

# Washington State Register

March 17, 1999

OLYMPIA, WASHINGTON

ISSUE 99-06



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filed not later than March 3, 1999

## 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

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

## CERTIFICATE

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

DENNIS W. COOPER  
Code Reviser

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### STATE MAXIMUM INTEREST RATE

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

The maximum allowable interest rate applicable for the month March 1999 pursuant to RCW 19.52.020 is twelve point zero percent (12.00%).

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

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# WASHINGTON STATE REGISTER

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

Mary F. Gallagher Dilley  
*Chair, Statute Law Committee*

Dennis W. Cooper  
*Code Reviser*

Gary Reid  
*Chief Assistant Code Reviser*

Kerry S. Radcliff  
*Editor*

Joyce Matzen  
*Subscription Clerk*

# STYLE AND FORMAT OF THE WASHINGTON STATE REGISTER

## 1. ARRANGEMENT OF THE REGISTER

The Register is arranged in the following nine sections:

- (a) **PREPROPOSAL**-includes the Preproposal Statement of Intent that will be used to solicit public comments on a general area of proposed rule making before the agency files a formal notice.
- (b) **EXPEDITED REPEAL**-includes the Preproposal Statement of Inquiry that lists rules being repealed using the expedited repeal process. Expedited repeals are not consistently filed and may not appear in every issue of the register.
- (c) **PROPOSED**-includes the full text of formal proposals, continuances, supplemental notices, and withdrawals.
- (d) **EXPEDITED ADOPTION**-includes the full text of rules being changed using the expedited adoption process. Expedited adoptions are not consistently filed and may not appear in every issue of the Register.
- (e) **PERMANENT**-includes the full text of permanently adopted rules.
- (f) **EMERGENCY**-includes the full text of emergency rules and rescissions.
- (g) **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.
- (h) **TABLE**-includes a cumulative table of the WAC sections that are affected in the current year.
- (i) **INDEX**-includes a cumulative index of Register Issues 01 through 24.

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. Each filing is listed under the agency name and then describes the subject matter, type of filing and the WSR number. 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].

1998 - 1999

DATES FOR REGISTER CLOSING, DISTRIBUTION, AND FIRST AGENCY ACTION

Issue Number	Closing Dates <sup>1</sup>			Distribution Date	First Agency Hearing Date <sup>3</sup>	Expedited Adoption <sup>4</sup>
	Non-OTS and 30 p. or more	Non-OTS and 11 to 29 p.	OTS <sup>2</sup> or 10 p. max. Non-OTS	Count 20 days from -	For hearing on or after	First Agency Adoption Date
For Inclusion in -	File no later than 12:00 noon -					
98 - 16	Jul 7, 98	Jul 21, 98	Aug 5, 98	Aug 18, 98	Sep 7, 98	Oct 2, 98
98 - 17	Jul 22, 98	Aug 5, 98	Aug 19, 98	Sep 2, 98	Sep 22, 98	Oct 17, 98
98 - 18	Aug 5, 98	Aug 19, 98	Sep 2, 98	Sep 16, 98	Oct 6, 98	Oct 31, 98
98 - 19	Aug 26, 98	Sep 9, 98	Sep 23, 98	Oct 7, 98	Oct 27, 98	Nov 21, 98
98 - 20	Sep 9, 98	Sep 23, 98	Oct 7, 98	Oct 21, 98	Nov 10, 98	Dec 5, 98
98 - 21	Sep 23, 98	Oct 7, 98	Oct 21, 98	Nov 4, 98	Nov 24, 98	Dec 19, 98
98 - 22	Oct 7, 98	Oct 21, 98	Nov 4, 98	Nov 18, 98	Dec 8, 98	Jan 2, 99
98 - 23	Oct 21, 98	Nov 4, 98	Nov 18, 98	Dec 2, 98	Dec 22, 98	Jan 16, 99
98 - 24	Nov 4, 98	Nov 18, 98	Dec 2, 98	Dec 16, 98	Jan 5, 99	Jan 30, 99
99 - 01	Nov 25, 98	Dec 9, 98	Dec 23, 98	Jan 6, 99	Jan 26, 99	Feb 20, 99
99 - 02	Dec 9, 98	Dec 23, 98	Jan 6, 99	Jan 20, 99	Feb 9, 99	Mar 6, 99
99 - 03	Dec 23, 98	Jan 6, 99	Jan 20, 99	Feb 3, 99	Feb 23, 99	Mar 20, 99
99 - 04	Jan 6, 99	Jan 20, 99	Feb 3, 99	Feb 17, 99	Mar 9, 99	Apr 3, 99
99 - 05	Jan 20, 99	Feb 3, 99	Feb 17, 99	Mar 3, 99	Mar 23, 99	Apr 17, 99
99 - 06	Feb 3, 99	Feb 17, 99	Mar 3, 99	Mar 17, 99	Apr 6, 99	May 1, 99
99 - 07	Feb 24, 99	Mar 10, 99	Mar 24, 99	Apr 7, 99	Apr 27, 99	May 22, 99
99 - 08	Mar 10, 99	Mar 24, 99	Apr 7, 99	Apr 21, 99	May 11, 99	Jun 5, 99
99 - 09	Mar 24, 99	Apr 7, 99	Apr 21, 99	May 5, 99	May 25, 99	Jun 19, 99
99 - 10	Apr 7, 99	Apr 21, 99	May 5, 99	May 19, 99	Jun 8, 99	Jul 3, 99
99 - 11	Apr 21, 99	May 5, 99	May 19, 99	Jun 2, 99	Jun 22, 99	Jul 17, 99
99 - 12	May 5, 99	May 19, 99	Jun 2, 99	Jun 16, 99	Jul 6, 99	Jul 31, 99
99 - 13	May 26, 99	Jun 9, 99	Jun 23, 99	Jul 7, 99	Jul 27, 99	Aug 21, 99
99 - 14	Jun 9, 99	Jun 23, 99	Jul 7, 99	Jul 21, 99	Aug 10, 99	Sep 4, 99
99 - 15	Jun 23, 99	Jul 7, 99	Jul 21, 99	Aug 4, 99	Aug 24, 99	Sep 18, 99
99 - 16	Jul 7, 99	Jul 21, 99	Aug 4, 99	Aug 18, 99	Sep 7, 99	Oct 2, 99
99 - 17	Jul 21, 99	Aug 4, 99	Aug 18, 99	Sep 1, 99	Sep 21, 99	Oct 16, 99
99 - 18	Aug 4, 99	Aug 18, 99	Sep 1, 99	Sep 15, 99	Oct 5, 99	Oct 30, 99
99 - 19	Aug 25, 99	Sep 8, 99	Sep 22, 99	Oct 6, 99	Oct 26, 99	Nov 20, 99
99 - 20	Sep 8, 99	Sep 22, 99	Oct 6, 99	Oct 20, 99	Nov 9, 99	Dec 4, 99
99 - 21	Sep 22, 99	Oct 6, 99	Oct 20, 99	Nov 3, 99	Nov 23, 99	Dec 18, 99
99 - 22	Oct 6, 99	Oct 20, 99	Nov 3, 99	Nov 17, 99	Dec 7, 99	Jan 1, 00
99 - 23	Oct 20, 99	Nov 3, 99	Nov 17, 99	Dec 1, 99	Dec 21, 99	Jan 15, 00
99 - 24	Nov 3, 99	Nov 17, 99	Dec 1, 99	Dec 15, 99	Jan 4, 00	Jan 29, 00

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

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

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

<sup>4</sup>A 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.



**WSR 99-06-011****PREPROPOSAL STATEMENT OF INQUIRY  
CLARK COLLEGE**

[Filed February 18, 1999, 3:51 p.m.]

Subject of Possible Rule Making: Chapter 132N-160 WAC, Admissions, registration, tuition and fees, waivers, and graduation practices.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28B.50.140.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Rule establishes practices that are necessary and appropriate for the administration of Clark College.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The Department of Education and the State Board for Community and Technical Colleges also regulate the areas described above. Coordination will ensure that these rules comply with those of the state board and Department of Education.

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 Linda Calvert, Director of Admissions, Clark College, 1800 East McLoughlin Boulevard, Vancouver, WA 98663, phone (360) 992-2392.

February 11, 1999

Tana L. Hasart  
President**WSR 99-06-024****PREPROPOSAL STATEMENT OF INQUIRY  
MILITARY DEPARTMENT**

[Filed February 23, 1999, 9:44 a.m.]

Subject of Possible Rule Making: Enhanced 9-1-1 funding, chapter 118-65 WAC.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 38.52 RCW.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Completion of the implementation of enhanced 9-1-1 state-wide and the increased use of wireless telephones necessitates an update revision of the rules for enhanced 9-1-1 funding.

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 statutorily-constituted state Enhanced 9-1-1 Advisory Committee will develop the revised language for consideration by the state-wide enhanced 9-1-1 coordinator, who has rule-making authority under statute.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Dennis Anderson, Supervisor, State

E911 Office, Building 20, Camp Murray, WA 98430, desk (253) 512-7014, fax 512-7202, d.anderson@emd.wa.gov.

February 22, 1999

Robert Oenning  
State-wide E911 Coordinator**WSR 99-06-025****PREPROPOSAL STATEMENT OF INQUIRY  
DEPARTMENT OF COMMUNITY,  
TRADE AND ECONOMIC DEVELOPMENT**

[Filed February 23, 1999, 11:29 a.m.]

Subject of Possible Rule Making: Changes in some of the rules affecting the emergency food assistance program (EFAP), chapter 365-140 WAC. Those changes are: Simplifying the pass-through allocation formulas, tightening eligibility requirements of food banks, changes in tribal participation rules to allow more flexibility in how they spend their EFAP dollars, and changes in the match requirements for food banks to allow more "soft" money match.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 43.330.040 (2)(g) and 43.330.130.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Allocation formulas for food banks and tribes: Language would be less specific so that every time the formula is adjusted we would not have to change the WAC. Food bank eligibility requirements: To clarify what the state's expectations are of food banks so that they can provide better service to clients and meet the Internal Revenue Service standards. Tribal participation: To allow tribes to participate in either the food bank or voucher program or both, which would give them the flexibility to use their funds in the most efficient manner to serve their hungry. Match requirements: Would allow food banks to match EFAP dollars with a greater percentage of "soft" money so as not to eliminate food banks with little cash resources.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: There are no other agencies involved in this program.

Process for Developing New Rule: The Department of Community, Trade and Economic Development (CTED) has been meeting with its EFAP work group over the past 1 1/2 years to review the WACs. Changes, most of which had been initiated by the work group, have all been endorsed by the work group. CTED sent all contractors the suggested changes prior to work group meetings with invitations to send comments or attend the meetings. Some have done so. (The work group is comprised of food bank and tribal contractors selected by those two groups.) We will have one more work group meeting prior to the hearing to review the final draft of changes. Prior to the next work group meeting, CTED will send all contractors copies of the final draft of the WAC changes. CTED will also mail the proposed WAC changes to all EFAP contractors and other interested advocacy groups prior to the WAC hearing with an invitation for comments.

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

lication by contacting Department of Community, Trade and Economic Development, Attn: Susan Eichrodt, Program Manager, P.O. Box 48300, Olympia, WA 98504-8300, phone (360) 586-4921, fax (360) 586-0489, e-mail susane@cted.wa.gov.

February 17, 1999  
Jean L. Ameluxen

Director of Intergovernmental Relations

**WSR 99-06-032**

**PREPROPOSAL STATEMENT OF INQUIRY  
SOUTH PUGET SOUND  
COMMUNITY COLLEGE**

[Filed February 25, 1999, 1:29 p.m.]

Subject of Possible Rule Making: Chapter 132X-10 WAC, Public records, chapter 132X-20 WAC, Emergency procedures, chapter 132X-30 WAC, Use of facilities, chapter 132X-40 WAC, Environmental protection, chapter 132X-50 WAC, Parking and traffic regulations, and chapter 132X-60 WAC, Code of student rights and responsibilities.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28B.50.140(13).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: (1) Change in titles, (2) update procedures, (3) include areas/topics that have developed in recent years, and (4) a need to elaborate and be specific regarding rights of students.

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 Patty Pynch, Administrative Assistant to the President, Roberta Jones, Vice-President for Human Resources, chapters 132X-10 and 132X-20 WAC, John Hurlley, Vice-President for Administrative Services, chapters 132X-30, 132X-40, and 132X-50 WAC, and Donald Hughes, Interim Vice-President for Student Services, chapter 132X-60 WAC; South Puget Sound Community College, 2011 Mottman Road S.W., Olympia, WA 98512, (360) 754-7711, fax (360) 664-4336.

February 23, 1999  
Kenneth J. Minnaert  
President

**WSR 99-06-036**

**PREPROPOSAL STATEMENT OF INQUIRY  
DEPARTMENT OF REVENUE**

[Filed February 25, 1999, 4:19 p.m.]

Subject of Possible Rule Making: WAC 458-40-660 Timber excise tax—Stumpage value tables.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 82.32.330 and 84.33.096.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The law, RCW 84.33.091, requires that the stumpage value tables be revised twice each year. The department establishes the stumpage values based upon statutory criteria as to age, size, quality, costs of removal, accessibility to point of conversion, market conditions, harvest area, and species. These values are used by timber harvesters to calculate the harvester's timber excise tax.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Although the United States Forest Service and Washington State Department of Natural Resources both regulate forest practices, they are not involved in valuation for purposes of taxation. The nontax processes and definitions are coordinated with these agencies to avoid conflict, but there is no need to involve them in the valuation revisions provided in this rule.

Process for Developing New Rule: Modified negotiated rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. Written comments may be submitted by mail, fax, or at the public meeting. Oral comments will be accepted at the public meeting. A preliminary draft of the proposed changes is available upon request on or after April 20, 1999. Written comments on and/or requests for copies of the rule may be directed to Ed Ratcliffe, Legislation and Policy, P.O. Box 47467, Olympia, WA 98504-7467, phone (360) 586-3505, fax (360) 664-0693.

Location and Date of Public Meeting: Department of Revenue Conference Room, Target Place Building No. 4, 2735 Harrison Avenue N.W., Olympia, WA, on April 21, 1999, at 10 a.m.

Assistance for Persons with Disabilities: Contact Ginny Dale by April 9, 1999, TDD 1-800-451-7985 or (360) 586-0721.

February 25, 1999  
Claire Hesselholt  
Policy Counsel  
Legislation and Policy

**WSR 99-06-038**

**PREPROPOSAL STATEMENT OF INQUIRY  
STATE BOARD OF EDUCATION**

[Filed February 26, 1999, 11:24 a.m.]

Subject of Possible Rule Making: WAC 180-79A-223 Academic and experience requirements for certification—School nurse, school occupational therapist, school physical therapist, and school speech-language pathologist or audiologist.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28A.410.010.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The proposed amendment to this section extends the accrediting [accrediting] agencies of baccalaureate nursing programs required for school nurse



certification beyond the National League for Nursing Accrediting Commission.

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 at (360) 753-6715.

February 25, 1999

Larry Davis  
Executive Director

#### WSR 99-06-039

##### PREPROPOSAL STATEMENT OF INQUIRY STATE BOARD OF EDUCATION

[Filed February 26, 1999, 11:26 a.m.]

Subject of Possible Rule Making: WAC 180-85-075 Continuing education requirement.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28A.410.010.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: This amendment clarifies the period of time to complete the one hundred fifty hours of continuing education requirements.

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 at (360) 753-6715.

February 25, 1999

Larry Davis  
Executive Director

#### WSR 99-06-040

##### PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF LABOR AND INDUSTRIES

[Filed February 26, 1999, 11:41 a.m.]

Subject of Possible Rule Making: First aid, chapters 296-36, 296-50, 296-59, 296-78, 296-155, and 296-301 WAC.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 49.17.040.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: On June 1, 1998, the Department of Labor and Industries updated first-aid requirements found in chapter 296-24 WAC. The department is proposing to update the first-aid requirements in the industry specific standards listed above in order to ensure consistency with previously adopted amendments to first-aid in chapter 296-24 WAC.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: No other state or federal agencies (other than OSHA) are known that regulate this subject.

Process for Developing New Rule: Parties interested in the formulation of these rules for proposal may contact the individual listed below. The public may also participate by commenting after amendments are proposed by providing written comments or giving oral testimony during the public hearing process.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Michael McCauley, phone (360) 902-5779, fax (360) 902-5529, Department of Labor and Industries, WISHA Services Division, P.O. Box 44620, Olympia, WA 98504-4620.

February 18, 1999

Gary Moore  
Director

#### WSR 99-06-042

##### PREPROPOSAL STATEMENT OF INQUIRY PARKS AND RECREATION COMMISSION

[Filed February 26, 1999, 12:54 p.m.]

Subject of Possible Rule Making: Chapter 352-32 WAC, Public use of state parks areas, with a specific emphasis on the following rules or rules within this chapter related to the subject: WAC 352-32-070 Use of horses, llamas, sled dogs or similar animals for recreation and 352-32-075 Use of nonmotorized cycles or similar devices.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 43.51 RCW.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Current agency procedures for authorizing bicycle and equestrian use on trails on agency property, are inconsistent and/or uncertain. The agency is proposing to amend existing rules to clarify procedures,

increase public participation in policy discussion and establish criteria for [the] agency director to evaluate trail user conflicts.

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 contacting Daniel Farber at Washington State Parks, P.O. Box 42668, Olympia, WA 98504-2668, or call (360) 902-8652 or fax (360) 664-0278 or e-mail to daniel.f@parks.wa.gov. Also state parks is exploring the use of the agency's internet web site to provide public access and gather comments at www.parks.wa.gov.

February 26, 1999

Jim French

Senior Policy Analyst

**WSR 99-06-043**

**PREPROPOSAL STATEMENT OF INQUIRY**

**DEPARTMENT OF SOCIAL AND HEALTH SERVICES**

(Medical Assistance Administration)

[Filed February 26, 1999, 3:16 p.m.]

Subject of Possible Rule Making: WAC 388-86-059 Licensed midwives, 388-86-200 Scope of medical program services, 388-87-079 Payments to licensed midwives, and new chapter 388-533 WAC, Maternity-related services.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.08.090, 74.09.530, 74.04.050, 74.09.800.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: MAA is establishing a new chapter to incorporate and consolidate rules regarding maternity-related services. This chapter will include a section about a new program that MAA is developing whereby physicians and licensed midwives may apply to be a home birth provider, meeting specific qualifications and providing services to clients who meet low-risk assessment criteria.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The Department of Health, employees are included in the workgroup.

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 DSHS 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 Ann Myers, Regulatory Improvement Project, Medical Assistance Administration, Olympia, WA

98504-5530, phone (360) 586-2337, fax (360) 753-7315, TTY 1-800-848-5429, e-mail myersea@dshs.wa.gov.

February 26, 1999

Marie Myerchin-Redifer, Manager  
Rules and Policies Assistance Unit

**WSR 99-06-049**

**PREPROPOSAL STATEMENT OF INQUIRY**

**SUPERINTENDENT OF PUBLIC INSTRUCTION**

[Filed March 1, 1999, 3:50 p.m.]

Subject of Possible Rule Making: Entire chapter 392-172 WAC, governing the provision of special education to eligible students.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28A.155.090(7), Public Law 105-17, Individuals with Disabilities Education Act (IDEA) amendments 1997, RCW 28A.300.070.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The reauthorization of IDEA resulted in changes to the statute regarding special education services to students with disabilities. The Department of Education will be adopting final rules to address changes in IDEA. The state of Washington is required to adopt rules in conformance with the federal rules, so that public agencies providing services to special education students are compliant with federal requirements.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The Office of Special Education Programs (OSEP), United States Department of Education, approves the Office of Superintendent of Public Instruction's state plan, its annual assurances, and content of state regulations to assure they are in conformance with federal laws. OSEP also approves compliance through the triennial monitoring.

Process for Developing New Rule: Use of stakeholder committees to solicit public comments and recommendations respecting new, amended or repeal 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 contacting Dr. Doug Gill, Director of Special Education, Office of Superintendent of Public Instruction, Old Capitol Building, P.O. Box 47200, Olympia, WA 98504-7200, or phone (360) 753-6733.

February 23, 1999

J. J. Coolican  
Deputy Superintendent  
of Public Instruction

**WSR 99-06-050****PREPROPOSAL STATEMENT OF INQUIRY  
PUBLIC DISCLOSURE COMMISSION**

[Filed March 1, 1999, 4:16 p.m.]

Subject of Possible Rule Making: WAC 390-12-255 Petitions for rule making, amendment or repeal—Form—Consideration—Disposition.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 42.17.370(1).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: In 1995, the Office of Financial Management (OFM) was directed by the legislature to adopt a uniform procedure and format for the public to use for petitioning state agencies to adopt, amend or repeal agency rules. The commission will likely consider amending its agency rule regarding rule-making petitions in order to incorporate OFM's action.

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

Process for Developing New Rule: This rule was examined as part of the agency's rule review process. That process includes input from stakeholders who are part of a Rules Review Advisory Committee.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Public Disclosure Commission Assistant Director, Vicki Rippie, P.O. Box 40908, 711 Capitol Way, Room 403, Olympia, WA 98504, (360) 586-4838, fax (360) 753-1112, e-mail vrippie@pdc.wa.gov. A public hearing on any proposed change will likely occur on Tuesday, May 25, 1999. Public testimony will be welcome at that time, or written comments may be submitted by May 12, 1999, for consideration at the hearing.

March 1, 1999  
Melissa Warheit  
Executive Director  
by Vicki Rippie

**WSR 99-06-051****PREPROPOSAL STATEMENT OF INQUIRY  
PUBLIC DISCLOSURE COMMISSION**

[Filed March 1, 1999, 4:17 p.m.]

Subject of Possible Rule Making: WAC 390-14-015 Public records officer.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 42.17.370(1).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The commission may consider amending this rule to identify the executive director as the agency's public records officer.

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

Process for Developing New Rule: This rule was examined as part of the agency's rule review process. That process

includes input from stakeholders who are part of a Rules Review Advisory Committee.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Public Disclosure Commission Assistant Director Vicki Rippie, P.O. Box 40908, 711 Capitol Way, Room 403, Olympia, WA 98504, (360) 586-4838, fax (360) 753-1112, e-mail vrippie@pdc.wa.gov. A public hearing on any proposed change will likely occur on Tuesday, May 25, 1999. Public testimony will be welcome at that time, or written comments may be submitted by May 12, 1999, for consideration at the hearing.

March 1, 1999  
Melissa Warheit  
Executive Director  
by Vicki Rippie

**WSR 99-06-052****PREPROPOSAL STATEMENT OF INQUIRY  
PUBLIC DISCLOSURE COMMISSION**

[Filed March 1, 1999, 4:17 p.m.]

Subject of Possible Rule Making: WAC 390-14-020 Hours for records inspection and copying.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 42.17.370(1).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Currently, WAC 390-14-020 says that public records shall be available for inspection and copying during the customary office hours of the agency. The commission may consider amending this language to state that the records will be available weekdays, excluding legal holidays, between 8:00 a.m. and 5:00 p.m.

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

Process for Developing New Rule: This rule was examined as part of the agency's rule review process. That process includes input from stakeholders who are part of a Rules Review Advisory Committee.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Public Disclosure Commission Assistant Director Vicki Rippie, P.O. Box 40908, 711 Capitol Way, Room 403, Olympia, WA 98504, (360) 586-4838, fax (360) 753-1112, e-mail vrippie@pdc.wa.gov. A public hearing on any proposed change will likely occur on Tuesday, May 25, 1999. Public testimony will be welcome at that time, or written comments may be submitted by May 12, 1999, for consideration at the hearing.

