054	51-30-93119	REP	98-02-054
51-11-2005	AMD	98-03-003	51-30-0601	REP	98-02-054	51-30-93120	REP	98-02-054
51-11-2006	AMD	98-03-003	51-30-0800	REP	98-02-054	51-32-001	REP	98-02-056
51-11-2007	AMD	98-03-003	51-30-0804	REP	98-02-054	51-32-002	REP	98-02-056
51-11-99903	AMD	98-03-003	51-30-0900	REP	98-02-054	51-32-003	REP	98-02-056
51-11-99904	AMD	98-03-003	51-30-0902	REP	98-02-054	51-32-004	REP	98-02-056
51-13-106	AMD	98-02-047	51-30-0904	REP	98-02-054	51-32-005	REP	98-02-056
51-13-402	AMD	98-02-047	51-30-1000	REP	98-02-054	51-32-007	REP	98-02-056
51-13-502	AMD	98-02-047	51-30-1001	REP	98-02-054	51-32-008	REP	98-02-056
51-26-001	REP	98-02-055	51-30-1004	REP	98-02-054	51-32-0200	REP	98-02-056
51-26-002	REP	98-02-055	51-30-1005	REP	98-02-054	51-32-0223	REP	98-02-056
51-26-003	REP	98-02-055	51-30-1006	REP	98-02-054	51-32-0300	REP	98-02-056
51-26-004	REP	98-02-055	51-30-1007	REP	98-02-054	51-32-0327	REP	98-02-056
51-26-008	REP	98-02-055	51-30-1009	REP	98-02-054	51-32-0500	REP	98-02-056
51-26-0300	REP	98-02-055	51-30-1014	REP	98-02-054	51-32-0504	REP	98-02-056
51-26-0310	REP	98-02-055	51-30-1019	REP	98-02-054	51-32-0600	REP	98-02-056
51-26-0315	REP	98-02-055	51-30-1030	REP	98-02-054	51-32-0601	REP	98-02-056
51-26-0400	REP	98-02-055	51-30-1100	REP	98-02-054	51-32-0605	REP	98-02-056
51-26-0401	REP	98-02-055	51-30-1101	REP	98-02-054	51-32-1100	REP	98-02-056
51-26-0500	REP	98-02-055	51-30-1102	REP	98-02-054	51-32-1101	REP	98-02-056
51-26-0503	REP	98-02-055	51-30-1103	REP	98-02-054	51-32-1102	REP	98-02-056
51-26-0909	REP	98-02-055	51-30-1104	REP	98-02-054	51-32-1103	REP	98-02-056
51-26-1000	REP	98-02-055	51-30-1105	REP	98-02-054	51-32-1104	REP	98-02-056
51-26-1004	REP	98-02-055	51-30-1106	REP	98-02-054	51-32-1105	REP	98-02-056
51-26-1007	REP	98-02-055	51-30-1107	REP	98-02-054	51-32-1106	REP	98-02-056
51-26-1009	REP	98-02-055	51-30-1108	REP	98-02-054	51-32-1107	REP	98-02-056
51-26-1020	REP	98-02-055	51-30-1109	REP	98-02-054	51-32-1108	REP	98-02-056
51-26-1301	REP	98-02-055	51-30-1110	REP	98-02-054	51-32-1300	REP	98-02-056
51-26-1800	REP	98-02-055	51-30-1111	REP	98-02-054	51-32-1312	REP	98-02-056
51-26-1801	REP	98-02-055	51-30-1112	REP	98-02-054	51-32-1313	REP	98-02-056
51-26-1802	REP	98-02-055	51-30-1113	REP	98-02-054	51-34-001	REP	98-02-053
51-26-1803	REP	98-02-055	51-30-1114	REP	98-02-054	51-34-002	REP	98-02-053
51-26-1804	REP	98-02-055	51-30-1120	REP	98-02-054	51-34-003	REP	98-02-053
51-26-1810	REP	98-02-055	51-30-1121	REP	98-02-054	51-34-007	REP	98-02-053
51-26-1820	REP	98-02-055	51-30-1122	REP	98-02-054	51-34-008	REP	98-02-053
51-26-1830	REP	98-02-055	51-30-1123	REP	98-02-054	51-34-0200	REP	98-02-053
51-26-1840	REP	98-02-055	51-30-1124	REP	98-02-054	51-34-0206	REP	98-02-053
51-26-1845	REP	98-02-055	51-30-1125	REP	98-02-054	51-34-0216	REP	98-02-053
51-26-2200	REP	98-02-055	51-30-1200	REP	98-02-054	51-34-0219	REP	98-02-053
51-26-2300	REP	98-02-055	51-30-1203	REP	98-02-054	51-34-0223	REP	98-02-053
51-26-2301	REP	98-02-055	51-30-1600	REP	98-02-054	51-34-0900	REP	98-02-053
51-27-001	REP	98-02-055	51-30-1614	REP	98-02-054	51-34-0901	REP	98-02-053
51-27-002	REP	98-02-055	51-30-1700	REP	98-02-054	51-34-0902	REP	98-02-053
51-27-003	REP	98-02-055	51-30-1702	REP	98-02-054	51-34-1000	REP	98-02-053
51-27-004	REP	98-02-055	51-30-1900	REP	98-02-054	51-34-1003	REP	98-02-053

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Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
51-34-1007	REP	98-02-053	51-35-52600	REP	98-02-053	51-42-003	NEW	98-02-056
51-34-2500	REP	98-02-053	51-40-001	NEW	98-02-054	51-42-004	NEW	98-02-056
51-34-2501	REP	98-02-053	51-40-002	NEW	98-02-054	51-42-005	NEW	98-02-056
51-34-5200	REP	98-02-053	51-40-003	NEW	98-02-054	51-42-007	NEW	98-02-056
51-34-5201	REP	98-02-053	51-40-004	NEW	98-02-054	51-42-008	NEW	98-02-056
51-34-5204	REP	98-02-053	51-40-005	NEW	98-02-054	51-42-0200	NEW	98-02-056
51-34-6100	REP	98-02-053	51-40-007	NEW	98-02-054	51-42-0223	NEW	98-02-056
51-34-6103	REP	98-02-053	51-40-008	NEW	98-02-054	51-42-0303	NEW	98-02-056
51-34-6104	REP	98-02-053	51-40-009	NEW	98-02-054	51-42-0504	NEW	98-02-056
51-34-6105	REP	98-02-053	51-40-0200	NEW	98-02-054	51-42-0600	NEW	98-02-056
51-34-6106	REP	98-02-053	51-40-0302	NEW	98-02-054	51-42-0601	NEW	98-02-056
51-34-6107	REP	98-02-053	51-40-0303	NEW	98-02-054	51-42-0605	NEW	98-02-056
51-34-6301	REP	98-02-053	51-40-0304	NEW	98-02-054	51-42-0901	NEW	98-02-056
51-34-6302	REP	98-02-053	51-40-0305	NEW	98-02-054	51-42-1000	NEW	98-02-056
51-34-6303	REP	98-02-053	51-40-0307	NEW	98-02-054	51-42-1002	NEW	98-02-056
51-34-6304	REP	98-02-053	51-40-0308	NEW	98-02-054	51-42-1004	NEW	98-02-056
51-34-6305	REP	98-02-053	51-40-0310	NEW	98-02-054	51-42-1005	NEW	98-02-056
51-34-6306	REP	98-02-053	51-40-0311	NEW	98-02-054	51-42-1100	NEW	98-02-056
51-34-6307	REP	98-02-053	51-40-0313	NEW	98-02-054	51-42-1101	NEW	98-02-056
51-34-6308	REP	98-02-053	51-40-0403	NEW	98-02-054	51-42-1102	NEW	98-02-056
51-34-6309	REP	98-02-053	51-40-0405	NEW	98-02-054	51-42-1103	NEW	98-02-056
51-34-6310	REP	98-02-053	51-40-0510	NEW	98-02-054	51-42-1104	NEW	98-02-056
51-34-6311	REP	98-02-053	51-40-0804	NEW	98-02-054	51-42-1105	NEW	98-02-056
51-34-6312	REP	98-02-053	51-40-0902	NEW	98-02-054	51-42-1106	NEW	98-02-056
51-34-6313	REP	98-02-053	51-40-0904	NEW	98-02-054	51-42-1107	NEW	98-02-056
51-34-6314	REP	98-02-053	51-40-1000	NEW	98-02-054	51-42-1108	NEW	98-02-056
51-34-6315	REP	98-02-053	51-40-1002	NEW	98-02-054	51-42-1311	NEW	98-02-056
51-34-6316	REP	98-02-053	51-40-1003	NEW	98-02-054	51-42-1312	NEW	98-02-056
51-34-6317	REP	98-02-053	51-40-1004	NEW	98-02-054	51-42-1401	NEW	98-02-056
51-34-6318	REP	98-02-053	51-40-1007	NEW	98-02-054	51-44-001	NEW	98-02-053
51-34-6319	REP	98-02-053	51-40-1091	NEW	98-02-054	51-44-002	NEW	98-02-053
51-34-6320	REP	98-02-053	51-40-1100	NEW	98-02-054	51-44-003	NEW	98-02-053
51-34-6321	REP	98-02-053	51-40-1101	NEW	98-02-054	51-44-007	NEW	98-02-053
51-34-6322	REP	98-02-053	51-40-1102	NEW	98-02-054	51-44-008	NEW	98-02-053
51-34-6323	REP	98-02-053	51-40-1103	NEW	98-02-054	51-44-0103	NEW	98-02-053
51-34-6324	REP	98-02-053	51-40-1104	NEW	98-02-054	51-44-0200	NEW	98-02-053
51-34-7800	REP	98-02-053	51-40-1105	NEW	98-02-054	51-44-0900	NEW	98-02-053
51-34-7802	REP	98-02-053	51-40-1106	NEW	98-02-054	51-44-1003	NEW	98-02-053
51-34-7900	REP	98-02-053	51-40-1107	NEW	98-02-054	51-44-1007	NEW	98-02-053
51-34-7902	REP	98-02-053	51-40-1108	NEW	98-02-054	51-44-10210	NEW	98-02-053
51-34-7904	REP	98-02-053	51-40-1109	NEW	98-02-054	51-44-1109	NEW	98-02-053
51-34-8000	REP	98-02-053	51-40-1110	NEW	98-02-054	51-44-2500	NEW	98-02-053
51-34-8001	REP	98-02-053	51-40-1111	NEW	98-02-054	51-44-5200	NEW	98-02-053
51-34-8003	REP	98-02-053	51-40-1112	NEW	98-02-054	51-44-6100	NEW	98-02-053
51-34-9100	REP	98-02-053	51-40-1113	NEW	98-02-054	51-44-6300	NEW	98-02-053
51-34-9101	REP	98-02-053	51-40-1114	NEW	98-02-054	51-44-7404	NEW	98-02-053
51-34-9102	REP	98-02-053	51-40-1191	NEW	98-02-054	51-44-7802	NEW	98-02-053
51-34-9103	REP	98-02-053	51-40-1192	NEW	98-02-054	51-44-7900	NEW	98-02-053
51-34-9104	REP	98-02-053	51-40-1193	NEW	98-02-054	51-44-8000	NEW	98-02-053
51-34-9105	REP	98-02-053	51-40-1194	NEW	98-02-054	51-45-001	NEW	98-02-053
51-34-9106	REP	98-02-053	51-40-1195	NEW	98-02-054	51-45-002	NEW	98-02-053
51-34-9107	REP	98-02-053	51-40-1196	NEW	98-02-054	51-45-003	NEW	98-02-053
51-34-9108	REP	98-02-053	51-40-1203	NEW	98-02-054	51-45-007	NEW	98-02-053
51-35-001	REP	98-02-053	51-40-1506	NEW-W	98-05-065	51-45-008	NEW	98-02-053
51-35-002	REP	98-02-053	51-40-1616	NEW	98-02-054	51-45-80400	NEW	98-02-053
51-35-003	REP	98-02-053	51-40-1702	NEW	98-02-054	51-46-001	NEW	98-02-055
51-35-007	REP	98-02-053	51-40-1909	NEW	98-02-054	51-46-002	NEW	98-02-055
51-35-008	REP	98-02-053	51-40-23110	NEW	98-02-054	51-46-003	NEW	98-02-055
51-35-52000	REP	98-02-053	51-40-2406	NEW	98-02-054	51-46-007	NEW	98-02-055
51-35-52400	REP	98-02-053	51-40-2900	NEW	98-02-054	51-46-008	NEW	98-02-055
51-35-52440	REP	98-02-053	51-40-2929	NEW	98-02-054	51-46-0100	NEW	98-02-055
51-35-52441	REP	98-02-053	51-40-3004	NEW	98-02-054	51-46-0101	NEW	98-02-055
51-35-52442	REP	98-02-053	51-40-3102	NEW	98-02-054	51-46-0102	NEW	98-02-055
51-35-52500	REP	98-02-053	51-40-31200	NEW	98-02-054	51-46-0103	NEW	98-02-055
51-35-52510	REP	98-02-053	51-40-3404	NEW	98-02-054	51-46-0200	NEW	98-02-055
51-35-52520	REP	98-02-053	51-40-93115	NEW	98-02-054	51-46-0205	NEW	98-02-055
51-35-52530	REP	98-02-053	51-40-93116	NEW	98-02-054	51-46-0215	NEW	98-02-055
51-35-52540	REP	98-02-053	51-40-93117	NEW	98-02-054	51-46-0218	NEW	98-02-055
51-35-52550	REP	98-02-053	51-40-93118	NEW	98-02-054	51-46-0300	NEW	98-02-055
51-35-52560	REP	98-02-053	51-40-93119	NEW	98-02-054	51-46-0301	NEW	98-02-055
51-35-52570	REP	98-02-053	51-40-93120	NEW	98-02-054	51-46-0310	NEW	98-02-055
51-35-52580	REP	98-02-053	51-42-001	NEW	98-02-056	51-46-0311	NEW	98-02-055
51-35-52590	REP	98-02-053	51-42-002	NEW	98-02-056	51-46-0313	NEW	98-02-055

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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
51-46-0314	NEW	98-02-055	118-40-020	AMD	98-07-028	131-46-040	REP-P	98-06-070
51-46-0316	NEW	98-02-055	118-40-030	AMD	98-07-028	131-46-045	REP-P	98-06-070
51-46-0392	NEW	98-02-055	118-40-040	AMD	98-07-028	131-46-050	REP-P	98-06-070
51-46-0400	NEW	98-02-055	118-40-050	AMD	98-07-028	131-46-055	REP-P	98-06-070
51-46-0402	NEW	98-02-055	118-40-060	AMD	98-07-028	131-46-060	REP-P	98-06-070
51-46-0412	NEW	98-02-055	118-40-070	AMD	98-07-028	131-46-065	REP-P	98-06-070
51-46-0413	NEW	98-02-055	118-40-080	AMD	98-07-028	131-46-070	REP-P	98-06-070
51-46-0500	NEW	98-02-055	118-40-090	REP	98-07-028	131-46-075	REP-P	98-06-070
51-46-0501	NEW	98-02-055	118-40-100	REP	98-07-028	131-46-080	REP-P	98-06-070
51-46-0502	NEW	98-02-055	118-40-150	AMD	98-07-028	131-46-085	REP-P	98-06-070
51-46-0505	NEW	98-02-055	118-40-160	AMD	98-07-028	131-46-090	REP-P	98-06-070
51-46-0507	NEW	98-02-055	118-40-170	AMD	98-07-028	131-46-095	REP-P	98-06-070
51-46-0509	NEW	98-02-055	118-40-180	AMD	98-07-028	131-46-105	REP-P	98-06-070
51-46-0512	NEW	98-02-055	118-40-190	REP	98-07-028	131-46-110	REP-P	98-06-070
51-46-0513	NEW	98-02-055	118-40-300	AMD	98-07-028	131-46-115	REP-P	98-06-070
51-46-0514	NEW	98-02-055	118-40-400	AMD	98-07-028	131-46-120	REP-P	98-06-070
51-46-0515	NEW	98-02-055	131-08	AMD-C	98-07-059	131-46-125	REP-P	98-06-070
51-46-0516	NEW	98-02-055	131-08-005	AMD-P	98-06-071	132B-120-010	AMD-P	98-05-049
51-46-0517	NEW	98-02-055	131-08-007	AMD-P	98-06-071	132B-120-020	AMD-P	98-05-049
51-46-0518	NEW	98-02-055	131-08-008	AMD-P	98-06-071	132B-120-030	AMD-P	98-05-049
51-46-0519	NEW	98-02-055	131-12	AMD-C	98-07-059	132B-120-040	AMD-P	98-05-049
51-46-0520	NEW	98-02-055	131-12-020	AMD-P	98-06-069	132B-120-055	NEW-P	98-05-049
51-46-0521	NEW	98-02-055	131-12-030	AMD-P	98-06-069	132B-120-065	NEW-P	98-05-049
51-46-0522	NEW	98-02-055	131-12-040	AMD-P	98-06-069	132B-120-075	NEW-P	98-05-049
51-46-0523	NEW	98-02-055	131-12-041	AMD-P	98-06-069	132B-120-080	AMD-P	98-05-049
51-46-0524	NEW	98-02-055	131-16	AMD-C	98-08-028	132B-120-085	NEW-P	98-05-049
51-46-0525	NEW	98-02-055	131-16-010	AMD-P	98-06-075	132B-120-120	AMD-P	98-05-049
51-46-0600	NEW	98-02-055	131-16-011	AMD-P	98-06-075	132B-120-130	AMD-P	98-05-049
51-46-0603	NEW	98-02-055	131-16-015	REP-P	98-06-075	132B-120-135	NEW-P	98-05-049
51-46-0604	NEW	98-02-055	131-16-021	AMD-P	98-06-075	132B-120-170	AMD-P	98-05-049
51-46-0608	NEW	98-02-055	131-16-031	AMD-P	98-06-075	132B-120-180	AMD-P	98-05-049
51-46-0609	NEW	98-02-055	131-16-040	REP-P	98-06-075	132B-120-190	AMD-P	98-05-049
51-46-0610	NEW	98-02-055	131-16-045	AMD-P	98-06-075	132B-120-200	AMD-P	98-05-049
51-46-0700	NEW	98-02-055	131-16-050	AMD-P	98-06-075	132B-120-210	NEW-P	98-05-049
51-46-0701	NEW	98-02-055	131-16-055	AMD-P	98-06-075	132B-120-220	NEW-P	98-05-049
51-46-0704	NEW	98-02-055	131-16-056	AMD-P	98-06-075	132H-160-052	AMD	98-03-044
51-46-0710	NEW	98-02-055	131-16-060	REP-P	98-06-075	132P-33	PREP	98-07-007
51-46-0713	NEW	98-02-055	131-16-061	AMD-P	98-06-075	136-130-030	AMD-P	98-05-036
51-46-0793	NEW	98-02-055	131-16-062	REP-P	98-06-075	136-130-030	AMD-W	98-06-044
51-46-0800	NEW	98-02-055	131-16-065	REP-P	98-06-075	136-130-030	AMD-P	98-06-045
51-46-0810	NEW	98-02-055	131-16-066	REP-P	98-06-075	136-130-040	AMD-P	98-05-036
51-46-0814	NEW	98-02-055	131-24	AMD-C	98-07-059	136-130-040	AMD-W	98-06-044
51-46-0815	NEW	98-02-055	131-24-010	AMD-P	98-06-073	136-130-040	AMD-P	98-06-045
51-46-0900	NEW	98-02-055	131-24-020	AMD-P	98-06-073	136-161-070	AMD-P	98-05-036
51-46-0903	NEW	98-02-055	131-24-030	AMD-P	98-06-073	136-161-070	AMD-W	98-06-044
51-46-1000	NEW	98-02-055	131-24-040	REP-P	98-06-073	136-161-070	AMD-P	98-06-045
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51-46-1300	NEW	98-02-055	131-28-02501	AMD-P	98-06-072	136-161-080	AMD-P	98-06-045
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51-46-1400	NEW	98-02-055	131-28-085	REP-P	98-06-072	136-200-040	AMD-P	98-06-045
51-46-1401	NEW	98-02-055	131-28-090	REP-P	98-06-072	136-210-030	AMD-P	98-05-036
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51-47-003	NEW	98-02-055	131-46-027	REP-P	98-06-070	137-100-030	AMD-P	98-02-074
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162-38-120	AMD	98-08-035	173-160-361	NEW	98-08-032	173-303-082	AMD	98-03-018
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173-160-055	REP	98-08-032	173-160-450	NEW	98-08-032	173-303-395	AMD	98-03-018
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173-160-095	REP	98-08-032	173-160-510	REP	98-08-032	173-303-600	AMD	98-03-018
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173-160-151	NEW	98-08-032	173-162-030	AMD	98-08-031	173-303-807	AMD	98-03-018
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173-308-030	NEW	98-05-101	180-58-045	REP	98-05-006	192-32-055	AMD	98-05-042
173-308-040	NEW	98-05-101	180-58-055	REP	98-05-006	192-32-065	AMD	98-05-042
173-308-050	NEW	98-05-101	180-58-065	REP	98-05-006	192-32-075	AMD	98-05-042
173-308-060	NEW	98-05-101	180-58-075	REP	98-05-006	192-32-085	AMD	98-05-042
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173-308-090	NEW	98-05-101	180-59-005	REP	98-05-007	192-32-105	AMD	98-05-042
173-308-100	NEW	98-05-101	180-59-010	REP	98-05-007	192-32-115	AMD	98-05-042
173-308-110	NEW	98-05-101	180-59-015	REP	98-05-007	192-32-120	REP	98-05-042
173-308-120	NEW	98-05-101	180-59-020	REP	98-05-007	192-32-125	REP	98-05-042
173-308-130	NEW	98-05-101	180-59-025	REP	98-05-007	192-32-130	NEW	98-05-042
173-308-140	NEW	98-05-101	180-59-030	REP	98-05-007	192-32-135	NEW	98-05-042
173-308-150	NEW	98-05-101	180-59-032	REP	98-05-007	192-33-005	NEW	98-05-042
173-308-160	NEW	98-05-101	180-59-035	REP	98-05-007	192-33-006	NEW	98-05-042
173-308-170	NEW	98-05-101	180-59-037	REP	98-05-007	194-10-010	REP	98-05-027
173-308-180	NEW	98-05-101	180-59-040	REP	98-05-007	194-10-020	REP	98-05-027
173-308-190	NEW	98-05-101	180-59-045	REP	98-05-007	194-10-030	REP	98-05-027
173-308-200	NEW	98-05-101	180-59-047	REP	98-05-007	194-10-040	REP	98-05-027