March 1, 1999  
Melissa Warheit  
Executive Director  
by Vicki Rippie

**WSR 99-06-053**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**PUBLIC DISCLOSURE COMMISSION**

[Filed March 1, 1999, 4:17 p.m.]

Subject of Possible Rule Making: WAC 390-14-025  
Request for public records.

Statutes Authorizing the Agency to Adopt Rules on this  
Subject: RCW 42.17.370(1).

Reasons Why Rules on this Subject may be Needed and  
What They Might Accomplish: The commission may con-  
sider amending this rule in order to make this WAC section  
clearer and to emphasize that the commission intends to pro-  
vide full public access to public records.

Other Federal and State Agencies that Regulate this Sub-  
ject and the Process Coordinating the Rule with These Agen-  
cies: None.

Process for Developing New Rule: This rule was exam-  
ined as part of the agency's rule review process. That process  
includes input from stakeholders who are part of a Rules  
Review Advisory Committee.

Interested parties can participate in the decision to adopt  
the new rule and formulation of the proposed rule before pub-  
lication by contacting Public Disclosure Commission Assis-  
tant Director Vicki Rippie, P.O. Box 40908, 711 Capitol  
Way, Room 403, Olympia, WA 98504, (360) 586-4838, fax  
(360) 753-1112, e-mail vrippie@pdc.wa.gov. A public hear-  
ing on any proposed change will likely occur on Tuesday,  
May 25, 1999. Public testimony will be welcome at that  
time, or written comments may be submitted by May 12,  
1999, for consideration at the hearing.

March 1, 1999  
Melissa Warheit  
Executive Director  
by Vicki Rippie

**WSR 99-06-054**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**PUBLIC DISCLOSURE COMMISSION**

[Filed March 1, 1999, 4:18 p.m.]

Subject of Possible Rule Making: WAC 390-14-030  
Copying of public records.

Statutes Authorizing the Agency to Adopt Rules on this  
Subject: RCW 42.17.370(1).

Reasons Why Rules on this Subject may be Needed and  
What They Might Accomplish: This rule currently states that  
the agency will charge ten cents per page for paper copies of  
documents. The commission may consider amending this  
rule to specify the amount the agency will charge for public  
records maintained on diskette and CD ROM. The purpose  
would be to recover only the amount that the agency pays for  
diskettes and CDs.

Other Federal and State Agencies that Regulate this Sub-  
ject and the Process Coordinating the Rule with These Agen-  
cies: None.

Process for Developing New Rule: This rule was exam-  
ined as part of the agency's rule review process. That process

includes input from stakeholders who are part of a Rules  
Review Advisory Committee.

Interested parties can participate in the decision to adopt  
the new rule and formulation of the proposed rule before pub-  
lication by contacting Public Disclosure Commission Assis-  
tant Director Vicki Rippie, P.O. Box 40908, 711 Capitol  
Way, Room 403, Olympia, WA 98504, (360) 586-4838, fax  
(360) 753-1112, e-mail vrippie@pdc.wa.gov. A public hear-  
ing on any proposed change will likely occur on Tuesday,  
May 25, 1999. Public testimony will be welcome at that  
time, or written comments may be submitted by May 12,  
1999, for consideration at the hearing.

March 1, 1999  
Melissa Warheit  
Executive Director  
by Vicki Rippie

**WSR 99-06-055**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**PUBLIC DISCLOSURE COMMISSION**

[Filed March 1, 1999, 4:18 p.m.]

Subject of Possible Rule Making: WAC 390-14-035  
Exempting records from public inspection.

Statutes Authorizing the Agency to Adopt Rules on this  
Subject: RCW 42.17.370(1).

Reasons Why Rules on this Subject may be Needed and  
What They Might Accomplish: This rule has not been  
amended since 1985 even though RCW 42.17.310, the statute  
relating to records that are exempt from public disclosure, has  
been changed over the years. The commission may consider  
amending WAC 390-14-035 to bring it into conformance  
with the public records provisions of the law.

Other Federal and State Agencies that Regulate this Sub-  
ject and the Process Coordinating the Rule with These Agen-  
cies: None.

Process for Developing New Rule: This rule was exam-  
ined as part of the agency's rule review process. That process  
includes input from stakeholders who are part of a Rules  
Review Advisory Committee.

Interested parties can participate in the decision to adopt  
the new rule and formulation of the proposed rule before pub-  
lication by contacting Public Disclosure Commission Assis-  
tant Director Vicki Rippie, P.O. Box 40908, 711 Capitol  
Way, Room 403, Olympia, WA 98504, (360) 586-4838, fax  
(360) 753-1112, e-mail vrippie@pdc.wa.gov. A public hear-  
ing on any proposed change will likely occur on Tuesday,  
May 25, 1999. Public testimony will be welcome at that  
time, or written comments may be submitted by May 12,  
1999, for consideration at the hearing.

March 1, 1999  
Melissa Warheit  
Executive Director  
by Vicki Rippie

**WSR 99-06-056****PREPROPOSAL STATEMENT OF INQUIRY  
PUBLIC DISCLOSURE COMMISSION**

[Filed March 1, 1999, 4:18 p.m.]

Subject of Possible Rule Making: WAC 390-14-040  
Review of denials of public records requests.

Statutes Authorizing the Agency to Adopt Rules on this  
Subject: RCW 42.17.370(1).

Reasons Why Rules on this Subject may be Needed and  
What They Might Accomplish: The commission first  
adopted this rule in 1973. It was last amended in 1994. The  
commission may consider making technical changes to this  
rule in order to specifically reference RCW 42.17.320, the  
statutory section relating to denials of requests for public  
records, and to modify its internal review process.

Other Federal and State Agencies that Regulate this Sub-  
ject and the Process Coordinating the Rule with These Agen-  
cies: None.

Process for Developing New Rule: This rule was exam-  
ined as part of the agency's rule review process. That process  
includes input from stakeholders who are part of a Rules  
Review Advisory Committee.

Interested parties can participate in the decision to adopt  
the new rule and formulation of the proposed rule before pub-  
lication by contacting Public Disclosure Commission Assis-  
tant Director Vicki Rippie, P.O. Box 40908, 711 Capitol  
Way, Room 403, Olympia, WA 98504, (360) 586-4838, fax  
(360) 753-1112, e-mail vrippie@pdc.wa.gov. A public hear-  
ing on any proposed change will likely occur on Tuesday,  
May 25, 1999. Public testimony will be welcome at that  
time, or written comments may be submitted by May 12,  
1999, for consideration at the hearing.

March 1, 1999  
Melissa Warheit  
Executive Director  
by Vicki Rippie

**WSR 99-06-057****PREPROPOSAL STATEMENT OF INQUIRY  
PUBLIC DISCLOSURE COMMISSION**

[Filed March 1, 1999, 4:19 p.m.]

Subject of Possible Rule Making: WAC 390-14-045  
Records index.

Statutes Authorizing the Agency to Adopt Rules on this  
Subject: RCW 42.17.370(1).

Reasons Why Rules on this Subject may be Needed and  
What They Might Accomplish: The commission may con-  
sider amending this rule to clarify that the records index is  
available for copying and inspection weekdays, excluding  
legal holidays, between 8:00 a.m. and 5:00 p.m., rather than  
simply saying the index is available "during regular business  
hours."

Other Federal and State Agencies that Regulate this Sub-  
ject and the Process Coordinating the Rule with These Agen-  
cies: None.

Process for Developing New Rule: This rule was exam-  
ined as part of the agency's rule review process. That process  
includes input from stakeholders who are part of a Rules  
Review Advisory Committee.

Interested parties can participate in the decision to adopt  
the new rule and formulation of the proposed rule before pub-  
lication by contacting Public Disclosure Commission Assis-  
tant Director Vicki Rippie, P.O. Box 40908, 711 Capitol  
Way, Room 403, Olympia, WA 98504, (360) 586-4838, fax  
(360) 753-1112, e-mail vrippie@pdc.wa.gov. A public hear-  
ing on any proposed change will likely occur on Tuesday,  
May 25, 1999. Public testimony will be welcome at that  
time, or written comments may be submitted by May 12,  
1999, for consideration at the hearing.

March 1, 1999  
Melissa Warheit  
Executive Director  
by Vicki Rippie

**WSR 99-06-058****PREPROPOSAL STATEMENT OF INQUIRY  
PUBLIC DISCLOSURE COMMISSION**

[Filed March 1, 1999, 4:19 p.m.]

Subject of Possible Rule Making: WAC 390-14-055  
Record request form.

Statutes Authorizing the Agency to Adopt Rules on this  
Subject: RCW 42.17.370(1).

Reasons Why Rules on this Subject may be Needed and  
What They Might Accomplish: The commission may con-  
sider repealing this rule. The rule establishes an official form  
for use by the public to request information from the agency,  
even though the commission accepts requests for information  
over the telephone and via letter, electronic mail and facsimile.  
The rule does not appear to be necessary.

Other Federal and State Agencies that Regulate this Sub-  
ject and the Process Coordinating the Rule with These Agen-  
cies: None.

Process for Developing New Rule: This rule was exam-  
ined as part of the agency's rule review process. That process  
includes input from stakeholders who are part of a Rules  
Review Advisory Committee.

Interested parties can participate in the decision to adopt  
the new rule and formulation of the proposed rule before pub-  
lication by contacting Public Disclosure Commission Assis-  
tant Director Vicki Rippie, P.O. Box 40908, 711 Capitol  
Way, Room 403, Olympia, WA 98504, (360) 586-4838, fax  
(360) 753-1112, e-mail vrippie@pdc.wa.gov. A public hear-  
ing on any proposed change will likely occur on Tuesday,  
May 25, 1999. Public testimony will be welcome at that  
time, or written comments may be submitted by May 12,  
1999, for consideration at the hearing.

March 1, 1999  
Melissa Warheit  
Executive Director  
by Vicki Rippie

**WSR 99-06-059**

**PREPROPOSAL STATEMENT OF INQUIRY  
PUBLIC DISCLOSURE COMMISSION**

[Filed March 1, 1999, 4:19 p.m.]

Subject of Possible Rule Making: WAC 390-14-100  
List of elected public officials.

Statutes Authorizing the Agency to Adopt Rules on this  
Subject: RCW 42.17.370(1).

Reasons Why Rules on this Subject may be Needed and  
What They Might Accomplish: This rule requires the Public  
Disclosure Commission annually to publish a list of elected  
public officials to assist lobbyist employers and others filing  
reports pursuant to RCW 42.17.180 to disclose whether their  
companies paid compensation to state elected officials, their  
family members or businesses with which officials (or their  
family members) held an ownership interest or directorship  
or other office. The commission may consider amending this  
rule for clarity and to provide a date certain by which the list  
will be prepared.

Other Federal and State Agencies that Regulate this Sub-  
ject and the Process Coordinating the Rule with These Agen-  
cies: None.

Process for Developing New Rule: This rule was exam-  
ined as part of the agency's rule review process. That process  
includes input from stakeholders who are part of a Rules  
Review Advisory Committee.

Interested parties can participate in the decision to adopt  
the new rule and formulation of the proposed rule before pub-  
lication by contacting Public Disclosure Commission Assis-  
tant Director, Vicki Rippie, P.O. Box 40908, 711 Capitol  
Way, Room 403, Olympia, WA 98504, (360) 586-4838, fax  
(360) 753-1112, e-mail vrippie@pdc.wa.gov. A public hear-  
ing on any proposed change will likely occur on Tuesday,  
May 25, 1999. Public testimony will be welcome at that  
time, or written comments may be submitted by May 12,  
1999, for consideration at the hearing.

March 1, 1999  
Melissa Warheit  
Executive Director  
by Vicki Rippie

**WSR 99-06-060**

**PREPROPOSAL STATEMENT OF INQUIRY  
PUBLIC DISCLOSURE COMMISSION**

[Filed March 1, 1999, 4:20 p.m.]

Subject of Possible Rule Making: WAC 390-14-105  
List of elected public officials—Responsibility for develop-  
ing.

Statutes Authorizing the Agency to Adopt Rules on this  
Subject: RCW 42.17.370(1).

Reasons Why Rules on this Subject may be Needed and  
What They Might Accomplish: The commission may con-  
sider repealing this rule. Annually, the agency produces a list  
of elected public officials to assist lobbyist employers and  
other persons who must file disclosure reports pursuant to  
RCW 42.17.180. The rule assigns the responsibility for com-

pleting the list to the agency's executive director. The com-  
mission may decide that the rule is unnecessary. Repealing  
this rule would not eliminate the requirement that the agency  
produce the list of elected public officials.

Other Federal and State Agencies that Regulate this Sub-  
ject and the Process Coordinating the Rule with These Agen-  
cies: None.

Process for Developing New Rule: This rule was exam-  
ined as part of the agency's rule review process. That process  
includes input from stakeholders who are part of a Rules  
Review Advisory Committee.

Interested parties can participate in the decision to adopt  
the new rule and formulation of the proposed rule before pub-  
lication by contacting Public Disclosure Commission Assis-  
tant Director, Vicki Rippie, P.O. Box 40908, 711 Capitol  
Way, Room 403, Olympia, WA 98504, (360) 586-4838, fax  
(360) 753-1112, e-mail vrippie@pdc.wa.gov. A public hear-  
ing on any proposed change will likely occur on Tuesday,  
May 25, 1999. Public testimony will be welcome at that  
time, or written comments may be submitted by May 12,  
1999, for consideration at the hearing.

March 1, 1999  
Melissa Warheit  
Executive Director  
by Vicki Rippie

**WSR 99-06-061**

**PREPROPOSAL STATEMENT OF INQUIRY  
PUBLIC DISCLOSURE COMMISSION**

[Filed March 1, 1999, 4:20 p.m.]

Subject of Possible Rule Making: WAC 390-14-110  
List of elected public officials—Name not on list, impact.

Statutes Authorizing the Agency to Adopt Rules on this  
Subject: RCW 42.17.370(1).

Reasons Why Rules on this Subject may be Needed and  
What They Might Accomplish: This rule says, in effect, that  
a lobbyist employer filing under RCW 42.17.180 is granted a  
modification from reporting payments to elected officials,  
their family members and companies with which they are  
involved if the Public Disclosure Commission's list of elected  
public officials does not identify an official's family members  
and the names of companies with which the official or family  
members are involved. Since the effective date of Initiative  
134, lobbyist employers are no longer the only persons who  
file reports pursuant to RCW 42.17.180. The commission  
may consider amending this rule for clarity and to reference  
filers in addition to lobbyist employers.

Other Federal and State Agencies that Regulate this Sub-  
ject and the Process Coordinating the Rule with These Agen-  
cies: None.

Process for Developing New Rule: This rule was exam-  
ined as part of the agency's rule review process. That process  
includes input from stakeholders who are part of a Rules  
Review Advisory Committee.

Interested parties can participate in the decision to adopt  
the new rule and formulation of the proposed rule before pub-  
lication by contacting Public Disclosure Commission Assis-

tant Director, Vicki Rippie, P.O. Box 40908, 711 Capitol Way, Room 403, Olympia, WA 98504, (360) 586-4838, fax (360) 753-1112, e-mail vrippie@pdc.wa.gov. A public hearing on any proposed change will likely occur on Tuesday, May 25, 1999. Public testimony will be welcome at that time, or written comments may be submitted by May 12, 1999, for consideration at the hearing.

March 1, 1999  
Melissa Warheit  
Executive Director  
by Vicki Rippie

### WSR 99-06-062

#### PREPROPOSAL STATEMENT OF INQUIRY PUBLIC DISCLOSURE COMMISSION

[Filed March 1, 1999, 4:20 p.m.]

Subject of Possible Rule Making: WAC 390-17-030 Sample ballots.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 42.17.370(1).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The commission may consider amending this rule to conform with Interpretation 98-01 regarding slate cards and other candidate listings. According to that interpretation, the term sample ballots includes slate cards and other candidate listings that satisfy certain criteria. Based on RCW 42.17.640 (14)(a), sample ballots paid for by a bona fide political party are eligible for payment with funds that are exempt from the limit on contributions to a bona fide political party. In addition, expenditures for sample ballots and other candidate listings do not count as a contribution to the candidates listed. Currently, the definition of "sample ballots" in WAC 390-17-030 is narrower than the one approved by the commission in its 1998 interpretation.

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

Process for Developing New Rule: This rule was examined as part of the agency's rule review process. That process includes input from stakeholders who are part of a Rules Review Advisory Committee.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Public Disclosure Commission Assistant Director, Vicki Rippie, P.O. Box 40908, 711 Capitol Way, Room 403, Olympia, WA 98504, (360) 586-4838, fax (360) 753-1112, e-mail vrippie@pdc.wa.gov. A public hearing on any proposed change will likely occur on Tuesday, May 25, 1999. Public testimony will be welcome at that time, or written comments may be submitted by May 12, 1999, for consideration at the hearing.

March 1, 1999  
Melissa Warheit  
Executive Director  
by Vicki Rippie

### WSR 99-06-063

#### PREPROPOSAL STATEMENT OF INQUIRY PUBLIC DISCLOSURE COMMISSION

[Filed March 1, 1999, 4:21 p.m.]

Subject of Possible Rule Making: WAC 390-18-020 Political advertising—Political party identification.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 42.17.370(1).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: This rule was adopted in order to help sponsors of political advertising comply with the requirement that ads regarding candidates for partisan office identify the candidate's political party. The rule obligates the commission to adopt a list of abbreviations or symbols that clearly identify political party status. The commission may amend the rule for clarity.

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

Process for Developing New Rule: This rule was examined as part of the agency's rule review process. That process includes input from stakeholders who are part of a Rules Review Advisory Committee.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Public Disclosure Commission Assistant Director, Vicki Rippie, P.O. Box 40908, 711 Capitol Way, Room 403, Olympia, WA 98504, (360) 586-4838, fax (360) 753-1112, e-mail vrippie@pdc.wa.gov. A public hearing on any proposed change will likely occur on Tuesday, May 25, 1999. Public testimony will be welcome at that time, or written comments may be submitted by May 12, 1999, for consideration at the hearing.

March 1, 1999  
Melissa Warheit  
Executive Director  
by Vicki Rippie

### WSR 99-06-064

#### PREPROPOSAL STATEMENT OF INQUIRY PUBLIC DISCLOSURE COMMISSION

[Filed March 1, 1999, 4:21 p.m.]

Subject of Possible Rule Making: WAC 390-18-050 Commercial advertisers; public inspection of records.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 42.17.370(1).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: This rule implements RCW 42.17.110 by clarifying what types of records must be available for public inspection. The commission may amend this rule to provide advertisers with clearer guidance concerning their legal obligations.

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

Process for Developing New Rule: This rule was examined as part of the agency's rule review process. That process includes input from stakeholders who are part of a Rules Review Advisory Committee.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Public Disclosure Commission Assistant Director, Vicki Rippie, P.O. Box 40908, 711 Capitol Way, Room 403, Olympia, WA 98504, (360) 586-4838, fax (360) 753-1112, e-mail vrippie@pdc.wa.gov. A public hearing on any proposed change will likely occur on Tuesday, May 25, 1999. Public testimony will be welcome at that time, or written comments may be submitted by May 12, 1999, for consideration at the hearing.

March 1, 1999  
Melissa Warheit  
Executive Director  
by Vicki Rippie

**WSR 99-06-065**

**PREPROPOSAL STATEMENT OF INQUIRY  
PUBLIC DISCLOSURE COMMISSION**

[Filed March 1, 1999, 4:21 p.m.]

Subject of Possible Rule Making: WAC 390-20-014 Registration during last calendar quarter of the biennial registration period.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 42.17.370(1).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Currently, this rule requires a lobbyist who registers during the last calendar quarter of an even-numbered year to notify the commission in writing if the lobbyist wants this registration to carry forward to the next two-year period. The commission may consider amending this rule to say that registrations filed during the fourth quarter of even-numbered years are valid for the upcoming two-year legislative session unless the registrations are terminated sooner.

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

Process for Developing New Rule: This rule was examined as part of the agency's rule review process. That process includes input from stakeholders who are part of a Rules Review Advisory Committee.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Public Disclosure Commission Assistant Director, Vicki Rippie, P.O. Box 40908, 711 Capitol Way, Room 403, Olympia, WA 98504, (360) 586-4838, fax (360) 753-1112, e-mail vrippie@pdc.wa.gov. A public hearing on any proposed change will likely occur on Tuesday, May 25, 1999. Public testimony will be welcome at that

time, or written comments may be submitted by May 12, 1999, for consideration at the hearing.

March 1, 1999  
Melissa Warheit  
Executive Director  
by Vicki Rippie

**WSR 99-06-066**

**PREPROPOSAL STATEMENT OF INQUIRY  
PUBLIC DISCLOSURE COMMISSION**

[Filed March 1, 1999, 4:22 p.m.]

Subject of Possible Rule Making: WAC 390-20-015 Lobbyist registration—Termination.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 42.17.370(1).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The commission may consider amending this rule to make the language gender-neutral.

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

Process for Developing New Rule: This rule was examined as part of the agency's rule review process. That process includes input from stakeholders who are part of a Rules Review Advisory Committee.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Public Disclosure Commission Assistant Director, Vicki Rippie, P.O. Box 40908, 711 Capitol Way, Room 403, Olympia, WA 98504, (360) 586-4838, fax (360) 753-1112, e-mail vrippie@pdc.wa.gov. A public hearing on any proposed change will likely occur on Tuesday, May 25, 1999. Public testimony will be welcome at that time, or written comments may be submitted by May 12, 1999, for consideration at the hearing.

March 1, 1999  
Melissa Warheit  
Executive Director  
by Vicki Rippie

**WSR 99-06-067**

**PREPROPOSAL STATEMENT OF INQUIRY  
PUBLIC DISCLOSURE COMMISSION**

[Filed March 1, 1999, 4:22 p.m.]

Subject of Possible Rule Making: WAC 390-20-023 Contributions to candidates, elected officials, political committees, or public office fund—Identification of source.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 42.17.370(1).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The commission may consider repealing this rule. The rule was adopted before the passage of Initiative 134. The rule says, in effect, that if a lobbyist makes a contribution on behalf of one of his or her



employers or clients, the lobbyist must inform the recipient of the true source of the contribution. However, Initiative 134 outlawed reimbursements for contributions, thus requiring that all contribution checks be from the actual donor. Since lobbyists may no longer use their own bank checks to make contributions and then be reimbursed by their lobbyist employers, the commission may determine that this rule should be repealed.

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

Process for Developing New Rule: This rule was examined as part of the agency's rule review process. That process includes input from stakeholders who are part of a Rules Review Advisory Committee.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Public Disclosure Commission Assistant Director Vicki Rippie, P.O. Box 40908, 711 Capitol Way, Room 403, Olympia, WA 98504, (360) 586-4838, fax (360) 753-1112, e-mail vrippie@pdc.wa.gov. A public hearing on any proposed change will likely occur on Tuesday, May 25, 1999. Public testimony will be welcome at that time, or written comments may be submitted by May 12, 1999, for consideration at the hearing.

March 1, 1999  
Melissa Warheit  
Executive Director  
by Vicki Rippie

#### WSR 99-06-068

#### PREPROPOSAL STATEMENT OF INQUIRY PUBLIC DISCLOSURE COMMISSION

[Filed March 1, 1999, 4:23 p.m.]

Subject of Possible Rule Making: WAC 390-20-100 Effect of Public Disclosure Act—Freedom of communication—Employer interference.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 42.17.370(1).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The commission may decide to repeal this rule. The rule was adopted in early 1973, shortly after the passage of Initiative 276, to assure members of the public that their right to communicate with state officials could not be restricted by the lobbying reporting provisions of the initiative or by their employer. Since the law has now been implemented for over twenty-five years, the commission may determine that the public concern that this rule was designed to address has subsided and the rule is no longer necessary.