173-308-210	NEW	98-05-101	180-59-050	REP	98-05-007	194-10-050	REP	98-05-027
173-308-220	NEW	98-05-101	180-59-055	REP	98-05-007	194-10-060	REP	98-05-027
173-308-230	NEW	98-05-101	180-59-060	REP	98-05-007	194-10-070	REP	98-05-027
173-308-240	NEW	98-05-101	180-59-065	REP	98-05-007	194-10-080	REP	98-05-027
173-308-250	NEW	98-05-101	180-59-070	REP	98-05-007	194-10-090	REP	98-05-027
173-308-260	NEW	98-05-101	180-59-075	REP	98-05-007	194-10-100	REP	98-05-027
173-308-270	NEW	98-05-101	180-59-080	REP	98-05-007	194-10-110	REP	98-05-027
173-308-275	NEW	98-05-101	180-59-090	REP	98-05-007	194-10-120	REP	98-05-027
173-308-280	NEW	98-05-101	180-59-095	REP	98-05-007	194-10-130	REP	98-05-027
173-308-290	NEW	98-05-101	180-59-100	REP	98-05-007	194-10-140	REP	98-05-027
173-308-295	NEW	98-05-101	180-59-105	REP	98-05-007	196-08-010	REP-P	98-08-078
173-308-300	NEW	98-05-101	180-59-110	REP	98-05-007	196-08-040	REP-P	98-08-078
173-308-310	NEW	98-05-101	180-59-115	REP	98-05-007	196-08-050	REP-P	98-08-078
173-308-320	NEW	98-05-101	180-59-120	REP	98-05-007	196-08-060	REP-P	98-08-078
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196-08-420	REP-P	98-08-078	220-16-720	NEW	98-06-031	220-56-191	AMD	98-06-031
196-08-430	REP-P	98-08-078	220-20-010	AMD	98-06-031	220-56-240	AMD	98-06-031
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196-08-450	REP-P	98-08-078	220-20-01000A	REP-E	98-05-014	220-56-262	NEW	98-06-031
196-08-460	REP-P	98-08-078	220-20-01000B	NEW-E	98-08-046	220-56-265	AMD	98-06-031
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196-08-580	REP-P	98-08-078	220-33-01000Z	REP-E	98-08-046	220-56-310	AMD	98-06-031
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232-28-267	REP-P	98-05-086	246-12-340	NEW	98-05-060	246-817-210	AMD	98-05-060
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246-834-400	NEW	98-05-060	246-853-275	REP	98-05-060	246-928	PREP	98-08-114
246-834-500	REP	98-05-060	246-853-990	AMD	98-05-060	246-928-090	REP	98-05-060
246-834-990	AMD-P	98-07-085	246-854-050	AMD	98-05-060	246-928-190	AMD	98-05-060
246-836-080	AMD	98-05-060	246-854-080	AMD	98-05-060	246-928-990	AMD	98-05-060
246-836-090	REP	98-05-060	246-854-110	AMD	98-05-060	246-930-020	AMD	98-05-060
246-836-410	AMD	98-05-060	246-855-100	AMD	98-05-060	246-930-400	REP	98-05-060
246-836-990	AMD-W	98-05-058	246-861-010	AMD	98-05-060	246-930-410	AMD	98-05-060
246-836-990	AMD	98-05-060	246-861-020	AMD	98-05-060	246-930-420	AMD	98-05-060
246-840-010	AMD	98-05-060	246-861-120	REP	98-05-060	246-930-430	REP	98-05-060
246-840-010	AMD-C	98-08-116	246-863-030	AMD	98-05-060	246-930-431	NEW	98-05-060
246-840-020	AMD	98-05-060	246-863-050	REP	98-05-060	246-930-990	AMD	98-05-060
246-840-040	AMD	98-05-060	246-863-070	AMD	98-05-060	246-930-995	NEW	98-05-060
246-840-080	AMD	98-05-060	246-863-080	AMD	98-05-060	246-933-180	REP	98-05-060
246-840-090	AMD	98-05-060	246-863-090	AMD	98-05-060	246-933-305	AMD	98-05-060
246-840-100	REP	98-05-060	246-863-120	AMD	98-05-060	246-933-420	AMD	98-05-060
246-840-110	REP	98-05-060	246-869-050	REP	98-05-060	246-933-430	REP	98-05-060
246-840-111	NEW	98-05-060	246-879-070	AMD	98-05-060	246-933-470	REP	98-05-060
246-840-115	REP	98-05-060	246-887-020	AMD	98-05-060	246-933-480	AMD	98-05-060
246-840-120	AMD	98-05-060	246-887-170	AMD	98-02-084	246-933-990	AMD	98-05-060
246-840-340	AMD	98-05-060	246-901-065	AMD	98-05-060	246-935-130	AMD	98-05-060
246-840-350	AMD	98-05-060	246-901-120	AMD	98-05-060	246-935-990	AMD	98-05-060
246-840-360	AMD	98-05-060	246-904	PREP	98-04-037	246-937-050	AMD	98-05-060
246-840-365	AMD	98-05-060	246-907-020	REP	98-05-060	246-937-080	AMD	98-05-060
246-840-410	AMD	98-05-060	246-907-030	AMD	98-05-060	246-937-990	AMD	98-05-060
246-840-440	AMD	98-05-060	246-907-030	AMD-P	98-07-086	246-976-470	REP	98-04-038
246-840-450	AMD	98-05-060	246-907-995	NEW	98-05-060	246-976-475	REP	98-04-038
246-840-985	NEW-C	98-08-116	246-915-010	AMD	98-05-060	246-976-480	REP	98-04-038
246-840-990	AMD	98-05-060	246-915-050	AMD	98-05-060	246-976-485	NEW	98-04-038
246-841-520	NEW	98-05-060	246-915-060	REP	98-05-060	246-976-490	NEW	98-04-038
246-841-610	AMD	98-05-060	246-915-085	AMD	98-05-060	246-976-500	AMD	98-04-038
246-841-990	AMD	98-05-060	246-915-110	AMD	98-05-060	246-976-510	AMD	98-04-038
246-843-150	AMD	98-05-060	246-915-990	AMD	98-05-060	246-976-520	AMD	98-04-038
246-843-155	REP	98-05-060	246-918-006	REP	98-05-060	246-976-550	AMD	98-04-038
246-843-160	REP	98-05-060	246-918-080	AMD	98-05-060	246-976-560	AMD	98-04-038
246-843-162	AMD	98-05-060	246-918-081	NEW	98-05-060	246-976-570	AMD	98-04-038
246-843-180	AMD	98-05-060	246-918-085	REP	98-05-060	246-976-600	AMD	98-04-038
246-843-230	AMD	98-05-060	246-918-170	AMD	98-05-060	246-976-610	AMD	98-04-038
246-843-250	REP	98-05-060	246-918-180	AMD	98-05-060	246-976-615	NEW	98-04-038
246-843-320	REP	98-05-060	246-918-990	AMD	98-05-060	246-976-620	NEW	98-04-038
246-843-330	AMD	98-05-060	246-919-030	REP	98-05-060	246-976-640	AMD	98-04-038
246-843-990	AMD	98-05-060	246-919-305	REP	98-05-060	246-976-650	AMD	98-04-038
246-845-100	REP	98-05-060	246-919-380	AMD	98-05-060	246-976-680	AMD	98-04-038
246-845-990	AMD	98-05-060	246-919-400	REP	98-05-060	246-976-690	AMD	98-04-038
246-847-055	AMD	98-05-060	246-919-410	REP	98-05-060	246-976-720	AMD	98-04-038
246-847-060	REP	98-05-060	246-919-420	REP	98-05-060	246-976-730	AMD	98-04-038
246-847-065	AMD	98-05-060	246-919-430	AMD	98-05-060	246-976-740	AMD	98-04-038
246-847-068	AMD	98-05-060	246-919-440	REP	98-05-060	246-976-770	AMD	98-04-038
246-847-070	AMD	98-05-060	246-919-460	AMD	98-05-060	246-976-780	AMD	98-04-038
246-847-190	AMD	98-05-060	246-919-480	AMD	98-05-060	246-976-790	AMD	98-04-038
246-847-200	REP	98-05-060	246-919-990	AMD	98-05-060	246-976-810	AMD	98-04-038
246-847-990	AMD	98-05-060	246-922-070	AMD	98-05-060	246-976-820	AMD	98-04-038
246-849-110	AMD	98-05-060	246-922-275	REP	98-05-060	246-976-822	NEW	98-04-038

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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
246-976-830	AMD	98-04-038	251-04-170	NEW	98-08-024	284-19-090	AMD-XA	98-08-097
246-976-840	AMD	98-04-038	251-10-030	AMD	98-03-051	284-19-100	AMD-XA	98-08-097
246-976-850	AMD	98-04-038	251-19-100	AMD-C	98-06-015	284-19-110	AMD-XA	98-08-097
246-976-860	AMD	98-04-038	251-19-100	AMD	98-08-026	284-19-120	AMD-XA	98-08-097
246-976-870	NEW	98-04-038	251-19-105	AMD-C	98-06-013	284-19-130	AMD-XA	98-08-097
246-976-880	REP	98-04-038	251-19-105	AMD	98-08-025	284-19-140	AMD-XA	98-08-097
246-976-881	NEW	98-04-038	255-01-010	NEW-P	98-04-060	284-19-150	AMD-XA	98-08-097
246-976-885	AMD	98-04-038	255-01-010	NEW	98-07-071	284-19-160	AMD-XA	98-08-097
246-976-890	AMD	98-04-038	255-01-020	NEW-P	98-04-060	284-19-170	AMD-XA	98-08-097
246-976-935	NEW	98-05-035	255-01-020	NEW	98-07-071	284-19-180	AMD-XA	98-08-097
250-10-010	REP	98-08-006	255-01-030	NEW-P	98-04-060	284-23	AMD-C	98-02-062
250-10-020	REP	98-08-006	255-01-030	NEW	98-07-071	284-23	AMD-C	98-03-076
250-10-022	REP	98-08-006	255-01-040	NEW-P	98-04-060	284-23	AMD-C	98-07-062
250-10-026	REP	98-08-006	255-01-040	NEW	98-07-071	284-23-120	REP-XA	98-07-065
250-10-028	REP	98-08-006	255-01-050	NEW-P	98-04-060	284-23-130	REP-XA	98-07-065
250-10-030	REP	98-08-006	255-01-050	NEW	98-07-071	284-23-200	AMD-P	98-04-083
250-10-040	REP	98-08-006	255-01-060	NEW-P	98-04-060	284-23-210	AMD-P	98-04-083
250-10-050	REP	98-08-006	255-01-060	NEW	98-07-071	284-23-220	AMD-P	98-04-083
250-10-060	REP	98-08-006	255-01-070	NEW-P	98-04-060	284-23-230	AMD-P	98-04-083
250-10-070	REP	98-08-006	255-01-070	NEW	98-07-071	284-23-235	NEW-P	98-04-083
250-10-080	REP	98-08-006	255-01-080	NEW-P	98-04-060	284-23-240	AMD-P	98-04-083
250-10-090	REP	98-08-006	255-01-080	NEW	98-07-071	284-23-250	AMD-P	98-04-083
250-10-100	REP	98-08-006	255-01-090	NEW-P	98-04-060	284-23-260	REP-P	98-04-083
250-10-110	REP	98-08-006	255-01-090	NEW	98-07-071	284-23-270	REP-P	98-04-083
250-10-120	REP	98-08-006	255-01-100	NEW-P	98-04-060	284-23-380	REP-XA	98-07-065
250-10-130	REP	98-08-006	255-01-100	NEW	98-07-071	284-23-610	AMD	98-05-026
250-10-140	REP	98-08-006	255-01-110	NEW-P	98-04-060	284-23-620	AMD	98-05-026
250-10-150	REP	98-08-006	255-01-110	NEW	98-07-071	284-23-640	AMD	98-05-026
250-10-160	REP	98-08-006	255-01-120	NEW-P	98-04-060	284-23-645	NEW	98-05-026
250-10-170	REP	98-08-006	255-01-120	NEW	98-07-071	284-23-650	AMD	98-05-026
250-12-010	REP	98-08-008	255-01-130	NEW-P	98-04-060	284-23-660	AMD	98-05-026
250-12-020	REP	98-08-008	255-01-130	NEW	98-07-071	284-23-690	AMD	98-05-026
250-12-030	REP	98-08-008	255-01-140	NEW-P	98-04-060	284-23-710	AMD	98-05-026
250-12-040	REP	98-08-008	255-01-140	NEW	98-07-071	284-23-730	AMD	98-05-026
250-12-050	REP	98-08-008	255-02-010	NEW-P	98-04-059	284-24	PREP	98-05-102
250-12-060	REP	98-08-008	255-02-020	NEW-P	98-04-059	284-24-065	PREP	98-04-081
250-12-070	REP	98-08-008	255-02-030	NEW-P	98-04-059	284-28-001	REP-XA	98-07-065
250-16-001	REP	98-08-007	255-02-040	NEW-P	98-04-059	284-36A-010	AMD-XA	98-04-085
250-16-010	REP	98-08-007	255-02-050	NEW-P	98-04-059	284-36A-020	AMD-XA	98-04-085
250-16-020	REP	98-08-007	255-02-060	NEW-P	98-04-059	284-36A-025	AMD-XA	98-04-085
250-16-030	REP	98-08-007	255-02-070	NEW-P	98-04-059	284-36A-030	REP-XA	98-04-085
250-16-040	REP	98-08-007	255-02-080	NEW-P	98-04-059	284-36A-040	NEW-XA	98-04-085
250-16-050	REP	98-08-007	255-02-090	NEW-P	98-04-059	284-36A-045	NEW-XA	98-04-085
250-16-060	REP	98-08-007	255-02-100	NEW-P	98-04-059	284-36A-050	NEW-XA	98-04-085
250-18-020	AMD	98-08-004	255-02-110	NEW-P	98-04-059	284-36A-055	NEW-XA	98-04-085
250-18-060	AMD	98-08-004	260-32-180	AMD	98-07-070	284-36A-060	NEW-XA	98-04-085
250-55-010	REP	98-08-009	260-32-360	REP	98-07-070	284-36A-065	NEW-XA	98-04-085
250-55-020	REP	98-08-009	284-01-050	NEW	98-04-063	284-43	AMD-C	98-02-063
250-55-030	REP	98-08-009	284-05-040	AMD-XA	98-07-105	284-43	AMD-C	98-03-004
250-55-040	REP	98-08-009	284-05-060	AMD-XA	98-07-105	284-43	AMD	98-04-005
250-55-050	REP	98-08-009	284-05-070	REP-XA	98-07-105	284-43-040	REP	98-04-005
250-55-060	REP	98-08-009	284-10	REP-C	98-03-004	284-43-100	REP	98-04-005
250-55-070	REP	98-08-009	284-10-010	REP	98-04-005	284-43-110	NEW	98-04-005
250-55-080	REP	98-08-009	284-10-015	REP	98-04-005	284-43-120	NEW	98-04-005
250-55-090	REP	98-08-009	284-10-020	REP	98-04-005	284-43-130	NEW	98-04-005
250-55-100	REP	98-08-009	284-10-030	REP	98-04-005	284-43-200	NEW	98-04-005
250-55-110	REP	98-08-009	284-10-050	REP	98-04-005	284-43-210	NEW	98-04-005
250-55-120	REP	98-08-009	284-10-060	REP	98-04-005	284-43-220	NEW	98-04-005
250-55-130	REP	98-08-009	284-10-070	REP	98-04-005	284-43-250	NEW	98-04-005
250-55-140	REP	98-08-009	284-10-090	REP	98-04-005	284-43-300	NEW	98-04-005
250-55-150	REP	98-08-009	284-10-140	REP	98-04-005	284-43-310	NEW	98-04-005
250-55-160	REP	98-08-009	284-17-135	REP	98-06-022	284-43-320	NEW	98-04-005
250-55-170	REP	98-08-009	284-17-220	AMD-XA	98-07-104	284-43-330	NEW	98-04-005
250-55-180	REP	98-08-009	284-17-300	REP-XA	98-04-084	284-43-340	NEW	98-04-005
250-55-190	REP	98-08-009	284-17-570	REP-XA	98-07-065	284-43-700	NEW	98-04-005
250-55-200	REP	98-08-009	284-19-010	AMD-XA	98-08-097	284-43-710	NEW	98-04-005
250-55-210	REP	98-08-009	284-19-020	AMD-XA	98-08-097	284-43-720	NEW	98-04-005
250-55-220	REP	98-08-009	284-19-030	REP-XA	98-08-097	284-43-730	NEW	98-04-005
250-61-060	AMD-XA	98-08-001	284-19-040	AMD-XA	98-08-097	284-43-800	NEW	98-04-005
250-61-090	AMD-XA	98-08-002	284-19-050	AMD-XA	98-08-097	284-43-900	NEW	98-04-011
250-61-150	REP	98-08-005	284-19-060	AMD-XA	98-08-097	284-43-905	NEW	98-04-011
250-71-050	AMD	98-08-003	284-19-070	AMD-XA	98-08-097	284-43-910	NEW	98-04-011
251-04-170	NEW-C	98-06-014	284-19-080	AMD-XA	98-08-097	284-43-915	NEW	98-04-011

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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
284-43-920	NEW	98-04-011	286-35-060	AMD-P	98-04-079	296-44-013	REP	98-07-009
284-43-925	NEW	98-04-011	286-35-060	AMD	98-08-014	296-44-015	REP	98-07-009
284-43-930	NEW	98-04-011	292-110-010	AMD	98-08-054	296-44-016	REP	98-07-009
284-43-930	AMD-XA	98-07-105	292-110-050	NEW	98-03-045	296-44-017	REP	98-07-009
284-43-935	NEW	98-04-011	292-110-060	NEW	98-04-001	296-44-023	REP	98-07-009
284-43-940	NEW	98-04-011	296-04A-001	NEW-W	98-07-058	296-44-02301	REP	98-07-009
284-43-945	NEW	98-04-011	296-04A-003	NEW-W	98-07-058	296-44-02305	REP	98-07-009
284-43-950	NEW	98-04-011	296-04A-006	NEW-W	98-07-058	296-44-02309	REP	98-07-009
284-43-955	NEW	98-04-011	296-04A-009	NEW-W	98-07-058	296-44-02315	REP	98-07-009
284-44	REP-C	98-02-063	296-04A-012	NEW-W	98-07-058	296-44-02319	REP	98-07-009
284-44	REP-C	98-03-004	296-04A-015	NEW-W	98-07-058	296-44-02323	REP	98-07-009
284-44-100	REP	98-04-011	296-04A-018	NEW-W	98-07-058	296-44-02329	REP	98-07-009
284-44-110	REP	98-04-011	296-04A-025	NEW-W	98-07-058	296-44-02335	REP	98-07-009
284-44-120	REP	98-04-011	296-04A-028	NEW-W	98-07-058	296-44-02349	REP	98-07-009
284-44-130	REP	98-04-011	296-04A-034	NEW-W	98-07-058	296-44-025	REP	98-07-009
284-44-140	REP	98-04-011	296-04A-037	NEW-W	98-07-058	296-44-035	REP	98-07-009
284-44-150	REP	98-04-011	296-04A-040	NEW-W	98-07-058	296-44-03505	REP	98-07-009
284-44-160	REP	98-04-011	296-04A-043	NEW-W	98-07-058	296-44-03509	REP	98-07-009
284-44-190	REP	98-04-011	296-04A-046	NEW-W	98-07-058	296-44-041	REP	98-07-009
284-44-200	REP	98-04-011	296-04A-049	NEW-W	98-07-058	296-44-04105	REP	98-07-009
284-44-210	REP	98-04-011	296-04A-052	NEW-W	98-07-058	296-44-04109	REP	98-07-009
284-44-220	REP	98-04-011	296-04A-055	NEW-W	98-07-058	296-44-04125	REP	98-07-009
284-44-240	REP	98-04-005	296-04A-060	NEW-W	98-07-058	296-44-04129	REP	98-07-009
284-44-360	REP-XA	98-07-065	296-04A-100	NEW-W	98-07-058	296-44-04135	REP	98-07-009
284-44-410	REP	98-04-005	296-04A-110	NEW-W	98-07-058	296-44-051	REP	98-07-009
284-46	REP-C	98-03-004	296-04A-120	NEW-W	98-07-058	296-44-05105	REP	98-07-009
284-46-020	REP	98-04-005	296-04A-130	NEW-W	98-07-058	296-44-05109	REP	98-07-009
284-46-575	REP	98-04-005	296-04A-150	NEW-W	98-07-058	296-44-05115	REP	98-07-009
284-50-435	REP-XA	98-07-065	296-04A-200	NEW-W	98-07-058	296-44-05119	REP	98-07-009
284-51-180	REP-XA	98-04-084	296-04A-210	NEW-W	98-07-058	296-44-05125	REP	98-07-009
284-58-010	AMD-XA	98-08-098	296-04A-230	NEW-W	98-07-058	296-44-05129	REP	98-07-009
284-58-020	AMD-XA	98-08-098	296-04A-300	NEW-W	98-07-058	296-44-05131	REP	98-07-009
284-58-040	REP-XA	98-04-084	296-04A-30001	NEW-W	98-07-058	296-44-05135	REP	98-07-009
284-58-050	REP-XA	98-04-084	296-04A-330	NEW-W	98-07-058	296-44-05141	REP	98-07-009
284-58-060	REP-XA	98-04-084	296-04A-340	NEW-W	98-07-058	296-44-065	REP	98-07-009
284-58-250	AMD-XA	98-08-098	296-04A-350	NEW-W	98-07-058	296-44-06505	REP	98-07-009
284-58-260	AMD-XA	98-08-098	296-04A-351	NEW-W	98-07-058	296-44-06511	REP	98-07-009
284-58-270	REP-XA	98-08-098	296-04A-360	NEW-W	98-07-058	296-44-06517	REP	98-07-009
284-58-280	REP-XA	98-08-098	296-04A-370	NEW-W	98-07-058	296-44-074	REP	98-07-009