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

Process for Developing New Rule: This rule was examined as part of the agency's rule review process. That process includes input from stakeholders who are part of a Rules Review Advisory Committee.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Public Disclosure Commission Assistant Director, Vicki Rippie, P.O. Box 40908, 711 Capitol Way, Room 403, Olympia, WA 98504, (360) 586-4838, fax (360) 753-1112, e-mail vrippie@pdc.wa.gov. A public hearing on any proposed change will likely occur on Tuesday, May 25, 1999. Public testimony will be welcome at that time, or written comments may be submitted by May 12, 1999, for consideration at the hearing.

March 1, 1999  
Melissa Warheit  
Executive Director  
by Vicki Rippie

#### WSR 99-06-069

#### PREPROPOSAL STATEMENT OF INQUIRY PUBLIC DISCLOSURE COMMISSION

[Filed March 1, 1999, 4:23 p.m.]

Subject of Possible Rule Making: WAC 390-20-115 Forms for report of legislative activity by legislators and legislative staff.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 42.17.370(1).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: In 1995, the legislature amended the public disclosure law to remove language requiring that legislators and committees of the legislature file quarterly reports identifying employees who assist in the preparation of legislation (chapter 397, Laws of 1995). WAC 390-20-115 created the L-4 reporting form to implement this now defunct statutory requirement. Since its statutory basis has been removed, the rule needs to be repealed.

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

Process for Developing New Rule: This rule was examined as part of the agency's rule review process. That process includes input from stakeholders who are part of a Rules Review Advisory Committee.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Public Disclosure Commission Assistant Director, Vicki Rippie, P.O. Box 40908, 711 Capitol Way, Room 403, Olympia, WA 98504, (360) 586-4838, fax (360) 753-1112, e-mail vrippie@pdc.wa.gov. A public hearing on any proposed change will likely occur on Tuesday, May 25, 1999. Public testimony will be welcome at that time, or written comments may be submitted by May 12, 1999, for consideration at the hearing.

March 1, 1999  
Melissa Warheit  
Executive Director  
by Vicki Rippie

**WSR 99-06-074**

**PREPROPOSAL STATEMENT OF INQUIRY  
STATE BOARD OF EDUCATION**

[Filed March 2, 1999, 1:36 p.m.]

Subject of Possible Rule Making: Chapter 180-25 WAC, State assistance in providing school plant facilities—Preliminary provisions.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28A.525.020.

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 at (360) 753-6715.

March 1, 1999

Larry Davis

Executive Director

**WSR 99-06-075**

**PREPROPOSAL STATEMENT OF INQUIRY  
STATE BOARD OF EDUCATION**

[Filed March 2, 1999, 1:39 p.m.]

Subject of Possible Rule Making: Chapter 180-33 WAC, State assistance in providing school plant facilities—Modernization.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28A.525.020.

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 at (360) 753-6715.

March 1, 1999

Larry Davis

Executive Director

**WSR 99-06-076**

**PREPROPOSAL STATEMENT OF INQUIRY  
STATE BOARD OF EDUCATION**

[Filed March 2, 1999, 1:41 p.m.]

Subject of Possible Rule Making: Chapter 180-32 WAC, State assistance in providing school plant facilities—Interdistrict transportation cooperatives.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28A.525.020.

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 at (360) 753-6715.

March 1, 1999

Larry Davis

Executive Director

**WSR 99-06-077**

**PREPROPOSAL STATEMENT OF INQUIRY  
STATE BOARD OF EDUCATION**

[Filed March 2, 1999, 1:42 p.m.]

Subject of Possible Rule Making: Chapter 180-31 WAC, State assistance in providing school plant facilities—Interdistrict cooperation in financing school plant construction.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28A.525.020.

**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 at (360) 753-6715.

March 1, 1999

Larry Davis  
Executive Director

#### **WSR 99-06-078**

#### **PREPROPOSAL STATEMENT OF INQUIRY STATE BOARD OF EDUCATION**

[Filed March 2, 1999, 1:44 p.m.]

**Subject of Possible Rule Making:** Chapter 180-29 WAC, State assistance in providing school plant facilities—Procedural regulations.

**Statutes Authorizing the Agency to Adopt Rules on this Subject:** RCW 28A.525.020.

**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 at (360) 753-6715.

March 1, 1999

Larry Davis  
Executive Director

#### **WSR 99-06-079**

#### **PREPROPOSAL STATEMENT OF INQUIRY STATE BOARD OF EDUCATION**

[Filed March 2, 1999, 1:46 p.m.]

**Subject of Possible Rule Making:** Chapter 180-27 WAC, State assistance in providing school plant facilities—Basic state support.

**Statutes Authorizing the Agency to Adopt Rules on this Subject:** RCW 28A.525.020.

**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 at (360) 753-6715.

March 1, 1999

Larry Davis  
Executive Director

#### **WSR 99-06-080**

#### **PREPROPOSAL STATEMENT OF INQUIRY STATE BOARD OF EDUCATION**

[Filed March 2, 1999, 1:47 p.m.]

**Subject of Possible Rule Making:** Chapter 180-26 WAC, State assistance in providing school plant facilities—Educational specifications and site selection.

**Statutes Authorizing the Agency to Adopt Rules on this Subject:** RCW 28A.525.020.

**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 at (360) 753-6715.

March 1, 1999

Larry Davis  
Executive Director

### WSR 99-06-081

#### PREPROPOSAL STATEMENT OF INQUIRY

#### DEPARTMENT OF

#### SOCIAL AND HEALTH SERVICES

(Health and Rehabilitation Services Administration)

[Filed March 2, 1999, 1:50 p.m.]

Subject of Possible Rule Making: Vocational rehabilitation services.

The Division of Vocational Rehabilitation (DVR) plans to amend, repeal and/or add new rules regarding vocation rehabilitation services contained in the following Washington Administrative Code (WAC): WAC 490-500-005 Definitions, 490-500-010 Application for services, 490-500-015 Initial interview, 490-500-022 Assessment for determining eligibility and vocational rehabilitation needs, 490-500-025 Eligibility for services, 490-500-030 Eligibility for services—Criteria, 490-500-050 Certification for decision of eligibility or ineligibility, 490-500-055 Notice to applicant, 490-500-065 Ineligibility—Review required, 490-500-070 Extended evaluation, 490-500-080 Extended evaluation—Plan, 490-500-170 Criteria for order of selection, 490-500-180 Economic need, 490-500-185 Economic need—Financial statement required, 490-500-190 Economic need—Standards for determining, 490-500-200 Economic need—Notification of decision, 490-500-205 Comprehensive assessment, 490-500-257 Individualized, written rehabilitation plan, 490-500-260 Individualized, written rehabilitation plan—Content, 490-500-270 Individualized, written rehabilitation plan—Participation, 490-500-275 Individualized, written rehabilitation plan—Review, 490-500-300 Vocational rehabilitation—Employment outcome, 490-500-325 Comparable services and benefits available from other agencies, 490-500-350 Vocational rehabilitation services, 490-500-380 Vocational rehabilitation services—Counseling, guidance, and work-related placement services, 490-500-385 Vocational rehabilitation services—Physical and mental restoration, 490-500-389 Vocational rehabilitation services—Telecommunications, sensory, and other technological aids and devices, 490-500-390 Vocational rehabilitation services—Training, 490-500-418 Vocational rehabilitation services—Rehabilitation assistive technology services, 490-500-420 Vocational rehabilitation services—Additional living expenses, 490-500-430 Vocational rehabilitation services—Occupational licenses, tools, equipment, and initial stocks and supplies, 490-500-435 Vocational rehabilitation services—Transportation, 490-500-437 Vocational rehabilitation services—Interpreter services and reader services, 490-

500-445 Vocational rehabilitation services—Services to family members, 490-500-450 Vocational rehabilitation services—Other goods and services, 490-500-455 Vocational rehabilitation services—Post employment services, 490-500-460 Vocational rehabilitation services—Information and referral services, 490-500-465 Vocational rehabilitation services—Recruitment and training services, 490-500-470 Vocational rehabilitation services—Transition services, 490-500-475 Vocational rehabilitation services—Supported employment, 490-500-477 Vocational rehabilitation services—Independent living services, 490-500-480 Vocational rehabilitation services—On-the-job or other related personal assistance, 490-500-485 Vocational rehabilitation services—Services to groups, 490-500-500 Purchase of services, 490-500-505 Purchase of services—Selection criteria—Schools or training organizations, 490-500-510 Purchase of services—Selection criteria—On-the-job training, 490-500-525 Termination of services under an individualized, written rehabilitation plan—Ineligible, 490-500-530 Termination of services under an individualized, written rehabilitation plan—For reasons other than ineligibility, 490-500-542 Termination of services under an individualized written rehabilitation plan—Rehabilitated, 490-500-545 Notification of termination, 490-500-555 Confidential information—Disclosure, 490-500-560 Administrative review, 490-500-580 Fair hearing—Adjudicative proceeding, 490-500-590 Client records, 490-500-600 Independent living program, 490-500-605 Independent living program—Eligibility/ineligibility, 490-500-615 Independent living program—Economic need and comparable services and benefits, 490-500-620 Independent living program—Written independent living plan, 490-500-622 Independent living program—Independent living services, 490-500-625 Independent living program—Termination, 490-500-627 Independent living program—Client records, 490-500-630 State-wide independent living council, and 490-500-635 State rehabilitation advisory council.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.29.020, the Rehabilitation Act of 1973, as amended through August 1998.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: DVR needs to adopt and implement rules to comply with the August 1998 amendments to the Rehabilitation Act of 1973. The rules are intended to increase the rights and responsibilities of applicants and eligible individuals with disabilities resulting in full partnership with DVR in the vocational rehabilitation process.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: United States Department of Education, Rehabilitation Services Administration (RSA); Washington State Department of Services for the Blind (DSB); and Washington Rehabilitation Council (RC).

Process for Developing New Rule: DVR welcomes the public to take part in developing the rules. Anyone interested in participating should contact one of the staff persons indicated below. DVR plans to meet with stakeholder groups to solicit feedback on the proposed rules. After the rules are drafted, DVR will file a copy at the Office of the Code Reviser with a notice of the proposed rule making. DVR will

send a copy of the proposed rules for review and comment to everyone currently on the mailing list and anyone else requesting a copy.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Phyllis Hansen, Program Administrator, (360) 438-8047 (V/TTY), e-mail hansepa@dshs.wa.gov or Kelly Boston, Program Administrator, (360) 438-8026, e-mail bostok@dshs.wa.gov, at the Division of Vocational Rehabilitation, P.O. Box 45340, Olympia, WA 98504, 1-800-637-5627 (V/TTY), fax (360) 438-8007.

February 24, 1999

Marie Myerchin-Redifer, Manager  
Rules and Policies Assistance Unit

### WSR 99-06-082

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

(Health and Rehabilitative Services)

(Division of Alcohol and Substance Abuse)

[Filed March 2, 1999, 1:52 p.m.]

Subject of Possible Rule Making: Chapter 440-25 WAC, Administration of chemical dependency services.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 70.96A.020, [70.96A.]040, [70.96A.]090, and [70.96A.]180.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: This chapter, addressing county government administration of local chemical dependency treatment and prevention services, is being reviewed in its entirety with changes to be made as deemed appropriate in keeping with Governor Locke's Executive Order 97-02 and Secretary Quasim's April 17, 1997, Executive Order on Regulatory Improvement. Criteria to be used include: Need for rule, statutory authority and intent, effectiveness and efficiency, clarity, coordination with other rules, cost, and fairness.

Process for Developing New Rule: DSHS welcomes the public to take part in developing the rules. Anyone interested in participating should contact the staff person indicated below. After the rule is drafted, DSHS will file a copy with the Office of the Code Reviser with a 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 Gary Reynolds, Policy Leadworker, Certification Section, Division of Alcohol and Substance Abuse, P.O. Box 45330, Olympia, WA 98504-5330, (360) 438-8054, e-mail reynogl@dshs.wa.gov.

March 2, 1999

Marie Myerchin-Redifer, Manager  
Rules and Policies Assistance Unit

### WSR 99-06-083

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

(Medical Assistance Administration)

[Filed March 2, 1999, 1:53 p.m.]

Subject of Possible Rule Making: WAC 388-550-4900 Disproportionate share payments, 388-550-5000 Payment method—LIDSH, 388-550-5100 Payment method—MI DSH, 388-550-5100 MI public DSH (new section), 388-550-5120 MI nonpublic DSH (new section), 388-550-5150 Payment method—GAU DSH, 388-550-5200 Payment method—SRHAPDSH, 388-550-5250 Payment method—THAPDSH, 388-550-5300 Payment method—STHFPDSH, 388-550-5350 Payment method—CTHFPDSH, and 388-550-5400 Payment method—PHDDSH.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.08.090 and 74.09.730.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To ensure Medical Assistance Administration's administrative code reflects current policy and practice. In January 1998, WAC 388-550-4900 was rewritten. The WACs listed above reference WAC 388-550-4900 and consequently need to reflect the updated wording.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Federal Health Care Financing Administration (HCFA), the agency's advice will be sought throughout the rule-making process.

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 DSHS 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, Washington 98504-5530, phone (360) 586-1008, fax (360) 753-7315, TTY 1-800-848-5429, e-mail richaa@dshs.wa.gov.

March 2, 1999

Marie Myerchin-Redifer, Manager  
Rules and Policies Assistance Unit

### WSR 99-06-084

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

[Filed March 2, 1999, 1:54 p.m.]

Subject of Possible Rule Making: WAC 388-550-2800 Establishing inpatient payment rates, 388-550-2900 Payment limits—Inpatient hospital services, 388-550-3450 Payment method—CBCF calculation, 388-550-3500 Inflation adjustments, 388-550-3900 Border area hospitals payment method,

388-550-4100 New hospitals payment method, and 388-550-4500 Payment method—RCC.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.08.090, 74.09.730, 42 USC 1395x(v) and 1396r-4; and 42 CFR 447.271, 42 CFR 11303, and 42 CFR 2652.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Accurately describe changes in how hospital rates are determined.

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 will develop these rules using review of each draft by the interested public.

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

March 2, 1999

Marie Myerchin-Redifer, Manager  
Rules and Policies Assistance Unit

**WSR 99-06-085**

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

[Filed March 2, 1999, 1:56 p.m.]

Subject of Possible Rule Making: WAC 388-502-0220 Administrative appeals—Rates—Contractor/provider and 388-550-5600 Hospital rate appeals and disputes.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.08.090, 74.09.210, and 74.09.730.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Clarify the administrative hospital rates appeals process.

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 will develop these rules using review of each draft by the interested public.

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

March 2, 1999

Marie Myerchin-Redifer, Manager  
Rules and Policies Assistance Unit

**WSR 99-06-086**

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

(Medical Assistance Administration)

[Filed March 2, 1999, 1:58 p.m.]

Subject of Possible Rule Making: WAC 388-550-6000 Payment—Outpatient hospital services.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.08.090 and 74.09.730, 42 U.S.C. §1395(v) Sec. 1861 Reasonable costs, 42 CFR §447.271 Upper limits based on customary charges, and 42 CFR §11303 Funding availability and limitations.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To ensure Medical Assistance Administration's administrative code reflects current policy and practice. The Medical Assistance Administration risks losing federal financial participation (FFP) if the policies are not codified.

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 DSHS 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, Washington 98504-5530, phone (360) 586-1008, fax (360) 753-7315, TTY 1-800-848-5429, e-mail richaa@dshs.wa.gov.

March 2, 1999

Marie Myerchin-Redifer, Manager  
Rules and Policies Assistance Unit

**WSR 99-06-087**

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

(Medical Assistance Administration)

[Filed March 2, 1999, 1:59 p.m.]

Subject of Possible Rule Making: WAC 388-550-1050 Hospital definitions.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.08.090 and 74.09.730, 42 U.S.C. §1395x(v) Sec. 1861 Reasonable costs, 42 CFR §447.271 Upper limits based on customary charges, 42 CFR §11303 Funding availability and limitations.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To ensure Medical Assistance Administration's administrative code reflects current policy and practice. The Medical Assistance Administration

risks losing federal financial participation (FFP) if these policies are not codified.

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 DSHS 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, Washington 98504-5530, phone (360) 586-1008, fax (360) 753-7315, TTY 1-800-848-5429, e-mail richaa@dshs.wa.gov.

March 2, 1999

Marie Myerchin-Redifer, Manager  
Rules and Policies Assistance Unit

Manager, P.O. Box 98504-7864, phone (360) 236-4723, fax (360) 236-4738.

February 26, 1999  
Kristine Van Gorkom  
Deputy Secretary

### WSR 99-06-090

#### PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF HEALTH

[Filed March 3, 1999, 9:12 a.m.]

Subject of Possible Rule Making: Retired active status. This rule or rules would allow licensed midwives who are practicing only in emergent or intermittent circumstances to hold a retired active license at a reduced renewal fee. It would also establish the qualifications required to return to active status. In addition, there would be an amendment to WAC 246-834-990 to establish a reduced renewal fee for the retired active status license.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 18.130.250.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Individuals who hold midwifery licenses have long been requesting a license at a reduced fee for those individuals not currently in practice or practicing only intermittently. Licensees who fall into this category have decided that the regular fee is too much and have let their license lapse. By allowing this status, these midwives can fill a need in emergent and intermittent circumstances.

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 intends to hold an open forum on March 16, 1999, at the Midwifery Advisory Committee meeting in Olympia, Washington, to elicit input from interested parties. All licensed midwives and interested parties will be informed.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. A public meeting will be held on March 16, 1999. Written comments may be submitted to the Department of Health, Midwifery Program, Attn: Kendra Pitzler, Program





**NO EXPEDITED REPEALS FILED IN THIS ISSUE**

**EXPEDITED REPEAL**



**WSR 99-05-071**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Economic Services Administration)  
(WorkFirst Division)

[Filed February 17, 1999, 10:25 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-19-124.

Title of Rule: Amends WAC 388-310-300 Exemptions for mandatory participants, 388-310-400 First steps for mandatory participants, 388-310-500 Individual responsibility plan, 388-310-600 Job search, 388-310-700 Employability evaluation, 388-310-800 Support services, 388-310-900 Basic education, 388-310-1000 Vocational education, 388-310-1050 Job skills training, 388-310-1100 Work experience, 388-310-1200 On-the-job training, 388-310-1400 Community service, 388-310-1500 Employment conditions, 388-310-1600 Sanctions, 388-310-1700 Self employment, 388-310-1800 Post employment, and 388-310-1900 Services for American Indian tribal members and other American Indians.

Purpose: Shortens and simplifies language to bring it into compliance with Governor Locke's Executive Order 97-02.

Statutory Authority for Adoption: RCW 74.08.090 and 74.04.050.

Statute Being Implemented: RCW 74.08.090 and 74.04.050.

Summary: Existing WAC was rewritten to shorten and simplify existing language into a question and answer format to bring it into compliance with Governor Locke's Executive Order 97-02.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Sandy James, WorkFirst Division, P.O. Box 45480, Olympia, WA 98504-5480, (360) 413-3239, e-mail JSAMESSM@DSHS.WA.GOV, fax (360) 413-3482.

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: Amends existing language by using simpler, clearer language and a question and answer format to bring the rules into compliance with Governor Locke's Executive Order 97-02.

Proposal Changes the Following Existing Rules: Language was shortened and simplified into a question and answer format in WAC 388-310-300 Exemptions for mandatory participants, 388-310-400 First steps for mandatory participants, 388-310-500 Individual responsibility plan, 388-310-600 Job search, 388-310-700 Employability evaluation, 388-310-800 Support services, 388-310-900 Basic education, 388-310-1000 Vocational education, 388-310-1050 Job skills training, 388-310-1100 Work experience, 388-310-1200 On-the-job training, 388-310-1400 Community service, 388-310-1500 Employment conditions, 388-310-1600 Sanc-

tions, and 388-310-1900 Services for American Indian tribal members and other American Indians.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Changes do not affect small businesses.

RCW 34.05.328 does not apply to this rule adoption. These changes do not meet the definition of significant legislative rules. Affected rules are being amended to shorten and simplify language in compliance with Executive Order 97-02.

Hearing Location: Lacey Government Center (behind Tokyo Bento Restaurant), 1009 College Street S.E., Room 104-B, Lacey, WA 98503, on April 6, 1999, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Paige Wall by March 25, 1999, 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 April 6, 1999.

Date of Intended Adoption: April 7, 1999.

February 17, 1999

Marie Myerchin-Redifer, Manager  
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 97-20-129, filed 10/1/97, effective 11/1/97)

**WAC 388-310-0300 WorkFirst—(~~Participation~~) Exemptions for mandatory participants.** (1) ~~((All TANF and state family assistance (SFA) recipients who are sixteen years of age and older and all custodial parents are required to participate in WorkFirst unless exempted under subsection (2)(a) of this section.~~

~~(2) A person is exempt from WorkFirst participation requirements if:~~

~~(a) The person is needed in the home to personally provide care for a child under twelve months of age.~~

~~(b) The person may use this exempt status for a total of twelve months during the person's sixty-month lifetime limit for assistance.~~

~~(3) Persons who are exempt may volunteer to participate and will not be subject to sanction for subsequent refusal to participate if still eligible for the exemption.)~~ **If I am a mandatory participant, when can I be exempted from participating in WorkFirst activities?**

**You can claim an exemption from participating in WorkFirst activities during months that you are needed in the home to personally provide care for a child under twelve months of age. You can only claim this exemption for up to twelve months in your lifetime.**

**(2) Can I participate in WorkFirst while I am exempt?**

**You can participate in WorkFirst while you are exempt, and the time you participate does not count against your twelve-month limit. If you decide later to stop participating, and you still qualify for an exemption, you will be put back into exempt status with no financial penalty.**

**(3) Does an exemption from participation affect my sixty-month time limit for receiving TANF or SFA benefits?**

An exemption from participation does not affect your sixty-month time limit for receiving TANF or SFA benefits. The sixty-month TANF/SFA time limit (described in WAC 388-484-0005) determines how many months you can receive any TANF or SFA assistance. The exemption from participation allows you to not participate for up to twelve of these sixty months, and still get a full grant.

**AMENDATORY SECTION** (Amending WSR 98-23-037, filed 11/10/98, effective 12/11/98)

**WAC 388-310-0400 WorkFirst—((What are the initial requirements of a WorkFirst participant?)) First steps for mandatory participants.** (1) ((WorkFirst requires you to look for a job as your first activity unless you are temporarily deferred from job search. Reasons that you may be temporarily deferred from looking for a job are:

- (a) ~~You work twenty or more hours a week; "work" means to engage in any legal, income generating activity which is taxable under the United States Tax Code or which would be taxable with or without a treaty between an Indian Nation and the United States; or~~
- (b) ~~You are under the age of eighteen and have not completed high school or GED; or~~
- (c) ~~You are under the age of twenty, and are attending high school or an equivalent full time; or~~
- (d) ~~Your situation prevents you from looking for a job (see WAC 388-310-1600).~~

(2) If and when your job search is temporarily deferred, you must take part in an evaluation of your employability as part of your individual responsibility plan (IRP).

(3) You must follow instructions from your case manager and/or job service specialist as written in your IRP.

(4) If you do not participate in job search, or in the activities listed in your IRP during your temporary deferral from job search, and you do not have a good reason, the department will impose a financial penalty, sometimes called a sanction)) **What happens when I enter the WorkFirst program as a mandatory participant?**

If you are a mandatory participant, WorkFirst requires you to look for a job as your first activity unless you are temporarily deferred from job search.

**(2) May I be temporarily deferred from looking for a job?**

If you are a mandatory participant, you may be temporarily deferred from looking for a job for any of the following reasons:

- (a) You work twenty or more hours a week. "Work" means to engage in any legal, income generating activity which is taxable under the United States Tax Code or which would be taxable with or without a treaty between an Indian Nation and the United States; or
- (b) You are under the age of eighteen, have not completed high school, GED or its equivalent and are in school full-time; or
- (c) You are eighteen or nineteen years of age and are attending high school or an equivalent full-time; or

(d) Your situation prevents you from looking for a job. (For example, you may be unable to look for a job while you are homeless and/or dealing with family violence.)

**(3) What are my requirements if I am temporarily deferred from job search?**

If and when your job search is temporarily deferred, you must take part in an evaluation of your employability as part of your individual responsibility plan. Your individual responsibility plan will describe what you need to do to be able to enter job search and then find a job (see WAC 388-310-0500 and 0700).

**(4) What other WorkFirst requirements must I follow while I am in job search or temporarily deferred from job search?**

You must follow instructions as written in your individual responsibility plan (see WAC 388-310-0500) while you are in job search or temporarily deferred from job search.

**(5) What happens if I do not follow my WorkFirst requirements?**

If you do not participate in job search, or in the activities listed in your individual responsibility plan during your temporary deferral from job search, and you do not have a good reason, the department will impose a financial penalty (sanction, see WAC 388-310-1600).

**AMENDATORY SECTION** (Amending WSR 98-23-037, filed 11/10/98, effective 12/11/98)

**WAC 388-310-0500 WorkFirst—((What is included in WorkFirst job search?)) Individual responsibility plan.**

(1) ((Job search is an opportunity to learn and use skills you need to find and keep a job. Job search may include:

- (a) Classroom instruction; and/or
- (b) Structured job search that helps you find job openings, complete applications, practice interviews and apply other skills and abilities with a job search specialist or a group of fellow job seekers; and/or
- (c) Pre-employment training, in which you learn skills you need for an identified entry level job that pays more than average entry level wages. Pre-employment training is an acceptable job search activity when an employer or industry commits to hiring or giving hiring preference to WorkFirst participants who successfully complete pre-employment training.

(2) WorkFirst job search is delivered by the employment security department or a contracted partner.

(3) Period of job search may last up to twelve continuous weeks. Job search specialists will monitor your progress, and by the end of the first four weeks, job search specialists will determine whether or not you should continue in job search. Job search will end when:

- (a) You find a job; or
- (b) You become exempt from WorkFirst requirements (see WAC 388-310-0300); or
- (c) Your situation changes and you are temporarily deferred from continuing with job search (see WAC 388-310-0400); or
- (d) Job search specialists have determined that you need additional skills and/or experience to find a job.

PROPOSED

~~(4) At the end of the job search period, you will be referred back to your DSHS case manager for further action))~~

**What is the purpose of my individual responsibility plan?**

The purpose of your individual responsibility plan is to give you a written statement that describes:

- (a) What your responsibilities are; and
- (b) Which WorkFirst activities you are required to participate in; and
- (c) What services you will receive so you are able to participate.

**(2) What is included in my individual responsibility plan?**

Your individual responsibility plan includes the following:

(a) What WorkFirst activities you must be engaged in, a start and end date for each activity and how many hours a week you must spend in each activity.

(b) Any other specific requirements that are tied to the WorkFirst work activity. For example, you might be required to learn English as part of your work experience activity.

(c) What services you need to participate in the activity. For example, you may require support services (such as help with paying for transportation) or help with paying childcare.

(d) Your statement that you recognize the need to become and remain employed as quickly as possible.

**(3) How is my individual responsibility plan developed?**

You and your case manager will work together to develop your individual responsibility plan and decide what activities will be included in it. Then, your case manager will assign you to specific WorkFirst activities that will help you find employment as quickly as possible.

**(4) What happens after my individual responsibility plan is completed?**

Once your individual responsibility plan is completed:

- (a) You will sign and get a copy of your individual responsibility plan.

(b) Your and your case manager will review your plan as necessary over the coming months to make sure your plan continues to meet your employment needs. You will sign and get a copy of your individual responsibility plan every time it is reviewed and changed.

**AMENDATORY SECTION** (Amending WSR 97-20-129, filed 10/1/97, effective 11/1/97)

**WAC 388-310-0600 WorkFirst—((Evaluation of employability)) Job search.** (1) ((A participant's employability will be evaluated by the department when:

(a) The person has not obtained paid, unsubsidized employment at the conclusion of job search; or

(b) The person was not referred for immediate job search;

(2) The purpose of the employability evaluation process is to determine:

(a) The reasons why a person is unable to find work in the local labor market; and

(b) Which WorkFirst components, support services, or child care services are needed by the participant to become employed in the shortest time possible.

(3) The evaluation will be focused on factors related to the person's ability to find and retain employment in the local labor market.

(4) Information gathered in the evaluation will be the basis for modifying the participant's individual responsibility plan)) **What is job search?**

Job search is an opportunity to learn and use skills you need to find and keep a job. Job search may include:

- (a) Classroom instruction; and/or
- (b) Structured job search that helps you find job openings, complete applications, practice interviews and apply other skills and abilities with a job search specialist or a group of fellow job-seekers; and/or
- (c) Pre-employment training.

**(2) What is pre-employment training?**

Pre-employment training helps you learn skills you need for an identified entry level job that pays more than average entry level wages.

(a) Pre-employment training is an acceptable job search activity when an employer or industry commits to hiring or giving hiring preference to WorkFirst participants who successfully complete pre-employment training.

(b) You can find out about current pre-employment training opportunities by asking your job service specialist, your case manager or staff at your local community and technical college.

**(3) Who provides me with job search?**  
Your get job search from the employment security department or another organization under contract with WorkFirst to provide these services.

**(4) How long do I stay in job search?**

Periods of job search may last up to twelve continuous weeks. Job search specialists will monitor your progress. By the end of the first four weeks, a job search specialist will determine whether you should continue in job search. Job search will end when:

- (a) You find a job; or
- (b) You become exempt from WorkFirst requirements (see WAC 388-310-0300); or
- (c) Your situation changes and you are temporarily deferred from continuing with job search (see WAC 388-310-0400); or

(d) Job search specialists have determined that you need additional skills and/or experience to find a job; or

(e) You have not found a job at the end of the job search period.

**(5) What happens at the end of job search if I've not found a job?**

At the end of each job search period, you will be referred back to your case manager for an employability evaluation if you have not found a job. You and your case manager will also modify your individual responsibility plan.

**AMENDATORY SECTION** (Amending WSR 97-20-129, filed 10/1/97, effective 11/1/97)

**WAC 388-310-0700 WorkFirst—(~~Individual responsibility plan~~) Employability evaluation.** (1) ~~((The purpose of the individual responsibility plan is to set forth:~~

~~(a) The participant's responsibility to participate in the WorkFirst components as required;~~

~~(b) The services the department will provide to the person to enable the person to participate.~~

~~(2) The department and the participant will work together in the development and decision-making process for component assignment. If needed, the department may assign the component which will provide the person with the job search, work experience, job skills, substance abuse assessment and treatment, family counseling, or family violence counseling or housing search, acquisition, and stabilization assistance as necessary to be employed in the shortest possible time.~~

~~(3) The plan includes the following:~~

~~(a) The WorkFirst component, in which participation is required, for what period of time and for how many hours a week;~~

~~(b) Any specific requirements relating to participation in the component;~~

~~(c) The services the department has determined are necessary for the person to participate in the component which may include provision of direct component cost funding, support services and child care subsidies.~~

~~(d) The participant's acknowledgment of their obligations to become and remain employed as quickly as possible.~~

~~(4) The department will review the elements in a participant's individual responsibility plan as necessary to ensure the plan continues to meet the person's employability needs.~~

~~(5) The participant will sign and receive a copy of their individual responsibility plan at the time the plan is developed and whenever the plan is modified)) Why do I receive an employability evaluation?~~

You receive an employability evaluation from your case manager to determine:

(a) Why you have been unable to find work in your local labor market; and

(b) Which WorkFirst activities you need to become employed in the shortest time possible.

(2) What is the employability evaluation and when will it be used?

(a) The employability evaluation is a series of questions and answers used to determine your ability to find and keep a job in your local labor market.

(b) You and your case manager and/or social worker will use the information from this evaluation to create or modify your individual responsibility plan, adding activities that will help you become employable.

(c) Your case manager will evaluate your ability to find employment when you are a mandatory WorkFirst participant and have:

(i) Gone through a period of job search without finding a job;

(ii) Been referred back early from job search; or

(iii) Been temporarily deferred from job search.

**AMENDATORY SECTION** (Amending WSR 97-20-129, filed 10/1/97, effective 11/1/97)

**WAC 388-310-0800 WorkFirst—Support (~~service and direct component cost funding~~) services.** (1) ~~((The purpose of support service and direct component cost funding is to provide participants access to necessary goods or services which cannot be paid for by another funding source.~~

~~(2) The department or its agent will fund support services when:~~

~~(a) Determined necessary by the department or its agent;~~

~~(b) Denial would prevent participation in the required component; and~~

~~(c) It is within available funds.~~

~~(3) Support services which may be funded include:~~

~~(a) Employment related needs such as work clothing or uniforms, tools, equipment, relocation expenses, or fees;~~

~~(b) Transportation costs such as mileage reimbursement, public transportation vouchers, and car repair;~~

~~(c) Professional services such as certification or diagnostic testing, counseling or medical examinations or services;~~

~~(d) Personal needs such as clothing appropriate for job search or other component activities; and~~

~~(e) Special needs such as accommodations for employment.~~

~~(4) The department will provide support services and direct component cost funding to support components approved prior to the effective date of this chapter until June 30, 1998 if the participant is making satisfactory progress toward completion of the activity.~~

~~(5) WorkFirst participants are eligible for child care subsidy payments under chapter 388-290 WAC.~~

~~(6) No funds available to carry out the WorkFirst program may be used to assist, promote, or deter religious activity.~~

~~(7) The department may establish maximum funding limits for support services.~~

~~(8) The department may provide funding for direct component costs for vocational education activities when the participant:~~

~~(a) Is in an approved component as stated on the individual responsibility plan; and~~

~~(b) Does not qualify for sufficient student financial aid to meet the cost.~~

~~(9) Support services may be identified and provided in order to address specific needs American Indians may have due to location or employment needs.~~

~~(10) If the person is not participating as required they will lose eligibility for direct component costs and support services)) Why do I receive support services?~~

Support services help you participate in work and WorkFirst activities that lead to financial independence. You may also qualify for help in paying your child care expenses through the working connections child care assistance program. (Chapter 388-290 WAC describes the rules for this child care assistance program.)

(2) What support services may I receive?

You may receive support services, for example, for any of the following:

(a) Employment related needs such as work clothing or uniforms, tools, equipment, relocation expenses, or fees;

(b) Transportation costs such as mileage reimbursement, public transportation vouchers, and car repair;

(c) Professional services;

(d) Personal needs such as clothing appropriate for job search or other component activities;

(e) Special needs such as accommodations for employment;

(f) Identified specific needs due to location or employment if you are an American Indian;

(g) Job skills training, vocational education and/or basic education if:

(i) It is an approved activity in your individual responsibility plan; and

(ii) You do not qualify for sufficient student financial aid to meet the cost.

**(3) When will I get support services?**

The department or its agents will decide what support services you will receive, as follows:

(a) You need the support services to do the activities in your individual responsibility plan;

(b) It is within available funds; and

(d) It does not assist, promote, or deter religious activity.

**(4) How much support services can I get?**

The department publishes its guidelines and restrictions for the amount and type of support services you can get in the support services chapter of the WorkFirst Handbook. If you request support services from your case manager, you can:

(a) Ask to see a copy of these guidelines;

(b) Ask for an exception, if you are requesting more than the guidelines allow or asking for services or goods not mentioned in the guidelines; and/or

(c) Request a fair hearing, if your request for support services is denied.

**(5) What happens to my support services if I do not participate as required?**

The department will discontinue your support services until you participate as required.

**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 97-20-129, filed 10/1/97, effective 11/1/97)

**WAC 388-310-0900 WorkFirst—Basic education. (1) What is basic education?**

Basic education is high school completion ~~((and)),~~ classes to prepare for GED and testing to acquire GED certification. It may include families that work, workplace basics, adult basic education (ABE) or English as a second language (ESL) training if:

~~((The ABE or ESL is needed by the person to meet the current standards of the local labor market; and~~

~~(b) The activity is combined with paid or unpaid employment or job search;~~

~~(2) The department may require a nonexempt custodial parent eighteen and nineteen years of age who lacks a high school diploma or GED certification to participate in basic~~

~~education if such education is needed by the person to meet the current standards of the local labor market.~~

~~(3) Nonexempt participants twenty years of age and older may participate in basic education activities but must also participate in paid or unpaid employment or job search for a minimum of twenty hours a week in addition to the basic education.~~

~~(4) The department may require sixteen and seventeen year old TANF and SFA recipients to be in high school or GED certification programs)) It is determined you need this education to become employed or get a better job; and~~

~~(b) This activity is combined with paid or unpaid employment or job search.~~

**(2) When do participate in basic education as part of WorkFirst?**

You may participate in basic education as part of WorkFirst under any of the following circumstances:

(a) You may choose to participate, if you are twenty years of age or older and are working in paid or unpaid employment or in job search for a minimum of twenty hours a week (in addition to the basic education).

(b) You may be required to participate if you are a mandatory participant, a parent eighteen or nineteen years of age, you do not have a high school diploma or GED certificate and you need this education in order to find employment.

(c) You will be required to be in high school or a GED certification program if you are a mandatory participant, sixteen or seventeen years old and you do not have a high school diploma or GED certificate.

**AMENDATORY SECTION** (Amending WSR 98-23-037, filed 11/10/98, effective 12/11/98)

**WAC 388-310-1000 WorkFirst—~~((What are the requirements for))~~ Vocational education ~~((in WorkFirst?))~~ (1) What is vocational education?**

Vocational education is training ~~((leading))~~ that leads to a degree or certificate in a specific occupation~~((;))~~ and is offered by an accredited:

~~(a) Public and private technical college~~((s—and))~~ or school~~((s;))~~;~~

~~(b) Community college~~((s—and))~~ or~~

~~(c) Tribal college~~((s))~~.~~

**(2) ~~((WorkFirst))~~ When can vocational education be included in my individual responsibility plan?**

~~We~~ may ~~((include))~~ add vocational education ~~((in))~~ to your ~~((IRP))~~ individual responsibility plan if:

~~(a) You are working twenty or more hours a week; or~~

~~(b) You lack job skills that are in demand for entry level jobs in your area; and~~

~~(c) The vocational education program is the only way that you can ~~((provide))~~ acquire the job skills ~~((that))~~ you need to qualify for entry level jobs in your area~~((;—and~~~~

~~(d) You could not learn the job skills that you need to qualify for entry level jobs in your area by participating in work experience or on-the-job training that is available to you)) (because there is no available work experience, pre-employment training or on-the-job training that can teach you these skills).~~

PROPOSED

(3) ~~((When vocational education is included in your IRP, WorkFirst will provide assistance with your costs, if you need assistance and it is not available from other sources. Child care subsidy is available))~~ **Can I get help with paying the costs of vocational education?**

WorkFirst will pay for the costs of your vocational education, such as tuition or books, if vocational education is in your individual responsibility plan and there is no other way to pay them. You can also get help with paying your child care costs through the working connections child care program. (See chapter 388-290 WAC for the working connections child care program rules.)

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 98-23-037, filed 11/10/98, effective 12/11/98)

**WAC 388-310-1050 WorkFirst—~~((What are the requirements for))~~ Job skills training ~~((in WorkFirst?))~~.**

**(1) What is job skills training?**

Job skills training is training in specific skills directly related to employment, ~~((offered through community based organizations, businesses, tribal governments, public and private community and technical colleges))~~ **but not tied to a specific occupation.** Job skills training programs differ ~~((as to length, content, and sponsor))~~ **in how long the course lasts, what skills are taught and who provides the training.** The training may be offered by:

- (a) Community based organizations;
- (b) Businesses;
- (c) Tribal governments; or
- (d) Public and private community and technical colleges.

**(2) ~~((WorkFirst))~~ When can job skills training be included in my individual responsibility plan?**

We may ~~((include))~~ add job skills training in your ~~((IRP))~~ individual responsibility plan for the same reasons we would add vocational education. That is if:

- (a) You are working twenty or more hours a week; or
- (b) You lack job skills that are in demand for entry level jobs in your area; and
- (c) The job skills training program is the only way you can ~~((provide))~~ acquire the job skills ~~((that))~~ you need to qualify for entry level jobs in your area~~((; and~~
- (d) ~~You could not learn the job skills that you need to qualify for entry level jobs in your area by participating in work experience or on-the-job training that is available to you))~~ **(because there is no available work experience, pre-employment training, or on-the-job training that can teach you these skills).**

(3) ~~((When job skills training is included in your IRP, WorkFirst will provide assistance with your costs, such as transportation and books, if you need assistance and it is not available from other sources. Child care subsidy is available))~~ **Can I get help with paying the costs of job skills training?**

WorkFirst will pay your costs, such as tuition or books, if job skills training is in your individual responsibility plan and there is no other way to pay them. You can also get help

with paying your child care costs through the working connections child care program. (See chapter 388-290 WAC for the working connections child care program rules.)

**AMENDATORY SECTION** (Amending WSR 97-20-129, filed 10/1/97, effective 11/1/97)

**WAC 388-310-1100 WorkFirst—Work experience.**

**(1) What is work experience?**

Work experience ~~((sometimes called WEX))~~ is ~~((unpaid work with a private nonprofit organization, federal, state, local or tribal government or district. Entities providing WEX unpaid employment positions to WorkFirst participants must be in compliance with all applicable state and federal health and safety standards.~~

~~((2) The purpose of WEX is to provide the participant with instruction in essential work practices and to practice or expand work skills.~~

~~((3) Participant may be required to conduct a self-directed job search.~~

~~((4) Participants must accept offered paid employment while participating in WEX.~~

~~((5) A person's assignment to a specific WEX activity in excess of six months requires a department review. The review will determine if the person requires more time to gain the skills and abilities established as the desired outcome of the WEX assignment))~~ **an activity for mandatory participants that will teach you the basics of holding down a job and give you a chance to practice or expand your work skills. Work experience teaches you these skills by assigning you to unpaid work with:**

- (a) A private, nonprofit organization;
- (b) A community or technical college; or
- (c) A federal, state, local or tribal government or district.

**(2) What happens when I am enrolled in a work experience activity?**

When you are enrolled in a work experience activity:

(a) The organization, government or district that is supervising your work experience position must comply with all applicable state and federal health and safety standards while you are working there.

(b) You may be required to look for work on your own and must accept any paid employment you find that meets the criteria in WAC 388-310-1500.

**(3) How long does a work experience assignment last?**

Your case manager must review your work experience assignment if it lasts longer than six months. This review will determine whether you need more time to learn the skills and abilities that the work experience assignment was set up to teach you.

**AMENDATORY SECTION** (Amending WSR 97-20-129, filed 10/1/97, effective 11/1/97)

**WAC 388-310-1200 WorkFirst—On-the-job training. (1) What is on-the-job training?**

On-the-job training ~~((sometimes called OJT))~~ is skills training provided by an employer at the ~~((employer's))~~ **their** place of business. ~~((It may include some classroom training release time.~~

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(2) A participant may be eligible for OJT employment if:  
 (a) The person lacks skills which are in demand in the local labor market; and

(b) There are employers in the area able to provide the training;

(3) An employer providing OJT may be reimbursed for up to fifty percent of the total gross wages for regular hours of work and pre-approved release time for training)) You are paid to both work and spend some time learning new skills to help you do your job better. You may receive the training at your job site or be sent to a classroom (using "release time" for your job) to get some of this training.

**(2) When do I qualify for on-the-job training?**

You may qualify for on-the-job employment if:

(a) You lack skills which are in demand in the local labor market; and

(b) There are employers in your area who can and will provide the training.

**(3) Is my employer reimbursed for giving me on-the-job training?**

Your employer may be reimbursed for giving you on-the-job training for up to fifty percent of your total gross wages for regular hours of work and pre-approved release time for training.

**AMENDATORY SECTION** (Amending WSR 97-20-129, filed 10/1/97, effective 11/1/97)

**WAC 388-310-1400 WorkFirst—Community service ((program)).** (1) ((Community service is:

(a) Unpaid work performed for a charitable nonprofit organization, federal, state, local, or tribal government or district such as the work performed by volunteer workers; or

(b) An activity approved by the department which benefits the person, the person's family, or the person's community or tribe. These activities may include traditional activities that perpetuate tribal culture and customs.

(2) Activities which may be approved by the department under subsection (1)(b) of this section as part of the individual responsibility plan include:

(a) Caring for a disabled family member;

(b) Nonparental caretaker relative over age fifty caring for a child;

(c) Provision of child care for a WorkFirst participant by a WorkFirst participant;

(d) Active participation in a drug or alcohol assessment or treatment program certified or contracted through chapter 70.96A RCW;

(e) Specialized services as required by the participant to become employable or retain employment such as family violence counseling or active participation in a drug or alcohol assessment or treatment program certified or contracted through chapter 70.96A RCW)) **What is community service?**

Community service includes two types of activities for mandatory participants:

(a) Unpaid work (such as the work performed by volunteer workers) that you perform for a charitable nonprofit organization, federal, state, local or tribal government or district; or

(b) An activity approved by your case manager which benefits you, your family, your community or your tribe. These activities may include traditional activities that perpetuate tribal culture and customs.

**(2) What type of community services activities benefit me, my family, my community or my tribe and might be included in my individual responsibility plan?**

The following types of community service activities benefit you, your family, your community or your tribe and might be included in your individual responsibility plan:

(a) Caring for a disabled family member;

(b) Caring for a child, if you are over fifty-five years old and receiving TANF or SFA assistance for the child as a relative (instead of as the child's parent);

(c) Providing childcare for another WorkFirst participant who is doing community service;

(d) Actively participating in a drug or alcohol assessment or treatment program which is certified or contracted by the state under chapter 70.96A RCW; and/or

(e) Participating in family violence counseling or drug or alcohol treatment that will help you become employable or keep your job (this is called "specialized services" in state law).

**AMENDATORY SECTION** (Amending WSR 97-20-129, filed 10/1/97, effective 11/1/97)

**WAC 388-310-1500 WorkFirst—Employment conditions.** (1) ((Participants will not be required to accept paid or unpaid employment or engage in an activity in which an employer-employee relationship exists which:

(a) Is not covered by industrial insurance under Title 51 RCW, unless the employee is employed by a tribal government or a tribal private, for-profit business;

(b) Is available because of a labor dispute;

(c) Has working hours or other conditions which interfere with the participant's bona fide religious beliefs or observations;

(d) Involves conditions which are in violation of federal, state or tribal health and safety standards;

(e) Has unreasonable work demands or conditions, such as working without getting paid on schedule with regard to paid work; or

(f) Participants will not be required to participate in unpaid work components for more hours than would equal the family's TANF/SFA grant divided by state or federal minimum wage, whichever is higher. For two-parent families in which both parents are nonexempt, the combined hours of required participation in unpaid work may not exceed the family's TANF/SFA grant divided by the higher of the state or federal minimum wage.

(2) Participants will not be required to accept paid employment when the conditions of employment or the employer:

(a) Pays less than the federal, state, or tribe minimum wage, whichever is higher;

(b) Does not provide unemployment compensation coverage under Title 50 RCW, unless the employee is employed by a tribal government, tribal private for-profit business or the employee is exempt under section 7873 of the Internal

Revenue Code because the person is a treaty fishing rights related worker;

(e) Requires the person to resign from or refrain from joining a legitimate labor organization; or

(d) Does not provide benefits to participants equal to those provided to other similarly employed workers.