284-74-010	AMD	98-05-069	296-04A-380	NEW-W	98-07-058	296-44-07405	REP	98-07-009
284-74-020	NEW	98-05-069	296-04A-390	NEW-W	98-07-058	296-44-07411	REP	98-07-009
286-04-010	AMD-P	98-04-079	296-04A-400	NEW-W	98-07-058	296-44-07417	REP	98-07-009
286-04-010	AMD	98-08-014	296-04A-410	NEW-W	98-07-058	296-44-07423	REP	98-07-009
286-04-060	AMD-P	98-04-079	296-04A-420	NEW-W	98-07-058	296-44-07427	REP	98-07-009
286-04-060	AMD	98-08-014	296-04A-430	NEW-W	98-07-058	296-44-07433	REP	98-07-009
286-06-065	AMD-P	97-04-079	296-04A-440	NEW-W	98-07-058	296-44-07439	REP	98-07-009
286-06-065	AMD	98-08-014	296-04A-460	NEW-W	98-07-058	296-44-086	REP	98-07-009
286-13-030	AMD-P	98-04-079	296-04A-470	NEW-W	98-07-058	296-44-08605	REP	98-07-009
286-13-030	AMD	98-08-014	296-04A-480	NEW-W	98-07-058	296-44-08611	REP	98-07-009
286-13-040	AMD-P	98-04-079	296-20-135	AMD-P	98-05-100	296-44-08619	REP	98-07-009
286-13-040	AMD	98-08-014	296-23-220	AMD-P	98-05-100	296-44-098	REP	98-07-009
286-13-045	AMD-P	98-04-079	296-23-230	AMD-P	98-05-100	296-44-09805	REP	98-07-009
286-13-045	AMD	98-08-014	296-24	PREP	98-08-104	296-44-09811	REP	98-07-009
286-13-070	AMD-P	98-04-079	296-24-060	REP	98-06-061	296-44-09819	REP	98-07-009
286-13-070	AMD	98-08-014	296-24-061	NEW	98-06-061	296-44-09826	REP	98-07-009
286-13-085	AMD-P	98-04-079	296-24-06105	NEW	98-06-061	296-44-110	REP	98-07-009
286-13-085	AMD	98-08-014	296-24-06110	NEW	98-06-061	296-44-11005	REP	98-07-009
286-13-100	AMD-P	98-04-079	296-24-06115	NEW	98-06-061	296-44-11021	REP	98-07-009
286-13-100	AMD	98-08-014	296-24-06120	NEW	98-06-061	296-44-11029	REP	98-07-009
286-26-020	AMD-P	98-04-079	296-24-06125	NEW	98-06-061	296-44-11035	REP	98-07-009
286-26-020	AMD	98-08-014	296-24-06130	NEW	98-06-061	296-44-11041	REP	98-07-009
286-26-110	AMD-P	98-04-079	296-24-06135	NEW	98-06-061	296-44-125	REP	98-07-009
286-26-110	AMD	98-08-014	296-24-06140	NEW	98-06-061	296-44-12505	REP	98-07-009
286-27-040	AMD-P	98-04-079	296-24-06145	NEW	98-06-061	296-44-12515	REP	98-07-009
286-27-040	AMD	98-08-014	296-24-06150	NEW	98-06-061	296-44-134	REP	98-07-009
286-27-055	AMD-P	98-04-079	296-24-06155	NEW	98-06-061	296-44-13405	REP	98-07-009
286-27-055	AMD	98-08-014	296-24-06160	NEW	98-06-061	296-44-13415	REP	98-07-009
286-27-065	AMD-P	98-04-079	296-24-065	REP	98-06-061	296-44-13421	REP	98-07-009
286-27-065	AMD	98-08-014	296-24-067	REP	98-06-061	296-44-13431	REP	98-07-009
286-27-075	AMD-P	98-04-079	296-24-070	REP	98-06-061	296-44-170	REP	98-07-009
286-27-075	AMD	98-08-014	296-44-005	REP	98-07-009	296-44-17005	REP	98-07-009
286-30-050	NEW-P	98-04-079	296-44-010	REP	98-07-009	296-44-17017	REP	98-07-009
286-30-050	NEW	98-08-014	296-44-011	REP	98-07-009	296-44-17029	REP	98-07-009

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296-45-65017	REP	98-07-009	296-86A-060	NEW-P	98-07-094	296-155-485	AMD	98-05-046
296-45-65019	REP	98-07-009	296-86A-065	NEW-P	98-07-094	296-155-48503	REP	98-05-046
296-45-65021	REP	98-07-009	296-86A-070	NEW-P	98-07-094	296-155-48504	REP	98-05-046
296-45-65023	REP	98-07-009	296-86A-073	NEW-P	98-07-094	296-155-48505	REP	98-05-046
296-45-65026	REP	98-07-009	296-86A-074	NEW-P	98-07-094	296-155-48506	REP	98-05-046
296-45-65027	REP	98-07-009	296-86A-075	NEW-P	98-07-094	296-155-48507	REP	98-05-046
296-45-65029	REP	98-07-009	296-86A-080	NEW-P	98-07-094	296-155-48508	REP	98-05-046
296-45-65031	REP	98-07-009	296-104-700	AMD-P	98-04-017	296-155-48509	REP	98-05-046
296-45-65033	REP	98-07-009	296-125	PREP	98-02-079	296-155-48510	REP	98-05-046
296-45-65035	REP	98-07-009	296-150C-0020	AMD-P	98-07-095	296-155-48511	REP	98-05-046
296-45-65037	REP	98-07-009	296-150C-0310	AMD-P	98-07-095	296-155-48512	REP	98-05-046
296-45-65038	REP	98-07-009	296-150C-0320	AMD-P	98-07-095	296-155-48513	REP	98-05-046
296-45-65039	REP	98-07-009	296-150C-0410	AMD-P	98-07-095	296-155-48514	REP	98-05-046
296-45-65041	REP	98-07-009	296-150C-0460	AMD-P	98-07-095	296-155-48515	REP	98-05-046
296-45-65043	REP	98-07-009	296-150C-0500	AMD-P	98-07-095	296-155-48516	REP	98-05-046
296-45-65045	REP	98-07-009	296-150C-0560	AMD-P	98-07-095	296-155-48517	REP	98-05-046
296-45-65047	REP	98-07-009	296-150C-0800	AMD-P	98-07-095	296-155-48518	REP	98-05-046
296-45-660	REP	98-07-009	296-150C-0820	AMD-P	98-07-095	296-155-48519	REP	98-05-046
296-45-66001	REP	98-07-009	296-150C-0960	AMD-P	98-07-095	296-155-48523	REP	98-05-046
296-45-66003	REP	98-07-009	296-150C-0980	REP-P	98-07-095	296-155-48525	REP	98-05-046
296-45-66005	REP	98-07-009	296-150C-1080	AMD-P	98-07-095	296-155-48527	REP	98-05-046
296-45-66007	REP	98-07-009	296-150C-1170	AMD-P	98-07-095	296-155-48529	REP	98-05-046
296-45-66009	REP	98-07-009	296-150C-1303	NEW-P	98-07-095	296-155-48531	REP	98-05-046
296-45-66011	REP	98-07-009	296-150C-1580	AMD-P	98-07-095	296-155-48533	REP	98-05-046
296-45-67543	AMD-W	98-07-008	296-150C-1590	AMD-P	98-07-095	296-155-48536	REP	98-05-046
296-45-680	REP	98-07-009	296-150C-1600	AMD-P	98-07-095	296-155-487	NEW	98-05-046
296-45-690	REP	98-07-009	296-150C-1720	AMD-P	98-07-095	296-155-488	NEW	98-05-046
296-45-695	REP	98-07-009	296-150C-1730	AMD-P	98-07-095	296-155-489	NEW	98-05-046
296-45-700	REP	98-07-009	296-150C-1740	AMD-P	98-07-095	296-155-490	NEW	98-05-046
296-45-900	NEW	98-07-009	296-150C-1750	NEW-P	98-07-095	296-155-493	NEW	98-05-046
296-45-901	NEW	98-07-009	296-150C-1751	NEW-P	98-07-095	296-155-494	NEW	98-05-046
296-45-903	NEW	98-07-009	296-150C-1752	NEW-P	98-07-095	296-155-496	NEW	98-05-046
296-45-905	NEW	98-07-009	296-150C-1753	NEW-P	98-07-095	296-155-497	NEW	98-05-046
296-46-100	NEW-P	98-07-097	296-150C-1754	NEW-P	98-07-095	296-155-498	NEW	98-05-046
296-46-140	AMD-P	98-07-097	296-150C-1755	NEW-P	98-07-095	296-155-528	NEW	98-05-046
296-46-155	NEW-P	98-07-097	296-150C-1756	NEW-P	98-07-095	296-155-605	AMD	98-05-046
296-46-21052	AMD-P	98-07-097	296-150C-1757	NEW-P	98-07-095	296-155-615	AMD	98-05-046
296-46-225	AMD-P	98-07-097	296-150C-1758	NEW-P	98-07-095	296-155-683	AMD	98-05-046
296-46-23028	AMD-P	98-07-097	296-150C-1759	NEW-P	98-07-095	296-155-688	AMD	98-05-046
296-46-30001	AMD-P	98-07-097	296-150C-1760	NEW-P	98-07-095	296-155-689	AMD	98-05-046
296-46-348	AMD-P	98-07-097	296-150C-3000	AMD-P	98-07-096	296-155-700	AMD	98-05-046
296-46-495	AMD-P	98-07-097	296-150F-0020	AMD-P	98-07-095	296-155-730	AMD	98-05-046
296-46-50002	NEW-P	98-07-097	296-150F-0130	NEW-P	98-07-095	296-200A-900	NEW-P	98-07-096
296-46-770	AMD-P	98-07-097	296-150F-0200	AMD-P	98-07-095	296-307	PREP	98-04-094
296-46-910	AMD-P	98-07-097	296-150F-0210	AMD-P	98-07-095	296-400A	PREP	98-06-043
296-46-915	AMD-P	98-07-097	296-150F-0460	AMD-P	98-07-095	296-400A-045	AMD-P	98-07-096
296-46-920	AMD-P	98-07-097	296-150F-0500	AMD-P	98-07-095	296-401-020	REP-P	98-07-097
296-46-930	AMD-P	98-07-097	296-150F-3000	AMD-P	98-07-096	296-401-030	REP-P	98-07-097
296-46-940	AMD-P	98-07-097	296-150M-0020	AMD-P	98-07-095	296-401-060	REP-P	98-07-097
296-56	PREP	98-08-104	296-150M-0306	NEW-P	98-07-095	296-401-075	REP-P	98-07-097
296-62	PREP	98-08-104	296-150M-0307	NEW-P	98-07-095	296-401-080	REP-P	98-07-097
296-62-07477	AMD-P	98-05-061	296-150M-0310	AMD-P	98-07-095	296-401-085	REP-P	98-07-097
296-62-07515	AMD-P	98-05-061	296-150M-0331	NEW-P	98-07-095	296-401-087	REP-P	98-07-097
296-65	PREP	98-08-104	296-150M-0400	AMD-P	98-07-095	296-401-090	REP-P	98-07-097
296-78	PREP	98-08-104	296-150M-0600	AMD-P	98-07-095	296-401-100	REP-P	98-07-097
296-81	PREP	98-02-080	296-150M-0610	AMD-P	98-07-095	296-401-110	REP-P	98-07-097