(3) Nothing contained herein shall be in violation of federal or tribal employment laws)) **If I am a mandatory participant, are there any limitations on the type of paid or unpaid employment I must accept?**

If you are a mandatory participant, you must accept paid or unpaid employment (including any activity in which an employer-employee relationship exists) unless the employment:

(a) Is not covered by industrial insurance (described in state law under Title 51 RCW) unless you are employed by a tribal government or a tribal private for-profit business;

(b) Is available because of a labor dispute;

(c) Has working hours or conditions that interfere with your religious beliefs or practices (and a reasonable accommodation cannot be made);

(d) Does not meet federal, state or tribal health and safety standards; or

(e) Has unreasonable work demands or conditions, such as working for an employer who does not pay you on schedule.

**(2) Are there any additional limitations on when I can be required to accept paid employment?**

You must accept paid employment unless the job or the employer:

(a) Pays less than the federal, state, or tribe minimum wage, whichever is higher;

(b) Does not provide unemployment compensation coverage (described in state law under Title 50 RCW) unless you:

(i) Work for a tribal government or tribal for-profit business; or

(ii) Are a treaty fishing rights related worker (and exempt under section 7873 of the internal revenue code);

(c) Requires you to resign or refrain from joining a legitimate labor organization; or

(d) Does not provide you benefits that are equal to those provided to other workers employed in similar jobs.

**(3) How many hours of unpaid employment can I be required to perform?**

You can be required to work a set number of hours of unpaid employment each month. The number of hours required will not be more than your TANF, SFA or GA-S cash grant divided by the state or federal minimum wage, whichever is higher.

**(4) What safeguards are in place to make sure I am not used to displace currently employed workers?**

The following safeguards are in place to make sure you are not used to displace currently employed workers:

(a) You cannot be required to accept paid or unpaid employment which:

(i) Results in another employee's job loss, reduced wages, reduced hours of employment or overtime or lost employment benefits;

(ii) Impairs existing contracts for services or collective bargaining agreements;

(iii) Puts you in a job or assignment, or uses you to fill a vacancy, when:

(A) Any other person is on lay off from the same (or very similar) job within the same organizational unit; or

(B) An employer ends the job of a regular employee (or otherwise reduces its workforce) so you can be hired.

(iv) Reduces current employees' opportunities for promotions.

(b) If a regular employee believes your subsidized or unpaid work activity (such as a community jobs or work experience position) violates any of the rules described above, this employee (or his or her representative) has the right to:

(i) A grievance procedure (described in WAC 388-200-1100); and

(ii) A fair hearing (described in chapter 388-08 WAC).

**(5) What other rules apply specifically to subsidized or on-the-job training positions?**

If you are in a subsidized or on-the-job training position:

(a) WorkFirst state agencies must stop paying your wage or on-the-job training subsidy to your employer if your employer's worksite or operation becomes involved in a strike, lockout or bona fide labor dispute.

(b) If your wage subsidy or on-the-job training agreement is ended (and we stop paying any subsidies to your employer) because you were used to displace another employee, it will be up to you and the employer to decide whether you can (or want to) keep working there.

**AMENDATORY SECTION** (Amending WSR 98-23-037, filed 11/10/98, effective 12/11/98)

**WAC 388-310-1600 WorkFirst—(What are the WorkFirst participation requirements and what happens when a person does not participate?) Sanctions.** (1) ((To participate means that you give the department information requested from you, come to appointments made for you by the department and its agents, do all of the activities listed on your IRP and accept any bona fide offer of employment that you receive.

(2) If you do not participate, WorkFirst will ask you to explain why. The department will determine that:

(a) You had an adequate reason that you were not able to participate; or

(b) You did not have an adequate reason and that you refused to participate.

If the department is not able to contact you, the department will make this decision with the information already on hand:

(3) You have an adequate reason not to participate when you can show that an event outside of your control made you unable to participate. Such events include, but are not limited to:

(a) You, your child(ren), or other family member was ill;

(b) Support services (such as transportation) broke down and you could not make new arrangements right away;

(e) ~~You could not locate care for your child(ren) under thirteen years that is affordable, appropriate, and within a reasonable distance;~~

~~"Affordable" means at or below your share of child care costs calculated by the working connections child care program;~~

~~"Appropriate" means licensed, certified or approved under state laws and regulations that apply to the type of child care you use, and that you may make your own choice among the child care options that are available in your area;~~

~~"Within a reasonable distance" means that you can reach the child care site without travel that exceeds normal expectations in your community;~~

~~(d) You could not locate other care services for an incapacitated individual living with you and your dependent child(ren);~~

~~(e) You have or had a physical, mental, or emotional condition, determined by a licensed health care professional, that interferes or interfered with your ability to participate;~~

~~(f) A significant person in your life died;~~

~~(g) You were threatened with or subjected to family violence;~~

~~(h) You had received an eviction notice or had another immediate legal problem;~~

~~(i) You did not receive notice of a request for information, an appointment or a requirement on your IRP.~~

~~(4) If you have an adequate reason that you did not participate, the department will revise your IRP to take your circumstances into account.~~

~~(5) If you do not have an adequate reason that you did not participate, the department will find that you refused to participate. The department will notify you that you will be sanctioned starting the next calendar month (see WAC 388-310-1700), unless you start to participate as required. The notice will include information on how to request a fair hearing if you disagree with the department's decision that you refused to participate)) **What is a sanction and when is it used?**~~

~~A sanction is a penalty that alters your grant when you refuse to:~~

~~(a) Give the department the information we need to develop your individual responsibility plan;~~

~~(b) Come to scheduled appointments with people who provide WorkFirst services or activities;~~

~~(c) Do all of the activities listed on your individual responsibility plan; or~~

~~(d) Accept paid employment that meets the criteria in WAC 388-310-1500.~~

~~**(2) What happens once I do not provide information, go to an appointment, follow my individual responsibility plan or accept a job?**~~

~~If you do not provide information, go to an appointment, follow up on your individual responsibility plan or accept a job, your case manager or social worker will send you a notice to set up an appointment so they can talk to you about the situation. If they are unable to contact you, they will use the information already on hand to find out why you did not follow through with the required activity. Then, your case manager will decide whether:~~

~~(a) You were unable to do what was required; or~~

~~(b) You were able, but refused, to do what was required.~~

~~**(3) What is considered a good reason for not being able to do what WorkFirst requires?**~~

~~You have a good reason if it was not possible to follow through on a required activity due to an event outside of your control. Some examples of good reasons may include:~~

~~(a) You, your children or other family members were ill;~~

~~(b) Your transportation or child care arrangements broke down and you could not make new arrangements in time to comply;~~

~~(c) You could not locate child care, for your children under thirteen years, that was:~~

~~(i) Affordable (did not cost you more than your co-payment would under the working connections child care program in WAC 388-290);~~

~~(ii) Appropriate (licensed, certified or approved under federal, state or tribal law and regulations for the type of care you use and you were able to choose, within locally available options, who would provide it); and~~

~~(iii) Within a reasonable distance (within reach without traveling farther than is normally expected in your community).~~

~~(d) You could not locate other care services for an incapacitated person who lives with you and your children;~~

~~(e) You had a physical, mental or emotional condition, confirmed by a licensed health care professional, that interfered with your ability to participate;~~

~~(f) A significant person in your life died;~~

~~(g) You were threatened with or subjected to family violence;~~

~~(h) You had an immediate legal problem, such as an eviction notice; or~~

~~(i) You did not get notice telling you about our information request, an appointment or a requirement on your individual responsibility plan.~~

~~**(4) What if my case manager decides that I refused to meet WorkFirst requirements without good reason?**~~

~~If your case manager decides you refused to meet WorkFirst requirements without good reason, they will send you a notice that tells you:~~

~~(a) What you refused to do;~~

~~(b) You will be sanctioned (a penalty will be applied to your grant);~~

~~(c) When the sanction starts;~~

~~(d) How to request a fair hearing if you disagree with this decision; and~~

~~(e) How to "cure" the sanction.~~

~~**(5) What are the penalties to my grant?**~~

~~The following penalties are applied to your grant for anyone who is sanctioned in your household:~~

~~(a) In the first month, we calculate your family's grant and then remove the noncompliant person(s) share of the grant.~~

~~(b) In the second month, your reduced grant will be sent to a protective payee every month until the sanction is lifted. (WAC 388-460-001 describes the protective payee rules.)~~

(c) In the third and following months, your grant is reduced by the person(s) share or forty percent, whichever is more.

**(6) How do I stop (or "cure") the sanction?**

To "cure" your sanction:

(a) You must provide the information we requested to develop your individual responsibility plan; and/or

(b) Start and continue to do your required WorkFirst activities.

(c) Your grant will be restored after two weeks of participation, going back to the day you began doing your required activities.

**(7) What happens if I get sanctioned again (after your sanction has been stopped)?**

If you are sanctioned again, the sanction process will start again.

**(8) What if I reapply for TANF, SFA or GA-S and I was in sanction when my case closed?**

You are still sanctioned at the level which was in effect when your case closed until you cure your sanction.

**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 97-20-129, filed 10/1/97, effective 11/1/97)

**WAC 388-310-1700 WorkFirst—(~~Sanctions~~) Self-employment.** (1) (~~Refusal to participate will result in sanction.~~

~~(2) Sanction for refusing to participate will affect the family's TANF/SFA grant as follows:~~

~~(a) For the first month a person is sanctioned the family's TANF/SFA grant amount (less any income deductions) will be reduced by the participant's share.~~

~~(b) For second and subsequent months of continuous sanction status a protective payee will be established for reduced grant amount established under subsection (2)(a) of this section.~~

~~(c) For the third and subsequent months of continuous sanctions status the family's grant (less any income deductions) will be reduced by the amount established under subsection (2)(a) of this section or by forty percent whichever is higher. The protective payee will continue.~~

~~(3) The department will restore the full TANF/SFA grant amount retroactive to the day the participant begins or resumes participation in the component specified on the person's individual responsibility plan when the person meets participation requirements for the component for a minimum of two weeks)) **What is self-employment?**~~

When you work for yourself and do not have an employer, you are self-employed.

**(2) When can I be deferred from job search to pursue self-employment?**

(a) To be deferred from job search for self-employment, you must meet all the conditions below:

(i) You must be working at least twenty hours a week at your business;

(ii) Your business must generate income for you that is equal to the minimum wage (state or federal, whichever is

higher) times twenty hours per week after your business expenses are subtracted.

(iii) Your case manager will refer you to a local business resource center, and they must approve your self-employment plan;

(b) If you do not meet all these conditions, you can still be self-employed, but you will also need to participate in job search or other WorkFirst activities.

**(3) What self-employment services can I get?**

If you are a mandatory participant and have an approved self-employment plan in your individual responsibility plan, you may get the following self-employment services:

(a) A referral to community resources for technical assistance with your business plan.

(b) Small business training courses through local community organizations or technical and community colleges.

(c) Information on affordable credit, business training and ongoing technical support.

**(4) What support services may I receive?**

If you have an approved self-employment plan in your individual responsibility plan all support services are available.

**(5) Can I get childcare?**

Childcare is available if you have an approved self-employment plan in your individual responsibility plan. (See chapter 388-290 WAC for working connections child care rules.)

**AMENDATORY SECTION** (Amending WSR 97-20-129, filed 10/1/97, effective 11/1/97)

**WAC 388-310-1800 WorkFirst—(~~Displacement of regular employees~~) Post employment services.** (1) (~~A person is not required to participate in subsidized employment or unpaid work activities which:~~

~~(a) Result in the displacement of any currently employed worker including partial displacement, such as reduction in hours of overtime or nonovertime work, reduction in wages, or employment benefits;~~

~~(b) Impair existing contracts for services or collective bargaining agreements;~~

~~(c) Result in the employment or assignment of a participant or the filling of a position when:~~

~~(i) Any other person is on layoff from the same or a substantially equivalent job within the same organizational unit; or~~

~~(ii) An employer has created a vacancy for the purpose of hiring a WorkFirst participant by terminating any regular employee or otherwise reduced its workforce.~~

~~(d) Infringe on promotional opportunities of any currently employed person.~~

~~(2) The department will terminate wage subsidy program or OJT payments to an employer if the employer's worksite or operation becomes involved in a strike, lockout, or bona fide labor dispute.~~

~~(3) When a wage subsidy program or OJT agreement has been terminated and payment to the employer discontinued due to displacement of a regular employee, the WorkFirst participant's continued employment with that employer is at the sole discretion of the person and the employer.~~

(4) A regular employee (or the employee's representative) of an employer which has hired a WorkFirst participant into a subsidized or unpaid work activity who believes the participant's work activity violates any of the provisions under this section has the right to:

(a) A grievance procedure under WAC 388-200-1100; and

(b) A fair hearing under chapter 388-08 WAC.) **What is the purpose of post employment services?**

Post employment services help low-income parents who are working twenty hours or more a week keep and cope with their current jobs, look for better jobs, gain work skills for a career and become self sufficient.

**(2) How do I obtain post employment services?**

(a) You can obtain post employment services by:

(i) Asking for a referral from the local community service office;

(ii) Contacting community or technical colleges; or

(iii) Contacting the employment security department.

Employment security department staff may also telephone you if you got a job while you were on TANF or SFA to see if you are interested in receiving these services.

(b) You may qualify for different services (from various state or federal programs) depending on whether you:

(i) Are a mandatory participant (that is, you currently receive TANF, SFA or GA-S benefits);

(ii) Used to receive TANF or SFA benefits; or

(iii) Have never been on TANF or SFA.

**(3) Who provides post employment services and what kind of services do they provide?**

(a) Your WorkFirst case manager can refer you to employment retention services, that will help you develop the skills you need to keep your job. An employment retention specialist will contact you on a regular basis to:

(i) Help you resolve problems with your employer;

(ii) Help you adjust to your workplace;

(iii) Provide job coaching; and/or

(iv) Provide mentoring.

(b) The employment security department can help you increase your wages, increase your job skills or find a better job by providing you with:

(i) Employment and career counseling;

(ii) Labor market information;

(iii) Job leads for a better job (sometimes called job development);

(iv) On the job training;

(v) Help with finding a job that matches your interests, abilities and skills (sometimes called job matching); and

(vi) Help with finding a new job after job loss (sometimes called reemployment).

(c) Technical and community colleges can approve a skill-training program for you that will help you advance up the career ladder. Their staff will talk to you, help you decide what training would work best for you and then help you get enrolled in these programs. The college may approve the following types of training for you:

(i) High School/GED.

(ii) Vocational education training.

(iii) Job Skills Training.

(iv) Adult Basic Education.

(v) English-as-a-Second Language training; or

(vi) Pre-employment training.

**(4) What other services are available while you receive post employment services?**

While you receive post employment services, you may qualify for:

(a) Working connections childcare if you meet the criteria for this program (described in chapter 388-290 WAC). To qualify, you must also be in an approved post-employment service and your family's income cannot exceed one hundred seventy-five percent of the federal poverty level.

(b) Other support services, such as help in paying for transportation or work expenses.

(c) Other types of assistance for low-income families such as food stamps, medical assistance or help with getting child support that is due to you and your children.

**(5) Who is eligible for post employment service, support services and childcare?**

You may qualify for post-employment services, support services and child care if you are working twenty hours or more a week, and:

(a) You are current TANF or SFA recipient. You qualify for:

(i) All types of post employment services, unless you are in sanction status;

(ii) Tuition assistance from the community and technical college system;

(iii) WorkFirst support services; and

(iv) Working connections childcare.

(b) You are a former TANF or SFA recipient. You qualify for:

(i) Employment retention services (help with keeping a job) for up to twelve months following TANF or SFA.

(ii) Wage and skill progression services (help with finding a better job) for up to twenty four months after exiting TANF or SFA.

(iii) Tuition assistance or pre-employment training from the community and technical college system;

(iv) Working connections childcare assistance; and/or

(v) WorkFirst support services for up to twelve months after exiting TANF or SFA.

(c) You are a low wage earner (that is, your family income does not exceed one hundred seventy-five percent of the federal poverty level) who has never received TANF or SFA benefits, and are in a community or technical college-approved skill training program. You may qualify for:

(i) Tuition assistance or pre-employment training from the community and technical college system; or

(ii) Working connections child care while you are in training or school for up to a total of thirty six months.

**(6) What if I lose my job while I am receiving post employment services?**

If you now receive or used to receive TANF or SFA, help is available to you for up to four weeks so that you can find another job and continue in your approved post employment.

(a) The employment security department will provide you with re-employment services.

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(b) At the same time, your case manager can approve up to four weeks of support services and childcare for you.

AMENDATORY SECTION (Amending 97-20-129, filed 10/1/97, effective 11/1/97)

**WAC 388-310-1900 WorkFirst—Services for American Indian tribal members and other American Indians.**

~~(1) ((The department will refer American Indian TANF applicants and recipients to the person's tribe, according to populations and service area(s) specified by a tribal government for comparable WorkFirst services when:~~

~~(a) The tribal government operates a federally approved Tribal TANF program; and~~

~~(b) The person is included in the population and service area identified by the tribal government in the plan)) **When might I be referred to a tribal government?**~~

Your case manager may refer you to a tribal government when you are an American Indian who applies for or receives TANF assistance, and:

(a) You are in the population and service area identified in a tribal government's federally approved tribal TANF program; or

(b) The tribal government does not operate its own TANF program, but it works with the local community service office to provide WorkFirst services and activities to meet your needs.

~~(2) ((All other American Indian TANF recipients have equitable access to)) **What if I am an American Indian and am not referred to a tribal TANF program or tribal government to receive services?**~~

WorkFirst ((program components and services under this chapter)) state agencies and their community partners must give you equitable access to all WorkFirst activities and services.

**WSR 99-06-017**

**WITHDRAWAL OF PROPOSED RULES**

**YAKIMA REGIONAL  
CLEAN AIR AUTHORITY**

[Filed February 22, 1999, 11:20 a.m.]

On February 17, 1999, the board of directors of the Yakima Regional Clean Air Authority withdrew the December 9, 1998, version of Draft Regulation I-1999 from further public discussion and refinement. This regulation was filed with your office on December 9, 1998, as WSR 99-01-033. A continuance, WSR 99-03-049, was filed on January 15, 1999.

The board directed the authority to rework the proposed regulation and refile it at a later date. We will be working on a time line for this during the next week.

Les Ornelas  
Air Pollution Control Officer

**WSR 99-06-070  
PROPOSED RULES  
WINE COMMISSION**  
[Filed March 2, 1999, 8:09 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-02-062.

Title of Rule: Chapter 16-575 WAC, Wine Commission, rate of assessment.

Purpose: The proposed rule will increase the maximum assessment rate for vinifera grapes and wine produced in the state to expand promotional programs for Washington state wines in-state, nationally and throughout the world.

Statutory Authority for Adoption: Chapter 15.88 RCW, chapter 303, Laws of 1997.

Statute Being Implemented: Chapter 15.88 RCW.

Summary: The rule change, if approved by a majority of the vinifera grape growers and wine producers will increase the maximum rate of assessments on vinifera grapes from \$3 per ton to \$6 per ton and the maximum rate on wine from \$0.02 per gallon to \$0.04 per gallon.

Reasons Supporting Proposal: The assessment rate increase is necessary to maintain and expand markets for wine produced in the state. The Washington Wine Commission has not changed the assessment rate since its inception despite rising administrative and promotional costs and increased competition from other wine producing regions.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Steve Burns, Wine Commission, 500 Union Street, #945, Seattle, WA, (206) 667-9463.

Name of Proponent: Washington Wine Commission, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Adoption of the rule is subject to approval of the wine grape growers and wine producers conducted by the Washington Department of Agriculture.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The Washington State Wine Commission collects assessments on vinifera grapes and wine produced in the state to fund advertising and promotional programs. The cost of conducting the programs for wine has increased substantially since the current assessment rates went into effect on July 1, 1989. Raising the maximum assessment rate will increase potential funding available for programs which may be necessary to maintain and expand markets for wine produced in Washington state.

Proposal Changes the Following Existing Rules: The proposed rule change, if approved by a majority of the vinifera grape growers and wine producers will increase the maximum rate of assessments on vinifera grapes from \$3 per ton to \$6 per ton and the rate on wine from \$0.02 per gallon to \$0.04 per gallon. The rate may be adjusted annually by the commission as needed to fund authorized activities. The annual assessment shall not exceed the maximum rate. The proposed assessment increase will not become effective

PROPOSED

unless the increase is first referred to a referendum of the grape growers and wine producers in accordance with RCW 66.24.215 and chapter 15.88 RCW.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The rule will only affect vinifera grape growers and wine producers in Washington state and will only become effective with the approval of a majority of grape growers and wine producers voting in a referendum. There will be no disproportionate cost to small businesses as defined under chapter 19.85 RCW. The rule will not increase cost in equipment, supplies, labor or administrative expenses. Cost to the vinifera grape growers and wine producers is a per unit fee, established annually by the commission based on anticipated production, condition of the markets and estimated cost of the programs. All cost as well as economic benefit to the producer will be in proportion to the level of production of each producer.

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: Doubletree Hotel, Oak/Pine Room, 2525 North 20th Avenue, Pasco, WA 99301, on April 13, 1999, at 10:30 a.m.

Assistance for Persons with Disabilities: Contact Cathy Jensen by April 9, 1999, TDD (360) 902-1996, or (360) 902-1800.

Submit Written Comments to: Steve Burns, Executive Director, Washington Wine Commission, 500 Union Street, #945, Seattle, WA 98101, fax (206) 583-0573, by April 13, 1999.

Date of Intended Adoption: May 19, 1999.

March 2, 1999

Steve Burns

Executive Director

## NEW SECTION

**WAC 16-575-015 Rate of assessment - Method of adjustment - Notice.** (1) Beginning on July 1, 1999 the assessment rate for vinifera grapes grown in this state shall not be less than three dollars per ton nor more than six dollars per ton. The assessment rate for wine producers shall not be less than \$0.02 per gallon nor more than \$0.04 per gallon. The Washington Wine Commission may adjust the assessment amount levied on wine producers and grape growers as needed to fund necessary commission activities. *Provided*, that no increase in the assessment on grape growers or wine producers becomes effective unless the increase is first referred by the commission to a referendum by the grape growers and wine producers in accordance with RCW 66.24.215 and chapter 15.88 RCW. In determining whether to adjust the assessment amount the commission shall consider the following factors:

(a) The commission's budgetary needs, including but not limited to a qualitative and quantitative review of programs carried out in the preceding year by the commission. This review should consider whether the program met its goals, benchmarks and objectives and whether the program constitutes the best use of the wine commission's finite resources;

(b) Projected grape production;

(c) Changes in administrative costs;

(d) Changes in the industry outside the control of the wine commission.

(2) The commission shall provide grape growers and wine producers notice of changes in assessment rates in a timely and reasonable manner and in no instance shall the notice be less than thirty days from the date the assessment is due.

**WSR 99-06-071  
PROPOSED RULES  
DEPARTMENT OF  
LABOR AND INDUSTRIES**

[Filed March 2, 1999, 11:13 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 94-17-191 on August 24, 1994.

Title of Rule: Pulp, paper and paperboard mills and converters, chapter 296-79 WAC.

Purpose: Chapter 296-79 WAC, Pulp, paper and paperboard mills and converters, state-initiated amendments to chapter 296-79 WAC are being proposed in response to an industry request. In 1994, workers in the pulp and paper industry formally asked L&I to consider updating and revising the worker safety and health rules that regulate the pulp and paper industry. The department convened a joint labor/management advisory committee to undertake the review of chapter 296-79 WAC. The rule provides safety and health protection for workers employed in pulp, paper, and paperboard mills and converters. The committee included representatives of the Association of Western Pulp and Paper Workers, the United Paperworkers International Union, the Pacific Coast Association of Pulp & Paper Workers, and local union chapters as well as representative of individual pulp and paper producing companies. The advisory committee produced a proposal which predominately deferred to the requirements of chapter 296-62 WAC, General occupational health standards. After reviewing the proposal, the department believed the requirements to be too restrictive within the pulp and paper milling environment and in some instances actually unworkable. After discussing these concerns with industry representatives, the department reconvened the advisory committee.

In July 1998, following a series of meetings involving industry, labor, management, and the department, another proposal was submitted. Under the new proposal the requirements are either wholly contained in chapter 296-79 WAC, a specific reference is made to the appropriate sections of other chapters, or rescinded altogether.

The following is a summary of the state-initiated amendments being proposed for adoption:

- Throughout chapter 296-79 WAC changed "shall" to "must" for clarity and deleted redundant language and inserted clear rule writing for clarification of existing requirements.

Amended section WAC 296-79-010 Scope and application.

- To delete language that is equivalent to requirements found in chapter 296-24 WAC, General safety and health standards.
- To add definitions for "authorized," "guarded," "knowledgeable," "qualified," "training," "shall or must," and "may or should."

## Amended section WAC 296-79-020 General requirements.

- To delete language that is equivalent to requirements found in chapter 296-24 WAC, General safety and health standards, involving "compressed gas cylinders," "approved life buoy," and "protection from hot pipes."
- To add a new requirement to develop a written procedure for bypassing interlocks.
- To add a new design control systems requirement to have an independent method to de-energize a system or force the system to a safe state.

## Amended section WAC 296-79-030 Guards and guarding.

- To delete language that is equivalent to requirements found in chapter 296-24 WAC, General safety and health standards for "mechanical power transmission," "conveyers," and "circular saws."
- To add a reference for additional guarding requirements see chapter 296-24 WAC, Part C.

## Amended section WAC 296-79-040 Fire protection, ignition, sources and means of egress.

- To add "means of egress" to section title.
- To delete language that is equivalent to requirements found in chapter 296-24 WAC, General safety and health standards for "fire protection," and "ignition sources."
- To add a reference: "Fire protection, ignition sources, and means of egress requirements see chapter 296-24 WAC, Part G-1, G-2 and G-3."

## Amended section WAC 296-79-050 Personal protection.

- To add a reference: "See chapter 296-24 WAC, Part A-2, for additional personal protective equipment requirements."
- To delete language for requirements for "personal protective equipment and clothing," "required clothing, caps, etc.," and "working over or near water" that are adequately covered in chapters 296-24 and 296-62 WAC.

## Repealed section WAC 296-79-060 Protection from radiation.

- To delete language for requirements for "protection from radiation" as they are adequately covered in chapter 296-62 WAC.

## Amended section WAC 296-79-070 Illumination.

- To delete reference to language for "sufficient illumination required" that no longer exists in chapter 296-62 WAC.
- To add language for "Illumination required" specifically for this rule.
- To delete language for requirements for "extension cord type lights" which are adequately covered in chapter 296-24 WAC.

## Amended section WAC 296-79-080 Elevators, manlifts and other lifting devices.

- To change the word "gas masks" to "respirators" for clarity.
- To clarify a reference to "elevator standards."
- To delete language requiring elevators to be posted with the maximum number of persons allowed to ride.

## Amended section WAC 296-79-090 Electrical equipment and distribution.

- To add a reference that all electrical installations and electrical utilization equipment must comply with chapter 296-24 WAC, Part L.
- To delete reference to the National Electrical Code.
- To add a new requirement that buttons, switches, circuit activating devices and other control devices are marked to indicate their function.
- To delete requirements for "authorized personnel to do electrical work," "high voltage areas to be guarded," "control panels," "switches or control devices," and "starting requirements for electrically driven equipment after power failure" which are adequately covered in chapter 296-24 WAC.

## Amended section WAC 296-79-100 Floors, platforms, stairways, ladders, loading docks.

- To add a reference see chapter 296-24 WAC, Part J.
- To delete requirements for "construction and maintenance" which are adequately covered in chapter 296-24 WAC, Part J.

## Amended section WAC 296-79-110 Elevated runways and ramps used by vehicles.

- To delete requirements for "elevated runway and ramp construction must be four times the weight of any load it is subjected" which are adequately covered in chapter 296-24 WAC.

## Amended section WAC 296-79-120 Scaffolds: Construction, use and maintenance.

- To delete requirements for "Scaffolds: Construction, use and maintenance" which are adequately covered in chapter 296-24 WAC.
- To add a reference "See General safety and health standards, chapter 296-24 WAC, Part J-1 or Safety standards for construction work, chapter 296-155 WAC, Part J-1."

## Amended section WAC 296-79-130 Crossovers, aisles, passages.

- To add a reference "See chapter 296-24 WAC, Part D, for additional requirements for aisles and passages.
- To delete requirements for "crossing conveyers" which is adequately covered in chapter 296-24 WAC.
- To delete requirements concerning the width of aisles or passageways as it has been added to WAC 296-79-150 of this rule.

## Amended section WAC 296-79-140 Installation, inspection, and maintenance of pipes, piping systems and hoses.

- To add reference "Note: Additional requirements may apply for certain hazardous materials. See chapter 296-67 WAC for further information."



- To delete the requirement to submit this formal program to the department within one year of the effective date of the standard.
- To delete the requirement to inspect all hazardous material systems by the effective date of this standard.

Amended section WAC 296-79-150 Mobile equipment and lift trucks.

- To add reference "Additional requirements on mobile equipment and lift trucks" are in chapter 296-24 WAC, Part D.
- To delete various mobile equipment and lift truck "engineered, designed, constructed, maintained and operated" requirements that are adequately covered in chapter 296-24 WAC.
- To add requirements concerning the width of aisles or passageways which had been removed from WAC 296-79-130 of this rule.
- To add requirements concerning "rolls transported with a grab or clamp attachment," "when traveling empty with a grab or clamp attachment," "when transporting two or more rolls with a roll grab attachment," and "when transporting two or more rolls or bales with a grab or clamp attachment" to the rule.

Amended section WAC 296-79-160 Requirements for cranes and hoists.

- To modify reference language to "See General safety and health standards, chapter 296-24 WAC, Part D" for clarity.
- To add requirement for "grounding of cranes and hoists" to cover electrical shock hazards in certain environments. Requirement derived from the National Electrical Code.

Amended section WAC 296-79-170 Requirements for crawler and truck cranes.

- To delete language concerning "rated capacity chart" that is equivalent to requirements found in chapter 296-24 WAC.
- To add reference "See WAC 296-24-960 when working around energized power lines."
- To delete requirements for "clearance requirements from unprotected electrical transmission and distribution lines" that is equivalent to requirements found in chapter 296-24 WAC.
- To delete requirement that "Class "D" citizen's band radio frequencies shall not be used for signaling crane operators."

Amended section WAC 296-79-180 Privately owned standard gauge railroad operations.

- To add a requirement that derails must be locked in position.

Amended section WAC 296-79-190 Loading and unloading materials from railway cars or trucks.

- To add a requirement that derails must be locked in position.

Amended section WAC 296-79-210 For conveyors, maintenance and inspection.

- To delete requirements for "belt, chain and roller type conveyors" that is equivalent to requirements found in chapter 296-24 WAC.
- To add reference "For conveyors, maintenance and inspection, see chapter 296-24 WAC, Part D."

Amended section WAC 296-79-220 Deactivating and lock-out requirements.

- To delete requirements for "tagout or other alternative security procedures," "physical restraint devices," "warning information tags," and "operating control cannot be physically blocked," "equipment requirements," "training requirements," "control procedures," "testing after lockout or tagout," and "alternate lockout procedure" as they are equivalent to requirements in chapter 296-24 WAC.
- To add reference to chapter 296-24 WAC, Part A-4, for deactivating and locking out controls.
- To add a reference for group lockout or tagout devices that the procedures must meet the minimum requirements of chapter 296-24 WAC, Part A-4.
- To add "cryogenic systems" in the definition of hazardous material systems.
- To add "line breaking between the hazard and the work site" as a method for deactivating a hazardous material system.
- To add a performance standard that requires the employer to develop and implement a procedure for removal of a blank flange (blind) that will ensure all hazards have been eliminated when a blank flange is used to separate off portions of a hazardous material system from a portion which is in operation.
- To delete requirements that have been superseded by the blank flange performance standard for hazardous material systems.

Amended section WAC 296-79-230 Confined spaces.

- Changed title of the section to "Confined spaces."
- To delete language that is equivalent to requirements covered in chapter 296-62 WAC.
- To add reference "Entry into confined spaces must be in compliance with chapter 296-62 WAC, Part M."

Amended section WAC 296-79-240 Storage of fuel, oil, flammables and chemicals.

- To delete language that is equivalent to requirements covered in chapter 296-62 WAC.
- To add reference "See chapter 296-24 WAC, Part E."

Amended section WAC 296-79-250 Safety procedure for handling dry sulfur.

- To update reference to the correct ANSI standard.
- To delete requirement for "electrical equipment shall be of the explosion-proof type" as it is equivalent to those covered in chapter 296-24 WAC.
- To combine this section with WAC 296-79-255 Safety procedures for handling liquid sulfur, and remove the word "dry" from the section title.
- To delete all language that is equivalent to requirements found in chapter 296-24 WAC.
- To add new requirements for the protection of employees working in an acid plant. Derived from OSHA 1910.261 (g)(5).

- To add requirements for hoops for acid storage tanks. Moved from WAC 296-79-240.
- To add new requirements that sulphur burner ignitors must have a means to automatically shut off the fuel. This has been added to address the explosive hazard.

Repealed section WAC 296-79-255 Safety procedures for handling liquid sulfur.

- State-initiated proposed amendments are made to repeal this section and move the requirements contained in this section to WAC 296-79-250.
- To delete all language that is equivalent to requirements found in chapter 296-24 WAC.

Amended section WAC 296-79-260 Pulpwood storage and handling.

- To delete redundant titles.

Amended section WAC 296-79-270 Pulpwood preparation.

- To delete "Scope and application" from the title.
- To delete all language that is equivalent to requirements found in chapter 296-24 WAC.
- To change the word "iron" to "metal" and add "or other nonchippable devices" must not be used to clear jams or plug-ups when a chipper or hog machine is running.

Amended section WAC 296-79-27003 Log hauls, slips, and carriages.

- To allow any effective means to prevent logs from rolling down the log deck.
- To delete all language that is equivalent to requirements found in chapter 296-24 WAC.
- To add the requirement that automatic stop or interlocking devices are not a substitute for lock out.

Amended section WAC 296-79-27005 Unplugging quick lime stoppages.

- To change "shall" to "must" for clarity.

Amended section WAC 296-79-27007 Bleach plant.

- To change "shall" to "must" for clarity.

Amended section WAC 296-79-27009 Audible alarm in bleach plant.

- To change "shall" to "must" for clarity.

Amended section WAC 296-79-27011 Pocket grinder doors.

- To change "shall" to "must" for clarity.

Amended section WAC 296-79-27013 Pulping device procedures.

- To change "shall" to "must" for clarity.

Amended section WAC 296-79-27015 Off machine repulping devices.

- To change "shall" to "must" for clarity.

Amended section WAC 296-79-280 Chip and hog fuel storage.

- To add the requirement that entry into chip bins and silos must be in compliance with confined space entry, WAC 296-79-230, of this chapter.
- To add clarifying language regarding chip bridges and hangups.
- To add clarifying language that employees must be prohibited from working under "or on top" of overhangs and bridges.

Amended section WAC 296-79-290 Stock preparation and reprocessing.

- To delete "Scope and application" from the title.
- To delete the introduction as not necessary.

Amended section WAC 296-79-29001 Digester valves and piping.

- To delete a reference that "digester piping shall meet the criteria of the boiler and pressure vessel standards."
- To add a new requirement that heavy duty pipes and fittings are used between the digester and "blow tanks and dump tank."

Amended section WAC 296-79-29003 Warning of digester being blown.

- To delete reference to other portions of the chapter regarding confined space and lockout procedures.
- To add a requirement that procedures be developed to ensure that digester operators are aware of personnel entering hazardous areas.
- To delete the requirement for at least one exit at each end of the room on each floor of the digester building.

Amended section WAC 296-79-29005 Unplugging quick lime stoppage.

- To change "shall" to "must" for clarity.

Amended section WAC 296-79-29007 Bleach plant.

- To add a reference "See chapter 296-62 WAC, Part H and Part L" to control airborne contaminants.
- To delete all language that is equivalent to requirements found in chapter 296-24 WAC.
- To delete a requirement of equipping the area for preparation and processing of bleaching mixtures with an exhaust system.
- To change "shall" to "must" for clarity.

Amended section WAC 296-79-29009 Audible alarm in bleach plant.

- To change "shall" to "must" for clarity.

Amended section WAC 296-79-29011 Pocket grinder doors.

- To change "shall" to "must" for clarity.

Amended section WAC 296-79-29013 Pulping device procedures.

- To change "shall" to "must" for clarity.

Amended section WAC 296-79-29015 Off machine repulping devices.

- To change "shall" to "must" for clarity.

Amended section WAC 296-79-29017 Pulping device cleaning, inspection and repairing.

- To change "shall" to "must" for clarity.
- To add "performing" as an activity for entering a pulping device.

Repealed section WAC 296-79-29019 Guarding hand knives and sharpening steels.

- To delete requirements that are adequately covered in WAC 296-79-030 of this rule.

Amended section WAC 296-79-29021 Shredders and blowers.

- To delete all language that is equivalent to requirements found in chapter 296-62 WAC.
- To change "shall" to "must" for clarity.

Amended section WAC 296-79-29023 Clearing shredder jams.

- To change "shall" to "must" for clarity.

Repealed section WAC 296-79-29025 Repairing shredders.

- To delete all language that is equivalent to lockout requirements found in chapter 296-24 WAC.

Amended section WAC 296-79-29027 Guillotine type roll splitters.

- To change "shall" to "must" for clarity.

Amended section WAC 296-79-29029 Broke hole.

- To clarify the requirement that any employee pushing broke must wear a safety belt "harness" and it must be attached to a "lanyard."

Amended section WAC 296-79-29031 Industrial kiln guns and ammunition.

- To change "shall" to "must" for clarity.

Amended section WAC 296-79-29033 Chlorine dioxide system.

- To add the reference "See chapter 296-62 WAC, Part P and chapter 296-67 WAC, Process safety management.
- To delete all requirements that are more adequately covered in chapters 296-62 and 296-67 WAC.

Amended section WAC 296-79-29035 Piling and unpling pulp.

- To change "shall" to "must" for clarity.

Amended section WAC 296-79-29037 Chocking roles.

- To delete all existing requirements on roll chocking and substitute the requirement to secure all horizontally stored rolls with chocks or other means.

Amended section WAC 296-79-300 Machine room equipment and procedures.

- To delete redundant titles.
- To delete all language that is equivalent to requirements found in chapter 296-24 WAC.
- To add a new requirement that the pulp and paper machines emergency stopping devices must consist of push buttons for electric motive power (or electrically operated engine stops), pull cords connected directly to the prime mover, control clutches, or other devices. This language is derived from OSHA 29 CFR 1910.261 (k)(1).
- To clarify the meaning of "slow speed" on winders and rewinders.
- To delete the exemption for guarding inrunning nip points for small diameter rolls.
- To add a new requirement for the employer to develop a formal program for inspection and nondestructive testing of reel spool journals.
- To add a new requirement to install a locking device in a paper machine roll before entering or climbing on it.
- To add a new requirement to prohibit the use of crane hooks to stop a turning reel.
- To add a new requirement that makes winder collar guides mandatory.

Amended section WAC 296-79-310 Converting operations (bag and container manufacturing, printing, coating, finishing, and related processes).

- To delete "Scope and application" from the title.
- To delete the introduction as it is unnecessary.

Amended section WAC 296-79-31001 General requirements for converting operations (bag and container manufacturing, printing, coating, finishing and related processes).

- To add "for converting operations" (bag and container manufacturing, printing, coating, finishing and related processes) to the title.
- To delete reference to "applicable rules" which is superfluous.
- To delete redundant titles and language.
- To allow devices other than mirrors for viewing blind work stations.
- To delete language about handling rolls by cranes over head of workers which is addressed in chapter 296-24 WAC.

Amended section WAC 296-79-31003 Corrugator.

- To allow a minimum of 4" clearance "or effective nip guarding."

Repealed section WAC 296-79-31005 Adhesive system.

- Repealed because the requirements contained in the section are covered by equivalent requirements in either chapter 296-24 WAC, General safety and health standards, or chapter 296-62 WAC, General occupational health standards.

Repealed section WAC 296-79-31007 Printing and cutting.

- Repealed because the requirements contained in the section are covered by equivalent requirements in either chapter 296-24 WAC, General safety and health standards, or chapter 296-62 WAC, General occupational health standards.

Amended section WAC 296-79-31009 Die cutting.

- To delete language on guarding covered in chapter 296-24 WAC.

Repealed section WAC 296-79-31011 Power lifts on gluers, tapers and stitchers.

- Repealed because the requirements contained in the section are covered by equivalent requirements in either chapter 296-24 WAC, General safety and health standards, or chapter 296-62 WAC, General occupational health standards.

Repealed section WAC 296-79-31013 Strapping banding operations.

- Repealed because the requirements contained in the section are covered by equivalent requirements in either chapter 296-24 WAC, General safety and health standards, or chapter 296-62 WAC, General occupational health standards.

Amended section WAC 296-79-320 Sulfite recovery furnace area requirements.

- To add the word "Sulfite" to the title.
- To add a new requirement for the employer to develop a training program on safe operating procedures and emergency shutdown procedures.

- To add a new requirement that all personnel who enter the recovery furnace area must understand the emergency evacuation procedure.
- To delete the requirement regarding smelt tanks.

Statutory Authority for Adoption: RCW 49.17.040.

Statute Being Implemented: RCW 49.17.010, [49.17].050, and [49.17].060.

Summary: See Purpose above.

Reasons Supporting Proposal: See Purpose above.

Name of Agency Personnel Responsible for Drafting: Tracy Spencer, Tumwater, (360) 902-5530; Implementation and Enforcement: Michael A Silverstein, Tumwater, (360) 902-5495.

Name of Proponent: State of Washington Department of Labor and Industries, governmental.

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

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

Proposal Changes the Following Existing Rules: See Purpose above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The department has determined the proposed rule would not place a more than minor economic impact on business and therefore, it is not required to prepare a small business economic impact statement.

RCW 34.05.328 applies to this rule adoption. Significant rule-making criteria does apply to these rule amendments because they do not meet the exempt criteria outlined in RCW 34.05.328(5).

Hearing Location: Department of Labor and Industries Building, Auditorium, 7273 Linderson Way, Tumwater, WA, on April 7, 1999, at 1:30.

Assistance for Persons with Disabilities: Contact Josh Swanson by March 26, 1999, at (360) 902-5484.

Submit Written Comments to: Tracy Spencer, Standards Manager, WISHA Services Division, P.O. Box 44620, Olympia, WA 98507-4620, by 5:00 p.m. on April 17, 1999. In addition to written comments, the department will accept comments submitted to fax (360) 902-5529, or via e-mail at LEWK235@lni.wa.gov. Comments submitted by fax must be ten pages or less.

Date of Intended Adoption: August 3, 1999.

March 2, 1999

Gary Moore

Director

#### AMENDATORY SECTION (Amending Order 74-24, filed 5/6/74)

**WAC 296-79-010 Scope and application.** (1) This chapter applies to establishments, firms, persons and corporations dealing with the manufacturing, processing, storing, finishing or converting of pulp, paper or paperboard and all buildings, machinery and equipment pertaining thereto.

(2) This chapter shall augment the Washington state general safety and health standards(~~(:)~~) (chapter 296-24 WAC) and general occupational health standards(~~(, electrical work-~~

~~ers safety rules, and any other standards which are applicable to all industries governed by chapter 80, Laws of 1973 (chapter 49.17 RCW), Washington Industrial Safety and Health Act) (chapter 296-62 WAC). In the event of any conflict between any portion of this chapter and any portion of any of the general application standards, the provisions of this chapter 296-79 WAC, shall ((apply)) prevail.~~

~~(3) ((When the words "shall" or "must" are used in this chapter, the requirement is compulsory. The words "may" or "should," as used in this standard, identify recommendations or suggestions only.~~

~~(4)) The rules contained in this chapter are minimum requirements and the use of additional guards, or other means, methods or procedures may be needed ((in order)) to make the work or place of work safe.~~

#### NEW SECTION

**WAC 296-79-011 Definitions.** "Authorized" - One who is qualified by reason of training and to whom the responsibility to perform a specific assignment has been given by the employer.

"Guarded" - The means to remove the likelihood of approach or contact by persons or objects to a point of danger.

"Knowledgeable" - The demonstrated ability to communicate the safe work practices required to perform a job or task correctly.

"Qualified" - One who is familiar with the construction and operation of the equipment and the duties of the position they may be filling. This includes being aware of the hazards of the job and the means and procedures necessary to eliminate or control those hazards.

"Training" - The procedure that must establish and document the employee's competency in the work practices that they are required to perform.

"Shall" or "must" as used in this standard mean the requirement is compulsory.

"May" or "should" as used in this standard identify recommendations or suggestions only.

#### AMENDATORY SECTION (Amending Order 82-22, filed 6/11/82)

**WAC 296-79-020 General requirements.** (1) House-keeping.

(a) Floors (~~(shall))~~ must be kept reasonably clear of spilled or leaking oil, grease, water, broke, etc., that may cause slipping, tripping or falling. Nonskid type surfacing (~~(shall))~~ must be installed in vehicular or pedestrian traffic areas (~~(in which))~~ where slipping hazards otherwise would exist.

In areas where it is not possible to keep the floor free of materials which cause a slipping hazard, mats, cleats, or other suitable materials which will effectively minimize or eliminate the hazard (~~(shall))~~ must be installed.

~~((2) Storage of hoses, cords, slings or similar items or equipment.)~~ (b) Hoses, cords, slings or similar items or equipment (~~(shall))~~ must be stored in such a manner that they will not create a hazard.

~~((3))~~ (2) Storage and transportation of materials. Materials, objects or equipment ~~((shall))~~ must be stored or transported by ~~((use of means or))~~ methods which will prevent them from falling, tipping or rolling.

~~((4) Compressed gas cylinders. Compressed gas cylinders shall be stored away from heat sources, combustible materials or other materials which may cause hazardous conditions. Storage facilities shall comply with the requirements of the general safety and health standards, chapter 296-24 WAC. Cylinders shall be secured in a manner which will prevent them from tipping or falling. Acetylene cylinders shall be stored, transported, or used while in the upright position only.~~

~~(5))~~ (3) Warning of ~~((obstructions))~~ open manholes or excavations. Open manholes or excavations ~~((shall))~~ must be:

- Roped off, barricaded, or adequately safeguarded ((by an approved method)) when located in or adjacent to walkways, aiseways, or roadways. ~~((During periods of darkness or reduced visibility, such areas shall be))~~

- Provided with warning lights or lanterns.

~~((6) Employees to be instructed. Employees shall not be permitted to))~~ (4) Training. Employees must receive proper instruction in safe operating procedures:

- Before they supervise, operate, or make adjustments to any machine or equipment ((until they have received proper instruction and are familiar with safe operating procedures)).