296-81-007	AMD-P	98-07-094	296-150M-0620	AMD-P	98-07-095	296-401-120	REP-P	98-07-097
296-86-010	REP-P	98-07-094	296-150M-0640	AMD-P	98-07-095	296-401-150	REP-P	98-07-097
296-86-020	REP-P	98-07-094	296-150M-0660	AMD-P	98-07-095	296-401-160	REP-P	98-07-097
296-86-030	REP-P	98-07-094	296-150M-0700	REP-P	98-07-095	296-401-163	REP-P	98-07-097
296-86-040	REP-P	98-07-094	296-150M-0710	REP-P	98-07-095	296-401-165	REP-P	98-07-097
296-86-050	REP-P	98-07-094	296-150M-0730	REP-P	98-07-095	296-401-168	REP-P	98-07-097
296-86-060	REP-P	98-07-094	296-150M-3000	AMD-P	98-07-096	296-401-170	REP-P	98-07-097
296-86-070	REP-P	98-07-094	296-150P-3000	AMD-P	98-07-096	296-401-175	REP-P	98-07-097
296-86-075	REP-P	98-07-094	296-150R-3000	AMD-P	98-07-096	296-401-180	REP-P	98-07-097
296-86-080	REP-P	98-07-094	296-155	PREP	98-08-104	296-401A-100	NEW-P	98-07-097
296-86-090	REP-P	98-07-094	296-155-229	NEW-P	98-05-073	296-401A-105	NEW-P	98-07-097
296-86A-010	NEW-P	98-07-094	296-155-24525	AMD	98-05-046	296-401A-110	NEW-P	98-07-097
296-86A-020	NEW-P	98-07-094	296-155-330	AMD-P	98-05-073	296-401A-120	NEW-P	98-07-097
296-86A-025	NEW-P	98-07-094	296-155-481	AMD	98-05-046	296-401A-130	NEW-P	98-07-097
296-86A-028	NEW-P	98-07-094	296-155-482	NEW	98-05-046	296-401A-140	NEW-P	98-07-097
296-86A-030	NEW-P	98-07-094	296-155-483	AMD	98-05-046	296-401A-150	NEW-P	98-07-097
296-86A-040	NEW-P	98-07-094	296-155-484	NEW	98-05-046	296-401A-160	NEW-P	98-07-097

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296-401A-200	NEW-P	98-07-097	308-93-200	PREP	98-03-027	308-312-010	NEW	98-03-055
296-401A-210	NEW-P	98-07-097	308-93-210	PREP	98-03-027	308-312-020	NEW	98-03-055
296-401A-220	NEW-P	98-07-097	308-93-215	PREP	98-03-027	308-312-030	NEW	98-03-055
296-401A-230	NEW-P	98-07-097	308-93-220	PREP	98-03-027	308-312-040	NEW	98-03-055
296-401A-300	NEW-P	98-07-097	308-93-230	PREP	98-03-027	308-312-050	NEW	98-03-055
296-401A-310	NEW-P	98-07-097	308-93-241	PREP	98-03-025	308-312-060	NEW	98-03-055
296-401A-320	NEW-P	98-07-097	308-93-242	PREP	98-03-025	308-312-080	NEW	98-03-055
296-401A-400	NEW-P	98-07-097	308-93-243	PREP	98-03-025	308-312-090	NEW-W	98-03-054
296-401A-410	NEW-P	98-07-097	308-93-244	PREP	98-03-025	308-312-100	NEW	98-03-055
296-401A-420	NEW-P	98-07-097	308-93-245	PREP	98-03-025	314-12-200	NEW-P	98-05-103
296-401A-430	NEW-P	98-07-097	308-93-285	PREP	98-03-026	314-64-08001	NEW-P	98-02-069
296-401A-500	NEW-P	98-07-097	308-93-290	PREP	98-03-027	314-64-08001	NEW	98-08-041
296-401A-510	NEW-P	98-07-097	308-93-295	PREP	98-03-027	315-02-030	AMD-P	98-04-073
296-401A-520	NEW-P	98-07-097	308-93-300	PREP	98-03-026	315-02-030	AMD	98-08-067
296-401A-524	NEW-P	98-07-097	308-93-330	PREP	98-03-026	315-02-040	AMD-P	98-04-073
296-401A-530	NEW-P	98-07-097	308-93-350	PREP	98-03-026	315-02-040	AMD	98-08-067
296-401A-540	NEW-P	98-07-097	308-93-360	PREP	98-03-026	315-02-060	AMD-P	98-04-073
296-401A-545	NEW-P	98-07-097	308-93-420	PREP	98-03-026	315-02-060	AMD	98-08-067
296-401A-550	NEW-P	98-07-097	308-93-430	REP-P	98-05-068	315-02-070	AMD-P	98-04-073
296-401A-600	NEW-P	98-07-097	308-93-440	AMD-P	98-05-068	315-02-070	AMD	98-08-067
296-401A-610	NEW-P	98-07-097	308-93-450	AMD-P	98-05-068	315-02-080	AMD-P	98-04-073
296-401A-620	NEW-P	98-07-097	308-93-460	AMD-P	98-05-068	315-02-080	AMD	98-08-067
296-401A-630	NEW-P	98-07-097	308-93-470	AMD-P	98-05-068	315-02-170	REP-P	98-04-073
296-401A-700	NEW-P	98-07-097	308-93-480	REP-P	98-05-068	315-02-170	REP	98-08-067
296-401A-800	NEW-P	98-07-097	308-93-620	PREP	98-03-026	315-02-180	REP-P	98-04-073
296-401A-810	NEW-P	98-07-097	308-93-630	PREP	98-03-026	315-02-180	REP	98-08-067
296-401A-900	NEW-P	98-07-097	308-93-640	PREP	98-03-026	315-02-220	AMD-P	98-04-073
296-401A-910	NEW-P	98-07-097	308-94-030	AMD-P	98-04-072	315-02-220	AMD	98-08-067
296-401A-920	NEW-P	98-07-097	308-94-030	AMD	98-08-070	315-04-180	AMD-P	98-08-065
296-401A-930	NEW-P	98-07-097	308-94-040	REP-P	98-04-072	315-06-123	PREP	98-03-074
296-401A-935	NEW-P	98-07-097	308-94-040	REP	98-08-070	315-10	PREP	98-07-089
308-04-010	PREP	98-03-023	308-94-050	AMD-P	98-04-072	315-10	PREP	98-08-066
308-04-010	AMD-P	98-06-080	308-94-050	AMD	98-08-070	315-10-010	AMD-P	98-04-073
308-04-010	AMD-W	98-07-018	308-94-070	REP-P	98-04-072	315-10-010	AMD	98-08-067
308-04-020	PREP	98-03-023	308-94-070	REP	98-08-070	315-10-020	AMD-P	98-04-073
308-04-020	AMD-P	98-06-080	308-94-080	AMD-P	98-04-072	315-10-020	AMD	98-08-067
308-04-020	AMD-W	98-07-018	308-94-080	AMD	98-08-070	315-10-023	NEW-P	98-04-073
308-12-025	PREP	98-06-047	308-94-090	REP-P	98-04-072	315-10-023	NEW	98-08-067
308-12-326	PREP	98-05-012	308-94-090	REP	98-08-070	315-10-024	NEW-P	98-04-073
308-56A-005	PREP	98-03-024	308-94-100	AMD-P	98-04-072	315-10-024	NEW	98-08-067
308-56A-005	REP-P	98-08-049	308-94-100	AMD	98-08-070	315-10-025	AMD-P	98-04-073
308-56A-010	PREP	98-03-024	308-94-110	REP-P	98-04-072	315-10-025	AMD	98-08-067
308-56A-010	AMD-P	98-08-049	308-94-110	REP	98-08-070	315-10-030	AMD-P	98-04-073
308-56A-015	PREP	98-03-024	308-96A-005	PREP	98-03-021	315-10-030	AMD	98-08-067
308-56A-015	AMD-P	98-08-049	308-96A-010	PREP	98-03-021	315-11A	PREP	98-08-066
308-56A-020	PREP	98-03-024	308-96A-015	PREP	98-03-021	315-11A-207	AMD	98-03-075
308-56A-020	AMD-P	98-08-049	308-96A-021	PREP	98-03-021	315-11A-215	NEW	98-03-075
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308-56A-023	PREP	98-03-024	308-96A-065	AMD-P	98-04-071	315-34-055	AMD	98-08-063
308-56A-023	AMD-P	98-08-049	308-96A-066	AMD-P	98-04-071	315-36-010	NEW-P	98-04-073
308-56A-080	PREP	98-03-024	308-96A-067	NEW-P	98-04-071	315-36-010	NEW-C	98-08-064
308-56A-080	REP-P	98-08-049	308-96A-068	NEW-P	98-04-071	315-36-020	NEW-P	98-04-073
308-56A-085	PREP	98-03-024	308-96A-070	AMD-P	98-04-071	315-36-020	NEW-C	98-08-064
308-56A-085	REP-P	98-08-049	308-96A-071	AMD-P	98-04-071	315-36-030	NEW-P	98-04-073
308-56A-090	PREP	98-03-024	308-96A-073	AMD-P	98-04-071	315-36-030	NEW-C	98-08-064
308-56A-090	AMD-P	98-08-049	308-96A-074	AMD-P	98-04-071	315-36-040	NEW-P	98-04-073
308-93-060	PREP	98-03-026	308-96A-080	PREP	98-03-022	315-36-040	NEW-C	98-08-064
308-93-070	PREP	98-03-026	308-96A-085	PREP	98-03-022	315-36-050	NEW-P	98-04-073
308-93-071	PREP	98-03-026	308-96A-090	PREP	98-03-022	315-36-050	NEW-C	98-08-064
308-93-073	PREP	98-03-026	308-96A-095	PREP	98-03-022	315-36-060	NEW-P	98-04-073
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317-02-020	REP	98-03-073	388-14-200	AMD-E	98-04-027	388-79-030	NEW-P	98-03-085
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388-513-1345	PREP	98-05-052	392-115-020	AMD	98-05-008	392-139-180	REP	98-08-096
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388-555-1100	NEW-E	98-07-052	392-139-134	REP	98-08-096	392-139-690	REP-P	98-05-040
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388-555-1150	NEW-E	98-07-052	392-139-150	REP	98-08-096	392-139-691	REP-P	98-05-040
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		Renton Technical College	
		meetings	PERM 98-02-037

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Revenue, department of			shrimp licenses	PREP	98-06-065
excise taxes			smelt		
articles manufactured and installed	PERM	98-01-111	areas and seasons	EMER	98-04-067
mobile homes and mobile home park fee	PERM	98-01-111		EMER	98-05-014
Washington state patrol			sturgeon		
motor vehicles			areas and seasons	EMER	98-04-006
sound level measurement	PERM	98-01-060		EMER	98-05-014
				EMER	98-08-027
FINANCIAL INSTITUTIONS, DEPARTMENT OF			<u>Fishing, personal use</u>		
Entry of orders	PERM	98-01-072	bottomfish		