~~((7) Training personnel to handle emergencies. In each area where hazardous substances may be encountered, personnel shall be trained))~~ • To cope with emergencies arising from breaks, ruptures, or spills which would create a hazardous condition.

~~((8))~~ (c) Employees must be instructed in proper lifting or moving techniques and methods. Employees should use mechanical devices or ask for assistance in lifting or moving heavy objects.

(d) Any faulty equipment or hazardous condition must be promptly reported to the person in charge.

(5) Working alone. When an employee is assigned to work alone in a remote or isolated area, ~~((a system shall))~~ procedures must be ~~((instituted whereby such))~~ developed to ensure:

- That the employee reports by use of radio or telephone to someone periodically or

- At reasonable intervals a designated person ((shall)) must check on ((his)) the employee's safety ((at reasonable intervals)).

- All persons involved in working alone ((shall)) must be advised of the procedures to be followed.

~~((9) Lifting or moving objects. Employees shall be instructed in proper lifting or moving techniques and methods. Mechanical devices should be used or employees should ask for assistance in lifting or moving heavy objects.~~

~~(10) Reporting hazards. Any faulty equipment or hazardous condition shall be promptly reported to the person in charge.~~

~~((11))~~ (6) Exits from hazardous areas. Where physically and reasonably possible, there ~~((shall))~~ must be at least two unobstructed exits from any hazardous area. Such exits ~~((shall preferably))~~ should be on opposite walls.

~~((12))~~ (7) Safe work area. Sufficient clearance ~~((shall))~~ must be maintained between machines to allow employees a safe work area.

~~((13))~~ (8) Protection from overhead hazard. Warning ~~((signs shall))~~ signs/devices must be:

- Placed in conspicuous locations below areas where overhead work is being done and ((shall be))

- Removed promptly when work is completed and the overhead hazard no longer exists.

~~((14))~~ (9) Welding areas protected.

- Areas in which welding is being done ((shall)) must be screened or barricaded to protect persons from flash burns, when practical.

- If the welding process cannot be isolated, all persons who may be exposed to the hazard of arc flash ((shall)) must be properly protected.

~~((15))~~ (10) Testing safety devices. Brakes, back stops, anti-runaway devices, overload releases, emergency stops, and other safety devices ~~((shall))~~ must be inspected and tested frequently to ensure that all are operative and maintained in good repair.

~~((16))~~ (11) Starting and stopping devices.

(a) Electrically or manually operated power ~~((disconnecting))~~ starting or stopping devices ((shall)) must be provided within easy reach of the operator while in his normal operating position.

(b) If necessary for safety of the operation, the machine ~~((shall))~~ must be so equipped that retarding or braking action can be applied at the time of or after the source of power is deactivated.

~~((17) Use of compressed air for cleaning purposes.))~~

(12) Interlocks:

Interlocks that affect the safety of employees must not be bypassed except where the employer demonstrates that alternate procedures or devices provide a level of safety for employees equivalent to that provided by the safety interlock. Interlocks are considered to be bypassed anytime the designed control strategy is bypassed by means including, but not limited to, a temporary wiring change, physical interference or a temporary software change of "force."

Prior to bypassing a safety interlock the employer must:

- Develop a written procedure detailing how the bypass will be accomplished and the alternate means of protecting employees.

- Inform affected employees of all pertinent information including at a minimum the reason for the change, the date of the change, who is responsible for the change, and approximately how long the change will be in effect.

- Post appropriate warning of the change on the equipment or area.

(13) Designing control systems. Employers must ensure that all control systems are designed to:

- Ensure that the system does not create an unsafe state that endangers personnel.

- Ensure that when control systems fail, the equipment being controlled fails to a safe state.

- Have an independent method to safely stop the process or equipment, such as a hardwired emergency stop button or other controls that deenergize the system, or independent methods to force the system to a safe state.

PROPOSED

(14) Compressed air.

(a) Compressed air ~~((shall))~~ must not be used ~~((for cleaning purposes if it may endanger other persons in the area or))~~ for cleaning clothing ~~((while it))~~ that is being worn, ~~or if it will endanger persons in the area.~~

~~((18) Coupling high pressure air hoses.))~~ (b) Sections of high pressure air hoses ~~((shall))~~ must be properly coupled and have safety chains or equivalent safety device attached between the sections (30 psi or more is high pressure air).

~~((19))~~ (15) Punch bars. Open pipes ~~((shall))~~ must not be used as punch bars if the use would create a hazard.

~~((20))~~ (16) Saw table limit stop or extension. Employees ~~((shall))~~ must be protected from contact with the front edge of a circular saw by:

- A limit stop which will prevent the forward swing of the cutting edge from extending beyond the edge of the table or ~~((a table extension shall be installed))~~

- Installation of a table extension.

~~((21) Explosive))~~ (17) Powder-actuated tools.

~~((Explosive))~~ • Powder-actuated tool design, construction, operation and use shall comply with all requirements specified in "safety requirements for powder actuated fastening systems," ~~((adopted by the department of labor and industries))~~ (see chapter 296-24 WAC, Part H-1). ~~((In addition, after using such tools))~~

- A careful check ~~((shall))~~ must be made ~~((in order))~~ to ~~((ascertain))~~ ensure that no cartridges or charges are left where they could enter equipment or be accidentally discharged in any area where they could create a fire or explosion hazard.

~~((22) Approved life buoys. Where work is being performed on docks or adjacent to open water five feet or more in depth U.S. Coast Guard approved life buoys shall be provided. Such life buoys shall have sufficient line attached and be spaced at intervals not exceeding 200 feet.~~

~~((23))~~ (18) Ladders required on waterfront docks. Employers must ensure that either permanent ladders or portable ladders ~~((which))~~:

- Are readily available for emergency use ~~((shall be provided))~~ on all waterfront docks. ~~((Such ladders shall))~~

- Extend from the face of the dock to the water line at its lowest elevation. ~~((Spacing between ladder installations shall not))~~

- Are installed at intervals not to exceed 400 feet.

- Are noticeable by painting the dock area immediately adjacent to the ladder ~~((locations shall be painted))~~ with a bright color which contrasts with the surrounding area.

- Have been secured with a suitable method ~~((shall be used to secure the ladders)).~~

Note: When working on or around water also see chapter 296-24 WAC, Part A-2.

~~((24) Protection from hot pipes. All exposed hot pipes within seven feet of the floor or working platform, or within 15" measured horizontally from stairways, ramps or fixed ladders, shall be covered with an insulating material or be guarded in such a manner as to prevent contact.~~

~~((25))~~ (19) Prevent overhang while removing materials. Extreme care ~~((shall))~~ must be taken to prevent material from creating an overhang while removing the materials from piles or bins.

~~((26) Establishments subject to chapter 296-79 WAC shall comply with the following standards of the American National Standards Institute:~~

~~(a) ANSI Z33.1-1961, Installation of Blower and Exhaust Systems for Dust, Stock and Vapor Removal or Conveying;~~

~~(b) ANSI B56.1-1969, Safety Standard for Powered Industrial Trucks.))~~

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 74-24, filed 5/6/74)

WAC 296-79-030 Guards and guarding. For additional guarding requirements see chapter 296-24 WAC, Part C.

(1) ~~((General safety and health standards to prevail where applicable. Driving mechanisms, power transmission equipment or apparatus, prime movers, shear or pinch points or other similar hazardous areas of exposure shall be properly safeguarded with standard safeguards as required by the general safety and health standards.~~

(2)) Safeguarding specific areas, machines or conditions. ~~((To augment the general safeguarding requirements contained in the previous rule,))~~ Certain equipment, tools, machines, and areas present definite hazards and ~~((shall))~~ must be safeguarded by compliance with the following requirements:

(a) ~~((Conveyors. Hazardous areas of conveyors shall be adequately safeguarded or workers shall be protected from hazard by other effective means.~~

(b)) Broke shredders. Cutting heads ~~((shall))~~ must be completely enclosed except for opening at feed side sufficient only to permit entry of stock. The enclosure ~~((shall))~~ must be:

- Bolted or locked in place, and ~~((shall be))~~

- Of solid material or with mesh or other openings not exceeding 1/2 inch.

~~((e) Sharp edged slitter knives. Sharp edged slitter knives subject to accidental contact shall be effectively guarded. Carriers shall be provided and used when transporting or carrying sharp edged slitter knives.~~

~~(d) Wheels of traveling sections of conveyors. Traveling sections of conveyors and other equipment with wheels which run on rails or guides, other than railroad equipment, shall be provided with wheel sweep guards installed in front of the traveling wheels in all areas where persons may be exposed to contact. Sweep guards shall have not greater than 1/4 inch clearance above the rail or guide.~~

(e)) (b) Stitching or sewing machine. Carton or bag stitching machines ~~((shall))~~ must be properly safeguarded to prevent persons from coming in contact with the stitching head and other pinch or nip points.

~~((f))~~ (c) Beaters and pulpers. ~~((Where))~~

(i) A guardrail of standard height must be installed when the top edge of vessels or tubs is less than standard height guardrails above the floor or operator's platform, ~~((a guardrail of standard height shall be installed)).~~ If necessary for the

protection of the person feeding equipment, an intermediate guardrail or other suitable protection shall be installed.

((ii)) Beater rolls ~~((shall))~~ must be provided with covers.

~~((e))~~ ((d)) First dryer. A permanent guard or apron guard, or both, ~~((shall))~~ must be installed to protect workers from any exposed ingoing nip of the first dryer drum in each section if the area is accessible to workers while the dryer is in operation.

~~((h))~~ ((e)) Floor and drain openings. Floor and drain openings in walkways and general work areas ~~((shall))~~ must be covered with material or gratings with openings no larger than 2" in the narrow dimension.

~~((i))~~ ((f)) Mechanical devices to dump chip cars, trucks or trailers.

- When using mechanical equipment to elevate the front end of the chip containers for dumping into a hopper, the shear area between the floor and the elevated section ~~((shall))~~ must be safeguarded.

- The pit area ~~((shall))~~ must be adequately safeguarded or barricaded.

- Safeguards ~~((shall))~~ must be installed around the exposed sides of a chip hopper.

~~((3))~~ ((2)) Replacing guards. All permanent guards must be replaced or adequate temporary safeguards provided before a machine is put into operation.

~~((4))~~ ((3)) Protection from moving materials. When material, such as chunks, slivers, cants, or logs, could be thrown or flipped by a saw, barker, or other machines, adequate barricades, screens, netting, or other safeguards ~~((shall))~~ must be provided and maintained.

~~((5))~~ Circular saws (not slasher saws). Saws shall be provided with standard guards, in accordance with American National Standard 01.1-1954 (reaffirmed 1961).

~~((6))~~ ((4)) Protection for areas where guards are impractical. ~~((Where))~~ When normal guarding is impractical the hazard ~~((shall))~~ must be:

- Reduced to a minimum by use of safety chains, lifelines, signs or other reasonable means.

- Areas which present a ~~((major physical))~~ hazard which cannot be reasonably safeguarded ~~((shall))~~ must be identified by use of paint or other materials.

~~((7))~~ Transporting knives.)) ((5)) Knives and scissors.

(a) Knives used for chip or hog fuel machines, or guillotine cutters, ~~((shall))~~ must be secured in properly constructed containers during transportation.

~~((8))~~ Hand knife or scissors.)) (b) Workers ~~((shall))~~ must be furnished properly designed and constructed sheaths for safely carrying knives and scissors used for cutting or trimming pulp and paper.

~~((9))~~ Safe storage for knives and scissors.)) (c) Tables where paper is being cut ~~((shall))~~ must be equipped with sheaths or shelves for safe storage of knives and scissors.

~~((10))~~ ((d)) Sharp edged slitter knives subject to accidental contact must be effectively guarded. Carriers must be provided and used when transporting or carrying sharp edged slitter knives.

(e) Hand knives and sharpening steels used in paper preparation, must be provided with guards at the junction of the handle and the blade. Utility knives with blade exposure

two and one-half inches or less are exempted from this requirement.

((6)) Safeguard for foot operated treadle switch used to activate power driven equipment. Foot operated treadle switches used for activation of power driven equipment ~~((shall))~~ must be protected by a stirrup type guard or equivalent protection ~~((shall))~~ must be provided to prevent accidental activation.

~~((11))~~ ((7)) Automatic pressure actuated stopping devices. Hand fed machines and other moving equipment which create shear or pinch points which cannot be reasonably guarded may be safeguarded by the installation of pressure activated bars or sensing devices which, when contacted, will automatically stop the machine or equipment.

AMENDATORY SECTION (Amending Order 74-24, filed 5/6/74)

**WAC 296-79-040 Fire protection ~~((and))~~, ignition sources and means of egress. ~~((1))~~ Portable fire extinguishers. Portable fire extinguishers shall be constructed, tested, maintained, and used in accordance with the recommendations specified by the National Fire Protection Association or other similar recognized agencies.**

~~((2))~~ Suitable fire extinguishing equipment. Fire extinguishing equipment suitable for use for the type or types of fire which could be expected in an area shall be provided.

~~((3))~~ Vaporizing liquid type extinguishers. Vaporizing liquid type extinguishers shall not be used if known to create a condition which is hazardous to health.

~~((4))~~ Proper type of fire extinguisher to be used. Each person who is expected or required to use fire extinguishing equipment shall be instructed as to the proper type or types of extinguishing equipment to be used for each class of fire.

~~((5))~~ Fire drills, etc. Personnel shall be instructed on procedures to be followed in case of fire.

~~((6))~~ Posting areas where fire or explosion hazards exist. Areas where a fire or explosion hazard exists shall be posted with NO SMOKING or other suitable signs which would indicate that such hazard exists.

~~((7))~~ Sources of ignition prohibited in hazardous areas. Spark producing tools, lights or other sources of ignition shall not be used in any area where the hazard of explosion exists.

~~((8))~~ Welding and burning permits. A written welding or burning permit shall be secured from a delegated person when welding and burning is to be done in an area near flammable or combustible materials or in areas where a potentially explosive condition exists. Permits shall not be valid for more than 24 hours.

~~((9))~~ Internal dust fires in or around gas hoods. A safe written procedure shall be developed by the company for control of dust fires in or around gas hoods. Personnel shall be properly instructed and trained in this procedure.)) For fire protection, ignition source, and means of egress requirements see chapter 296-24 WAC, Part G-1, G-2 and G-3.

PROPOSED

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

**WAC 296-79-050 Personal protection.** ~~((1) Personal protective equipment and clothing. Personal protective clothing and equipment as required by the general safety and health standards and the general occupational health standards shall be furnished by the employer and worn or used by the employee when needed to eliminate or minimize the degree of hazard involved with any specific operation.~~

~~(a) Required clothing, caps, etc. Employees shall wear sufficient clothing to protect them from hazards to which they may be exposed while performing their duties. Consideration must be given to temperatures in certain areas in which persons work. Employees whose hair is long enough to be caught in machinery or equipment around which they work shall wear caps, hair nets or other protection which will adequately confine the hair while performing their duties.) See chapter 296-24 WAC, Part A-2, for additional personal protective equipment requirements.~~

Personal protective clothing and equipment.

~~(1) Rings or other jewelry ((which)) that could create a hazard should not be worn by employees while in the performance of their work.~~

~~((b)) (2) Protective footwear.~~

~~• Employees who work in areas where there is a possibility of foot injury due to falling or rolling objects ((shall)) must wear safety type footwear.~~

~~• Employers will supply shoe guards and toe protectors ((will be supplied by management)). ((Management shall))~~

~~• Employers must also make safety shoes available for purchase by employees at not more than actual cost to ((management)) the employer.~~

~~(3) Calks or other suitable footwear ((which)) that will afford reasonable protection from slipping ((shall)) must be:~~

~~• Worn while working on logs. ((Calk boots shall be))~~

~~• Made available at not more than actual cost to the employer.~~

Note: See chapter 296-24 WAC, Part A-2, for additional personal protective equipment requirements.

~~((2) Working over or near water.~~

~~(a) Employees working over or near water who are exposed to the danger of drowning shall be provided with and shall wear U.S. Coast Guard approved personal flotation devices.~~

Note: The following exceptions will apply:

~~(i) When water is known to be chest deep or less on the exposed worker(s);~~

~~(ii) When the employee is protected by standard guardrails;~~

~~(iii) When the employee is protected by a safety belt or lanyard; or~~

~~(iv) When the employee is within the confines of the cabin of a boat or other equivalent enclosure.~~

~~(b) Prior to and after each use, buoyant work devices shall be inspected for defects which would alter their strength or buoyancy. Defective units shall not be used.~~

~~(3) Protection from noise. The hearing protection requirements of the general occupational health standards, chapter 296-62 WAC, shall apply.~~

~~(4) Respiratory protection. The respiratory protection requirements of the general occupational health standards, chapter 296-62 WAC, shall apply.)~~

AMENDATORY SECTION (Amending Order 74-24, filed 5/6/74)

**WAC 296-79-070 Illumination.** ~~((1) Sufficient illumination required. All areas shall be sufficiently illuminated in order that persons in the area can safely perform their assigned duties. The recommended levels of illumination specified in the general occupational health standards shall be followed where applicable. When areas are not specifically referred to in the general occupational health standards and the adequacy of illumination for the area or task performed is questionable, a determination of the amount of illumination needed shall be made by the industrial hygiene section of the division of industrial safety and health.~~

~~(2)) (1) Illumination required. Lighting that is adequately adjusted to provide a margin of safety for all work tasks must be provided and maintained.~~

~~(a) The minimum level of task lighting for all indoor activities must be an average of ten-foot candles measured thirty inches above the floor or at the task.~~

~~(b) The minimum level of task lighting for all outdoor activities must be an average of five-foot candles measured thirty inches above the working surface or at the task.~~

~~(2) If general lighting is not provided throughout the work area, the employer must provide illumination which is adequately adjusted to provide visibility of nearby objects that might be potential hazards or to see to operate emergency control or other equipment. The minimum level of nontask lighting for all indoor and outdoor activities must be an average of three-foot candles measured thirty inches above the floor or working surface.~~

Note: This section establishes minimal levels of illumination for safety purposes only. Guidelines pertaining to optimal levels of lighting and illumination may be found in practice for Industrial Lighting, ANSI/IES RP7-1979. The minimum levels specified in subsections (1) and (2) of this section represent averages with the lowest level in an area to be no less than fifty percent of the indicated value.

~~(3) Emergency or secondary lighting system required.~~

~~(a) There ((shall)) must be an emergency or secondary lighting system ((which)) that can be actuated immediately upon failure of the normal power supply system. The emergency or secondary lighting system ((shall)) must provide illumination in the following areas:~~

~~((i)) • Wherever it is necessary for workers to remain at their machine or station to shut down equipment in case of power failure.~~

~~((ii)) • At stairways and passageways or aisleways used by workers as an emergency exit in case of power failure.~~

~~((iii) In all plant first aid and/or medical facilities.)~~

~~(b) Emergency lighting facilities ((shall)) must be checked at least every 30 days for mechanical defects. Defec-~~



tive equipment (~~(shall)~~) must be given priority for repair schedule.

~~((3) Extension cord type lights. All extension cord type lights shall be provided with proper guards.))~~

**AMENDATORY SECTION** (Amending Order 74-24, filed 5/6/74)

**WAC 296-79-080 Elevators, manlifts and other lifting devices.** (1) ~~((Elevators, manlifts, etc.))~~ All elevators, manlifts or other lifting devices (~~(shall)~~) must be installed and maintained in conformity with the requirements specified in the Washington state elevator laws and regulations adopted by the elevator section of the ~~((division of building and construction safety inspection,))~~ department of labor and industries.

(2) Inspection of elevators, etc., for acid towers.

(a) Outside elevators (~~(shall)~~) must be inspected daily during winter months when ice materially affects safety.

(b) Elevators, runways, stairs, etc., for acid towers (~~(shall)~~) must be inspected monthly for defects that may occur because of exposure to acid or corrosive gases.

(3) ~~((Gas masks))~~ Respirators on elevators. Elevators located in areas where exposure to potentially harmful concentrations of toxic substances may occur (~~(shall)~~) must be equipped with an adequate supply of ~~((gas masks))~~ respirators to protect the maximum number of passengers.

~~((4) Posting elevators. Elevators shall be posted indicating the maximum number of persons allowed to ride.))~~

**AMENDATORY SECTION** (Amending Order 91-07, filed 11/22/91, effective 12/24/91)

**WAC 296-79-090 Electrical equipment and distribution.** ~~((1) National electrical code to prevail.))~~ All electrical installations and electrical utilization equipment (~~(shall)~~) must comply with chapter 296-24 WAC, Part L.

~~((2) Authorized personnel to do electrical work. Only those persons who are qualified to do the work assigned and are authorized by the employer shall be allowed to perform electrical work on any electrical equipment or wiring installations.))~~

~~(3) High voltage areas to be guarded. Motor rooms, switch panel rooms or other areas where persons may come in contact with high voltages shall be fenced off or be enclosed in a separate area. The gate, door or access to such area shall be posted with a notice stating that only authorized persons are allowed in the area.))~~

~~(4) Control panels. Floor stand panels should be protected from being struck by moving equipment and handles and buttons shall be protected from accidental actuation.))~~

~~(5) Switches or control devices. Switches, circuit breakers or other control devices shall be so located that they are readily accessible for activation or deactivation and shall be marked to indicate their function or machine which they control. The positions of ON and OFF shall be marked or indicated and provision shall be made for locking or tagging out the circuit.))~~

~~(6) Starting requirements for electrically driven equipment after power failure. Electrically driven equipment shall~~

~~be so designed that it will not automatically start upon restoration of power after a power failure if it will create a hazard to personnel.))~~

~~(7))~~ (1) Operator controlled devices. Push buttons, selector switches, remote control switches, automatic circuit activating devices, and other control circuit type devices must be marked to indicate their function and the equipment they control.

(2) Posting equipment automatically activated or remotely controlled. If it will create a hazard to personnel, equipment which is automatically activated or remotely controlled (~~(shall)~~) must be posted, warning persons that machine may start automatically ((if it will create a hazard to personnel)).

**AMENDATORY SECTION** (Amending Order 74-24, filed 5/6/74)

**WAC 296-79-100 Floors, platforms, stairways, ladders, loading docks.** ~~((1) Construction and maintenance. Floors, platforms, stairways, ladders, and loading docks shall be constructed, maintained and used in accordance with the requirements specified in the general safety and health standards and shall have nonskid type surfaces where needed to minimize the hazard of slipping.))~~ See chapter 296-24 WAC, Part J.

**AMENDATORY SECTION** (Amending Order 74-24, filed 5/6/74)

**WAC 296-79-110 Elevated runways and ramps used by vehicles.** (1) ~~((Elevated runway and ramp construction. Elevated runways or ramps shall be constructed to safely support four times the weight of any load to which it may be subjected.))~~ Runways and ramps (~~(shall)~~) must:

(a) Be cleated, grooved, rough surfaced, or covered with a material ((which)) that will minimize the danger of skidding. ((The))

(b) Not have a maximum ((inclination of a ramp used for wheeled equipment shall not exceed)) exceeding 20° from horizontal if used for wheeled equipment.

(2) Guarding exposed sides.

• Elevated ramps or runways used for the travel of wheeled equipment (~~(shall)~~) must have exposed sides guarded with a substantial bull rail or shear rail of sufficient height to prevent wheeled equipment from going over the rail.

• If elevated ramps or runways are used by pedestrians, standard guardrails (~~(shall)~~) must be installed on runways wherever the height exceeds 4 feet above the adjacent area except where used for loading or unloading purposes.