Rules agenda	MISC	98-04-029	possession limits	EMER	98-01-204
Securities			herring		
condominium or real estate development			areas and seasons	EMER	98-08-045
unit sales	PREP	98-07-101	game fish seasons and catch limits		
investment companies	PERM	98-01-071	Coffee Pot Lake	EMER	98-06-059
isolated transaction exemption	PREP	98-07-102	Columbia River	EMER	98-06-038
National Securities Markets Improvement Act	PROP	98-08-055		EMER	98-06-041
registration	PREP	98-03-041	Cloquallum Creek	EMER	98-07-031
			Cowlitz River	EMER	98-06-035
FINANCIAL MANAGEMENT, OFFICE OF			Elk River	EMER	98-06-037
Claim payments	PERM	98-01-022	Entiat River	EMER	98-06-035
Pay dates for 1999	PREP	98-06-064		EMER	98-06-041
Rules coordinator	MISC	98-07-014	exceptions to state-wide rules	EMER	98-07-031
				EMER	98-01-073
				EMER	98-06-040
FIRE PROTECTION POLICY BOARD				EMER	98-06-060
(See WASHINGTON STATE PATROL)				EMER	98-07-012
				EMER	98-07-056
FISH AND WILDLIFE, DEPARTMENT OF			Hoh River	EMER	98-06-036
Fish and wildlife commission			Hoquiam River	EMER	98-06-035
commissioners,			Humtulsips River	EMER	98-06-035
abstention requirements	PREP	98-07-017	Icicle River	EMER	98-06-041
<u>Fishing, commercial</u>				EMER	98-07-031
bottomfish			Johns River	EMER	98-06-035
coastal bottomfish			Kalama River	EMER	98-06-037
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conservation	PERM	98-05-043	Methow River	EMER	98-06-041
Puget Sound bottomfish				EMER	98-07-031
catch limits	EMER	98-02-033	Okanogan River	EMER	98-06-041
	EMER	98-02-039		EMER	98-07-031
trawl seasons	EMER	98-01-110	Similkameen River	EMER	98-06-041
cod				EMER	98-07-031
commercial purchasers, duties	EMER	98-01-110	Wenatchee River	EMER	98-06-041
crab fishery				EMER	98-07-031
seasons, areas, and gear	EMER	98-01-074	Wishkah River	EMER	98-06-035
	EMER	98-02-002	Wynoochee River	EMER	98-06-035
	EMER	98-04-034	lakes closure	PROP	98-05-063
	EMER	98-05-025	licenses	PREP	98-08-110
	EMER	98-07-054	salmon annual harvest	PREP	98-06-058
			searun fish, definition	EMER	98-01-073
herring			shellfish		
areas and seasons	EMER	98-08-045	areas and seasons		
licenses	PERM	98-02-018	native clams	EMER	98-03-070
lingcod areas and seasons	PREP	98-06-065	oysters	EMER	98-03-070
sale of eggs and carcasses	PERM	98-02-017	razor clams	EMER	98-05-034
salmon					
annual harvest	PREP	98-06-058	shad		
Columbia River above Bonneville	EMER	98-04-056	areas and seasons	EMER	98-06-039
	EMER	98-04-068		EMER	98-07-011
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Columbia River below Bonneville	EMER	98-08-020	areas and seasons	EMER	98-04-055
	EMER	98-08-046	sport fishing rules	PROP	98-01-007
license buyback	PREP	98-07-091		PERM	98-06-031
sea urchins			steelhead		
areas and seasons	EMER	98-01-066	areas and seasons	EMER	98-02-040
	EMER	98-01-150		EMER	98-03-057
	EMER	98-02-001		EMER	98-05-011
	EMER	98-02-041	sturgeon		
	EMER	98-03-058	areas and seasons	EMER	98-07-011
	EMER	98-03-001			
	EMER	98-04-010	<u>Hunting</u>		
	EMER	98-04-035	auction permits	PERM	98-01-212
	EMER	98-05-045		PROP	98-05-092
shellfish			bear	PERM	98-01-205
razor clams	EMER	98-07-055		PROP	98-05-095
			bighorn sheep	PROP	98-05-089
			Colville Indian Reservation	PROP	98-05-080

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cougar	PERM	98-01-212	Services suppliers	PROP	98-04-022
	PROP	98-05-094		PREP	98-06-018
	PROP	98-05-095			
deer	PERM	98-01-205	GENERAL ADMINISTRATION, DEPARTMENT OF		
	PROP	98-05-085	Bid solicitation, procedure	EXRE	98-01-113
elk	PERM	98-01-211	Capitol campus design advisory committee		
	PROP	98-05-088	meetings	MISC	98-01-103
game management units (GMUs)	PERM	98-01-212		MISC	98-08-047
	PROP	98-05-081	Late payments	EXRE	98-01-115
	PROP	98-05-082	Memorials and artwork on capitol campus		
	PROP	98-05-090	design and placement criteria	PERM	98-01-112
	PROP	98-05-091	Printing and duplicating committee	EXRE	98-01-114
	PROP	98-05-096	State capitol committee		
	PROP	98-05-097	meetings	MISC	98-01-046
	PROP	98-05-098		MISC	98-01-171
	PROP	98-05-099	State Environmental Protection Act (SEPA),		
hunting hours and small game			compliance	EXRE	98-01-116
permit hunts	PROP	98-02-016		EXAD	98-07-110
	PROP	98-05-087			
moose	PROP	98-05-089	GOVERNOR, OFFICE OF THE		
mountain goat	PROP	98-05-089	Carbon River Bridge, state of emergency	MISC	98-08-053
private lands wildlife management areas	PERM	98-01-206	Clemency and pardons board		
	PERM	98-01-212	meetings	MISC	98-03-028
	PROP	98-05-083	Executive orders, rescission	MISC	98-01-065
protected wildlife	PROP	98-05-084			
regulations and boundaries	PREP	98-01-174	GRAYS HARBOR COLLEGE		
	PROP	98-05-086	Meetings	MISC	98-01-137
restricted and closed areas	PROP	98-05-093	Student code of conduct	PROP	98-05-049
special hunts	PERM	98-01-209			
transport tags for black bear and cougar	PERM	98-01-213	GREEN RIVER COMMUNITY COLLEGE		
Hydraulic projects			Meetings	MISC	98-02-009
small scale prospecting and mining	PREP	98-07-092			
Rules agenda	MISC	98-02-064	GROWTH MANAGEMENT HEARINGS BOARDS		
Trapping	PERM	98-01-207	Practice and procedure	PERM	98-01-144
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Wildlife			HEALTH CARE AUTHORITY		
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wildlife rehabilitation permits	PERM	98-01-210	administration	PROP	98-01-220
				PERM	98-07-002
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Columbia River Gorge National Scenic Area	EXAD	98-01-222	meetings	MISC	98-01-077
	PERM	98-07-047		MISC	98-03-012
Meetings	MISC	98-02-067		MISC	98-03-013
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Water typing system	EMER	98-07-046			
GAMBLING COMMISSION			HEALTH, DEPARTMENT OF		
Bingo			Birth certificates		
recordkeeping and accounting	PERM	98-04-024	release of paper or		
Cardrooms	PERM	98-04-023	electronic copies	PREP	98-07-079
Licenses			Boarding homes		
fees	PREP	98-08-012	civil fines	EMER	98-04-090
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spousal requirements	PREP	98-03-048	licensing fees	PERM	98-01-165
Manufacturers and distributors	PROP	98-01-094	Certificate of need program	EXAD	98-05-057
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Public records, availability	PREP	98-01-102	disciplinary orders,		
Pull tabs			fine suspension	MISC	98-07-074
dispensing devices	PREP	98-01-091	Dental quality assurance commission		
	PROP	98-03-069	Zyban prescriptions	MISC	98-07-077
	PERM	98-08-011	Emergency medical services and trauma care		
flares	MISC	98-03-034	system trust account	PROP	98-01-164
manufacturers, distributors and operators	PREP	98-03-047		PERM	98-05-035
mark-up of merchandise prices	PREP	98-04-033	Health care providers		
replacement of games	PREP	98-08-043	credentialing procedures	PROP	98-01-166
Punch boards				PROP	98-05-058
manufacturers, distributors and operators	PREP	98-03-047		PROP	98-05-059
Raffles			Hearing and speech, board of	PERM	98-05-060
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ticket discount sales	PREP	98-01-090	pathology education requirements	PROP	98-07-083
	PROP	98-03-068	examination	PROP	98-07-084
	PERM	98-08-052	housekeeping amendments	PERM	98-06-079
Separate businesses, restrictions	PREP	98-01-093	meetings	MISC	98-02-051
	PROP	98-06-027		MISC	98-04-064

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speech-language pathologists standards of practice	PROP	98-08-117	Facilities construction, federal grants	PERM	98-08-008
Local public health rules review	PREP	98-01-155	Institutional equipment, federal grants	PERM	98-08-007
Medical quality assurance commission automatic external defibrillators, use	MISC	98-07-075	Meetings	MISC	98-01-100
Mental health quality assurance council meetings	MISC	98-01-038	Postsecondary education, council for bylaws	PERM	98-08-006
Midwives licensure fees	PROP	98-07-085	Residency status for higher education	EXAD	98-01-101
Nursing care quality commission investigative case reviews, timeline	MISC	98-07-073	Tuition recovery trust fund account	PERM	98-08-004
pharmacist orders	MISC	98-07-072	Women's participation in intercollegiate athletics, goal	PERM	98-08-005
scope of practice	MISC	98-03-091		PERM	98-08-003
	MISC	98-03-092	HIGHLINE COMMUNITY COLLEGE		
sexual misconduct	PROP	98-08-116	Meetings	MISC	98-01-106
Nursing home administrators, board of adjudicative proceedings	PREP	98-01-162	HISPANIC AFFAIRS, COMMISSION ON		
administrator-in-training program	PREP	98-01-159	Meetings	MISC	98-03-053
below threshold determining criteria	MISC	98-03-094	HORSE RACING COMMISSION		
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continuing education requirements	PREP	98-01-160	Jockeys		
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examination of applicants	PREP	98-01-158	riding fees	PROP	98-01-147
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Osteopathic medicine and surgery, board of physician assistants prescriptive authority	PREP	98-07-078			
Pharmacy, board of butorphanol	MISC	98-02-084	HOUSING FINANCE COMMISSION		
kidney dialysis centers	PREP	98-04-037	Biennial review of amendments to plan	MISC	98-01-217
licensing fees	PREP	98-01-163		MISC	98-01-218
	PROP	98-07-086	HUMAN RIGHTS COMMISSION		
Physicians foreign-trained physicians, visa waivers	PREP	98-06-077	Dog guides and service animals	PROP	98-01-175
Podiatric medical board delegation of duties	PREP	98-08-115		PERM	98-08-035
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orthotic devices	PREP	98-08-115			
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radioactive material licenses	PROP	98-07-080	mortality table	PROP	98-01-121
fees	PROP	98-07-080		PERM	98-05-069
Radiation machine facility registration fee	PERM	98-01-047	Disability insurance		
	PROP	98-07-081	form filings	EXAD	98-04-084
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Sex offender treatment provider program meetings	MISC	98-01-019	Fraternal risk based capital	EXAD	98-04-085
Shellfish programs commercial operators	PERM	98-03-096	Health care services insurance		
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limited commercial shellfish license	PROP	98-08-118	contract forms and rate schedules, filing	PROP	98-01-120
Trauma care	PERM	98-04-038		PROP	98-02-063
Water drinking water			diabetes coverage	PERM	98-04-011
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			Licenses	PREP	98-07-063
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			reevaluation after failure	EXAD	98-01-135
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			Life insurance		
			accelerated benefits	PROP	98-01-134
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			disclosure	PROP	98-04-083
				PROP	98-07-062
			form filings	EXAD	98-04-084
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			rules	PROP	98-02-012
				PROP	98-03-004
				PERM	98-04-005

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INTEREST RATES			Architects, board of registration for application for examination and registration	PREP	98-06-047
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	MISC	98-01-215	meetings	MISC	98-01-075
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Boiler rules, board of fees	PROP	98-04-017	certificate of title	PREP	98-03-024
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journeyman electrician certification	PROP	98-07-097	special plates	PERM	98-01-151
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Elevators				PREP	98-03-022
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Factory-built housing	PROP	98-07-095	adjudicative procedures	PERM	98-01-107
Fees	PROP	98-07-096	licensing procedures	MISC	98-01-052
Manufactured housing	PROP	98-07-095	meetings	MISC	98-02-061
Occupational health standards			Rules agenda	PROP	98-04-072
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inorganic arsenic and coke oven emissions	PERM	98-02-030	Title and registration advisory committee meetings	MISC	98-01-131
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electrical workers	PROP	98-07-008	Instant game rules	PROP	98-04-073
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Emergency management division chapter 365-300 WAC recodification hazardous chemicals emergency response planning	MISC	98-01-064	PILOTAGE COMMISSIONERS, BOARD OF Pilotage tariff rates Puget Sound district	PROP 98-08-071
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Engineering, architectural, and surveying services size standards	PREP	98-08-107	POLLUTION LIABILITY INSURANCE AGENCY Eligibility assessment reimbursement	PERM 98-01-053
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Natural heritage advisory council meetings	MISC	98-04-002		
	MISC	98-08-042		
Natural resources, board of meetings Rules agenda	MISC	98-01-104	solicitation or acceptance during legislative session freeze period	EMER 98-01-055 PREP 98-03-072
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Agricultural burning	PROP	98-08-094	County election officials campaign disclosure reports, duties	PREP 98-06-051
Outdoor burning	PROP	98-08-094	Lobbyist employer reports	PERM 98-01-062
Registration	PROP	98-08-094	Registered voters, calculation of number Rules agenda Volunteer services	PREP 98-06-054 MISC 98-02-060 PREP 98-06-055
OLYMPIC COLLEGE				
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OUTDOOR RECREATION, INTERAGENCY COMMITTEE FOR				
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Meetings	MISC	98-01-130		
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Whitewater river designation	PROP	98-03-086		
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Disabilities accommodation	PROP	98-01-142		
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	PERM	98-08-026		
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PUBLIC EMPLOYEES BENEFITS BOARD (See HEALTH CARE AUTHORITY)				
PUBLIC EMPLOYMENT RELATIONS COMMISSION				
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local enhancement funds special education	PERM	98-04-080		
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K-3 staff enhancement	PROP	98-03-067		
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Shared leave programs	PREP	98-05-038		
Special education programs	PREP	98-05-039		
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Teachers' retirement system (TRS) earnable compensation	PROP	98-01-069	hearing and conference board	PROP	98-05-078
REVENUE, DEPARTMENT OF			Children's administration	PROP	98-05-079
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Excise taxes			child care facilities licenses	PREP	98-08-084
articles manufactured and installed	PERM	98-01-111	child care programs	PREP	98-01-128
Indian reservations	PREP	98-07-066	hearings or court proceedings		
mobile homes and mobile home park fee	PERM	98-01-111	opposing testimony	MISC	98-06-026
Interpretive statements	MISC	98-02-024	interstate compact on placement of children	PERM	98-01-149
Property tax			Children's services		
agricultural land valuation	PERM	98-01-178	applicant rights	PROP	98-03-082
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