**AMENDATORY SECTION** (Amending Order 74-24, filed 5/6/74)

**WAC 296-79-120 Scaffolds, construction, use and maintenance.** ~~((Whenever work must be performed at a height which cannot be reached from the floor or permanent platform and where it would not be safe practice to use a ladder, a properly constructed scaffold shall be provided and~~

used. All scaffolds shall have a factor of safety of four times any load to which they may be subjected and be adequately secured or stabilized to prevent tipping. Scaffolds shall be constructed in accordance with acceptable engineering practices and shall be maintained in a safe condition. Tools or materials which would create a tripping hazard or which may fall from the platform shall be secured or removed. Persons shall not ride on a roller scaffold while it is being moved. See General safety and health standards, chapter 296-24 WAC, Part J-1 or Safety standards for construction work, chapter 296-155 WAC, Part J-1.

**AMENDATORY SECTION** (Amending Order 74-24, filed 5/6/74)

**WAC 296-79-130 Crossovers, aisles, passages.** See chapter 296-24 WAC, Part D, for additional requirements for aisles and passages.

(1) ~~((Crossing conveyors. Where access is required, crossovers or underpasses with proper safeguards shall be provided over or under all conveyors.~~

(2)) Clearances to be marked. Low clearance areas under conveyors which could present a hazard to mobile equipment operations ~~((shall))~~ must be identified by a suitable means, such as signs, contrasting colors, or tell-tales.

~~((3) Aisles or passageways. Aisles or passageways should be at least three feet wider than the widest vehicle or load traveling the aisle or passageway. When this clearance cannot be maintained, adequate precautions shall be taken.~~

(4)) (2) Crossovers over obstructions in passageways. Crossovers ~~((shall))~~ must be provided where employees are required to cross over transmission drive lines or other permanent obstructions in passageways or walkways.

**AMENDATORY SECTION** (Amending Order 81-9, filed 6/17/81)

**WAC 296-79-140 Installation, inspection, and maintenance of pipes, piping systems, and hoses.** (1) Definitions applicable to this section.

~~((a))~~ Hazardous material system - any system within the following classifications:

~~((i))~~ • Flammable or explosive - any system containing materials which are hazardous because they are easily ignited and create a fire or explosion hazard, defined by NFPA as Class I liquids;

~~((ii))~~ • Chemically active or toxic - any system containing material which offers corrosion or toxic hazard in itself or can be productive of harmful gases upon release, defined by NFPA 704M as Class 3 and 4 materials;

~~((iii))~~ • Thermally hazardous - any system above 130°F which exposes persons to potential thermal burns;

~~((iv))~~ • Pressurized - any gaseous system above 200 psig or liquid system above 500 psig.

~~((b))~~ Piping system - any fixed piping, either rigid pipe or flexible hose, including all fittings and valves, in either permanent or temporary application.

(2) Design and installation. All new piping systems intended to be used in hazardous material service ~~((shall))~~ must be designed and installed in accordance with applicable

provisions of the ASME Code for Pressure Piping or in accordance with applicable provisions of ANSI B31.1-1995 through B31.8-1995. ~~((The referenced edition in effect at the time of installation shall be utilized.~~

Note: ~~Both referenced standards have identical requirements.))~~

(3) Inspection and maintenance.

(a) ~~((Management shall))~~ The employer must develop a formal program of installation inspections and maintenance for all hazardous material piping systems. The program ~~((shall))~~ must be:

• Based on sound maintenance engineering principle, and ~~((shall))~~

• Demonstrate due consideration for the manufacturing specifications of the pipe, hose, valves and fittings, the ambient environment of the installation and the corrosive or abrasive effect of the material handled within the system.

(b) Type and frequency of tests and/or inspections and selection of inspection sites ~~((shall))~~ must be adequate to give indications that minimum safe design operating tolerances are maintained. The tests may include visual or nondestructive methods.

~~((c) All companies shall submit their formal program of initial and ongoing inspections to the department for approval within one year after the effective date of this requirement.~~

~~((d) All existing hazardous material systems shall be inspected to the criteria of this section prior to two years after effective date, or in accordance with a schedule approved by the department.))~~

(4) Inspection records.

(a) Results of inspections and/or tests ~~((shall))~~ must be maintained as a record for each system. Portions of systems that are buried or enclosed in permanent structures in such a manner as to prevent exposure to employees even in the event of a failure, may be exempted from the inspection requirements only.

~~((b))~~ • Past records may be discarded provided the current inspection report and the immediately preceding two reports are maintained.

~~((c))~~ • When a system is replaced, a new record ~~((shall))~~ must be established and all past records may be discarded.

~~((d))~~ (b) Upon request the records for each system ~~((shall))~~ must be made available for review by the department ~~((upon request))~~ of labor and industries.

~~((e) Portions of systems that are buried or enclosed in permanent structures in such a manner as to prevent exposure to employees even in the event of a failure, may be exempted from the inspection requirements only.))~~

(5) Systems or sections of systems found to be below the minimum design criteria requirements for the current service ~~((shall))~~ must be repaired or replaced with component parts and methods which equal the requirements for new installations.

(6) Identification of piping systems.

(a) Pipes containing hazardous materials ~~((shall))~~ must be identified. It is recommended that USAS A13.1 "Scheme for Identification of Piping Systems" be followed.

~~((b))~~ Positive identification of a piping system content ~~((shall be))~~;

- **Must have a** lettered legend giving the name of the content in full or abbreviated form, or a commonly used identification system. ~~((Such identification shall))~~

- **Must be made and maintained** at suitable intervals and at valves, fittings, and on both sides of walls or floors as needed.

- **May have arrows** ~~((may be used))~~ to indicate the direction of flow. ~~((Where it is desirable or necessary to give))~~

- **May provide** supplementary information such as hazard of use ~~((of the piping system content,))~~. This may be done by additional legend or by color applied to the entire piping system or as colored bands. Legends may be placed on colored bands.

Examples of legend which may give both positive identification and supplementary information regarding hazards or use are:

Ammonia . . . . .	Hazardous liquid or gas
Chlorine . . . . .	Hazardous liquid or gas
Chlorine dioxide . . . . .	Hazardous liquid or gas
Sulphur dioxide . . . . .	Hazardous gas
Liquid caustic . . . . .	Hazardous liquid
Liquid sulphur . . . . .	Hazardous liquid
Sulphuric acid . . . . .	Hazardous liquid
Sodium chlorate . . . . .	When dry, danger of fire or explosion

Note: Manual L-1, published by Chemical Manufacturers Association, Inc., is a valuable guide in respect to supplementary legend.

~~((e))~~ • When color, applied to the entire piping system or as colored bands, is used to give supplementary information it should conform to the following:

CLASSIFICATION	PREDOMINANT COLOR
F--Fire-protection equipment . . . . .	Red
D--Dangerous materials . . . . .	Yellow (or orange)
S--Safe materials . . . . .	Green (or the achromatic colors, white, black, gray or aluminum)

and, when required,  
P--Protective materials . . . . . Bright blue

~~((d))~~ (b) Legend boards showing the color and identification scheme in use ~~((shall))~~ **must** be prominently displayed at each plant. They ~~((shall))~~ **must** be located so that employees who may be exposed to hazardous material piping systems will have a frequent reminder of the identification program.

~~((e))~~ (c) All employees who work in the area of hazardous material piping systems ~~((shall))~~ **must** be given training in the color and identification scheme in use.

(7) Test holes ~~((not to be covered))~~. Test holes in blow lines of piping systems ~~((shall))~~ **must** not be covered with insulation or other materials.

(8) Steam hoses. Steam hoses ~~((shall))~~ **must** be specifically designed to safely carry steam at any pressures to which they may be subjected.

AMENDATORY SECTION (Amending Order 74-24, filed 5/6/74)

**WAC 296-79-150 Mobile equipment and lift trucks. Additional requirements on mobile equipment and lift trucks are in chapter 296-24 WAC, Part D.**

(1) ~~((All industrial powered trucks should be engineered, designed, constructed, maintained and used in accordance with the recommendations specified in USAS B56.1-1969 "Safety Code for Powered Industrial Trucks."))~~

(2) Operator training. Methods shall be devised by management to train personnel in the safe operation of powered industrial trucks and only trained and authorized operators shall be permitted to operate such vehicles.

(3) Special duties of operator. Special duties of the operator of a power driven vehicle shall include the following:

(a) ~~To test~~) **The operator of a power-driven vehicle must test the** brakes, steering gear, lights, horns, warning devices, clutches, etc., before operating vehicle(;

(b) ~~Not to move a vehicle while an unauthorized rider is on his vehicle;~~

(c) ~~To slow down and sound horn upon approaching blind corners or other places where vision or clearance is limited;~~

(d) ~~To comply with all speed and traffic regulations and other applicable rules;~~

(e) ~~To have the vehicle he operates under control at all times so that he can safely stop the vehicle in case of emergency; and~~

(f) ~~When driving a fork lift vehicle on a grade, the load shall be kept on the upgrade side.~~

(4) Operator to be in proper position).

(2) Control levers of lift trucks, front end loaders, or similar types of equipment ~~((shall))~~ **must** not be operated except when the operator is in ~~((his))~~ **the** proper operating position.

~~((a))~~ (3) No person ~~((shall))~~ **may** be permitted to ride on a powered hand truck unless it is so designed by the manufacturer. A limit switch ~~((shall))~~ **must** be on operating handle—30 degrees each way from a 45-degree angle up and down.

~~((b))~~ ~~When a powered industrial truck is left unattended, load engaging means shall be fully lowered, controls shall be neutralized, power shall be shut off, and brakes set. Wheels shall be blocked if the truck is parked on an incline.~~

(c) ~~A powered industrial truck is unattended when the operator is 25 feet or more away from the vehicle which remains in his view, or whenever the operator leaves the vehicle and it is not in his view.~~

(d) ~~When the operator of an industrial truck is dismounted and within 25 feet of the truck still in his view, the load engaging means shall be fully lowered, controls neutralized, and the brakes set to prevent movement.~~

PROPOSED

~~(5) Raised equipment to be blocked.))~~ (4) Employees ~~((shall))~~ must not work below the raised bed of a dump truck, raised buckets of front end loaders, raised blades of tractors or in similar positions without blocking the equipment in a manner that will prevent it from falling. ~~((When working under equipment suspended by use of jacks, safety stands or blocking shall also be used in conjunction with the jack.~~

~~(6) Precautions to be taken while inflating tire. Unmounted split rim wheels shall be placed in a safety cage or other device shall be used which will prevent a split rim from striking the worker if it should dislodge while the tire is being inflated.~~

~~(7))~~ (5) Reporting suspected defects. If, in the opinion of the operator, a power-driven vehicle is unsafe, the operator ~~((shall))~~ must report the suspected defect immediately to the person in charge. Any defect ~~((which))~~ that would make the vehicle unsafe to operate under existing conditions ~~((shall))~~ will be cause to take the vehicle out of service and it ~~((shall))~~ must not be put back into use until it has been made safe.

~~((8) Safe speed. Vehicles shall not be driven faster than a safe speed which is compatible with existing conditions.~~

~~(9) Unobstructed view.))~~ (6) Vehicle operators ~~((shall))~~ must have a reasonably unobstructed view of the direction of travel, or, where this is not possible, the operator ~~((shall))~~ must be directed by a person or by a safe guidance means or device. Where practical, mirrors ~~((shall))~~ must be installed at blind corners or intersections ~~((which))~~ that will allow operators to observe oncoming traffic.

~~((It is recommended that))~~ (7) Vehicles ~~((operating))~~ in congested areas ~~((should be provided with an audible or visual alarm system))~~ must operate with a warning light.

~~((10) Passengers to ride properly.))~~ (8) Passengers ~~((shall))~~ must not be permitted to ride with legs or arms extending outside any vehicle nor ~~((shall))~~ must they be permitted to ride unless a passenger seat or other protective device is provided.

~~((11) Horns and lights:~~

~~(a) Each vehicle shall be provided with a horn.~~

~~(b) Any vehicle required to travel away from an illuminated area shall be equipped with a light or lights which adequately illuminate the direction of travel.~~

~~(12))~~ (9) Guard on operator's platform. Every power truck operated from an end platform or standing position ~~((shall))~~ must be:

• Equipped with a platform extending beyond the operator's position, and

• Strong enough to withstand a compression load equal to the weight of the loaded vehicle applied along the longitudinal axis of the truck with the outermost projection of the platform against the flat vertical surface.

~~((13) Brakes on power driven vehicles. Vehicles shall be equipped with brakes and devices which will hold a parked vehicle with load on any grade on which it may be used. The brakes and parking devices shall be kept in proper operating condition at all times.~~

~~(14))~~ (10) Cleaning vehicles. All vehicles ~~((shall))~~ must be kept free of excessive accumulations of dust and grease that may present a hazard.

~~((15) Moving vehicles.))~~ (11) Vehicles ~~((shall))~~ must be controlled manually while being pushed or towed except

when a tow bar is used. ~~((Special precautions shall be taken when pushing vehicles where view is obstructed.))~~ Pushing of vehicles or railroad cars with the forks or clamps of a lift truck is prohibited.

~~((16) Prohibited forms of riding. Riding on tongue or handles of trailers or forks of vehicles is prohibited.~~

~~(17) Jumping on or off moving vehicles. Jumping on or off moving vehicles is prohibited.~~

~~(18) Traffic lanes, designation and systems. Regular traffic lanes should be established and clearly designated and followed whenever practical. A one way traffic system should be employed if practical.~~

~~(19) Clear lanes. Traffic lanes being used by pedestrians or equipment shall be kept clear of dunnage, pallets, etc., and equipment not in use.~~

~~(20) Lifting capacity of vehicle to be observed. At no time shall a load in excess of the manufacturer's maximum lifting capacity rating be lifted, carried, or moved by a lift truck. Such lifting capacity can be altered with the approval of the equipment manufacturer.~~

~~(21) Posting rated capacity. The maximum rated lifting capacity of all lift trucks shall at all times be posted on the vehicle in such a manner that it is readily visible to the operator.~~

~~(22) Carrying loose material. Lift trucks shall not be used to carry loose loads of pipe, steel, iron, lumber, palletized material, rolls of paper, or barrels unless adequate clearance is provided and the loads are stabilized.~~

~~(23) Position of lift forks or clamps.))~~ (12) Aisles or passageways should be at least three feet wider than the widest vehicle or load traveling the aisle or passageway. When this clearance cannot be maintained, adequate precautions must be taken.

~~(13) The forks ((or)), clamps, or attachments of lift trucks ((shall)) must be kept as low as possible while the vehicle is moving. ((They shall be lowered to the floor when the vehicle is parked.~~

~~(24) Walking under loads prohibited. No person shall be allowed under the raised load of a lift truck.~~

~~(25) Hoisting of personnel on vehicle forks prohibited. Personnel shall not be hoisted by standing directly on the forks of vehicles.~~

~~(26) Using forklifts as elevated work platforms. A platform or structure built specifically for hoisting persons may be used providing the following requirements are complied with:~~

~~(a) The structure must be securely attached to the forks and shall have standard guardrails and toeboards installed on all sides.~~

~~(b) The hydraulic system shall be so designed that the lift mechanism will not drop faster than 135 feet per minute in the event of a failure in any part of the system. Forklifts used for elevating work platforms shall be identified that they are so designed.~~

~~(c) A safety strap shall be installed or the control lever shall be locked to prevent the boom from tilting.~~

~~(d) An operator shall attend the lift equipment while workers are on the platform.~~

~~(e) The operator shall be in the normal operating position while raising or lowering the platform.~~

~~(f) The vehicle shall not travel from point to point while workers are on the platform except that inching or maneuvering at very slow speed is permissible.~~

~~(g) The area between workers on the platform and the mast shall be adequately guarded to prevent contact with chains or other shear points.~~

~~(27) Overhead guards on lift trucks. All lift trucks shall be equipped with an overhead guard constructed and installed to conform to USAS B56.1-1969 "Safety Code for Powered Industrial Trucks." This guard may be removed only when it cannot be used due to the nature of the work being performed in which case loads shall be maintained so as not to create a hazard to the operator.~~

~~(28) Protection from exhaust system. Any exhaust system which would be exposed to contact shall be properly insulated or isolated to prevent personnel from being burned.) (14) The hoisting of personnel by lift trucks must meet the requirements in WAC 296-24-230.~~

~~(15) Exhaust systems on lift trucks and jitneys shall be constructed to discharge either within 20(<sup>2</sup>) inches from the floor or 84(<sup>2</sup>) inches or more above the floor. ((The exhausted gases shall be directed away from the operator and the equipment shall be designed in such a manner that the operator will not be exposed to the fumes.~~

~~(29) Emergency exit from mobile equipment.) (16) Mobile equipment with an enclosed cab ((shall)) must be provided with an escape hatch or other method of exit in case the regular exit cannot be used.~~

~~((30) Vehicle wheels chocked. When driving mobile equipment onto the bed of a vehicle, the wheels of the vehicle shall be chocked.~~

~~(31) Prevent trailer from tipping.) (17) Suitable methods ((shall)) must be used or devices installed which will prevent the trailer from tipping while being loaded or unloaded.~~

~~((32) Refueling. Gasoline or LPG engines shall be shut off during refueling.~~

~~(33) Close valve on LPG container.) (18) Whenever vehicles using LP gas as a fuel are parked overnight or stored for extended periods of time indoors, with the fuel container in place, the service valve of the fuel container ((shall)) must be closed.~~

~~((34) LP tanks. LP vehicle fuel tanks shall be installed and protected in a manner which will minimize the possibility of damage to the tank.~~

~~(35) Inspecting and testing of LPG containers. LPG containers shall be inspected and tested periodically.~~

~~(36) Spinners on steering wheels.) (19) The use of spinners on steering wheels ((shall)) must be prohibited unless an anti-kick device is installed or the equipment has a hydraulic steering system.~~

(20) Rolls transported with a grab or clamp attachment must be carried with the core in a vertical position.

(21) When traveling empty with a grab or clamp attachment, the jaws or blades of those attachments must remain within the running lines of the lift truck.

(22) When transporting two or more rolls with a roll grab attachment, the bottom roll will have at least sixty percent of the grab attachment on it.

(23) When transporting two or more rolls or bales with a grab or clamp attachment, there must be no rolls or bales

unsecured if there is risk of part or all of the load shifting or falling.

AMENDATORY SECTION (Amending Order 74-24, filed 5/6/74)

WAC 296-79-160 Requirements for cranes and hoists—See general safety and health standards ((to prevent)) (chapter 296-24 WAC, Part D). ((All applicable rules for design, construction, maintenance, operation and testing of cranes and hoists contained in the general safety and health standards shall be complied with.)) Grounding - Where conditions such as corrosive atmospheres, dirt, paint, rust, or other insulating materials prevent reliable metal-to-metal contact for grounding (bridge, wheel and its respective tracks), a separate ground conductor must be provided.

AMENDATORY SECTION (Amending Order 81-9, filed 6/17/81)

WAC 296-79-170 Requirements for crawler and truck cranes. (1) ((Rated capacity chart. A chart indicating the manufacturer's rated capacity at all operating radii for all permissible boom lengths and jib lengths with alternate ratings for optional equipment affecting such ratings shall be posted in all mobile type cranes and shall be readily visible to the operator in his normal operating position.

(2)) Boom length indicated. The length ((shall)) must be plainly marked on each boom section of a mobile crane having a sectioned boom.

((3)) (2) Radius or boom angle indicator. A radius or boom angle indicator ((shall)) must be installed where it is readily visible to the operator's ((in his)) normal operating position on all cranes having a movable working boom.

((4)) (3) Safety device for light fixtures. Any light fixtures attached to crane boom or machinery house ((shall)) must have a safety strap or other device attached which will prevent the fixture from falling.

((5)) (4) Boom stops. Boom stops ((shall)) must be:

- Installed to govern the upward travel of the boom to a safe limit. ((Boom stops shall be))

- Of adequate strength to prevent the boom from traveling past the vertical position.

((6)) (5) Controls marked. Crane operating controls ((shall)) must be marked or an explanation of the controls' functions ((shall)) must be posted in full view of the operator.

((7)) (6) Locking hydraulic outriggers. Hydraulic outriggers ((shall)) must be:

- Equipped with a pilot operated check valve or

- Installed with a mechanical lock ((shall be installed)) which will prevent outriggers from retracting in case of failure of the hydraulic system.

((8)) (7) Top of boom painted. The top six feet of the boom or jib ((shall)) must be painted bright yellow or other bright contrasting color if the boom is yellow.

((Several makes of cranes are already "all yellow." Users say they want to retain the contrasting color theme to call attention to the boom top.))

PROPOSED

~~((9))~~ (8) Warning devices. All cranes ~~((shall))~~ must be equipped with a suitable warning device such as a horn or whistle.

~~((10))~~ (9) Hook safety device. All hooks ~~((shall))~~ must be equipped with a safety device or other effective means ~~((shall))~~ must be used to prevent accidental unhooking of the load.

~~((11))~~ (10) Counterweight limited. The amount of crane counterweight ~~((shall))~~ must not exceed the maximum amount specified by the crane manufacturer.

~~((12))~~ (11) Use proper size wire rope for sheaves. The size and diameter of sheaves and wire rope ~~((shall))~~ must be compatible and follow the recommendations by the manufacturer, published by the Wire Rope Institute or other acceptable engineering practices.

~~((13))~~ (12) Loading or unloading gear. Unloading gear such as grapples, tongs, and buckets, ~~((shall))~~ must not be left suspended when not in use or whenever the machine is unattended.

~~((a) Where grapples, trip tongs or similar device is used for loading, the log holding device shall be lowered to the ground whenever the machine is unattended.~~

(14)) (13) No one under load. Personnel ~~((shall))~~ must not position themselves under crane loads and such loads ~~((shall))~~ must not be carried over workers.

~~((15))~~ (14) Operating clearance from stationary objects. Where the area is accessible to workers:

- A distance of 30(~~"shall~~) inches must be maintained between the outermost part of a revolving crane and any stationary object within the swing radius of the crane (~~(where the area is accessible to workers))~~) or

- The hazardous area must be temporarily guarded or barricaded.

~~((16) Clearance requirements from unprotected electrical transmission and distribution lines:~~

~~(a) Except as provided in subdivision (b), all parts of cranes and loads being handled shall maintain the following specified clearances:~~

- ~~(i) For lines rated 50 kv or below, minimum clearance between the lines and any part of the crane or load shall be ten feet;~~

- ~~(ii) For lines rated over 50 kv minimum, clearance between the lines and any part of the crane or load shall be 10 feet plus 0.4 inch for each 1 kv over 50 kv, or twice the length of the line insulator but never less than 10 feet;~~

- ~~(iii) In transit with no load and boom lowered the equipment clearance shall be a minimum of 4 feet for voltages less than 50 kv, and 10 feet for voltages over 50 kv up to and including 345 kv, and 16 feet for voltages up to and including 750 kv;~~

- ~~(iv) A person shall be designated to observe clearance of the equipment and give timely warning for all operations where it is difficult for the operator to maintain the desired clearance by visual means;~~

- ~~(v) Any overhead wire shall be considered to be an energized line unless and until the person owning such line or the electrical utility authorities indicate that it is not an energized line and it has been visibly grounded.~~

~~(b) Cranes may be operated within the clearances specified in subdivision (a) only when the following precautions are taken:~~

- ~~(i) Lines may be deenergized and visibly grounded at the point of work; or~~

- ~~(ii) Lines owned or under the control of the employer may be deenergized, grounded and locked out on the employer's premises; or~~

- ~~(iii) On N.E.C. approved installation of insulated aerial cable, insulating barriers, not a part of or an attachment to the equipment or machinery, may be erected to prevent physical contact with the line.~~

~~((17))~~ (15) See WAC 296-24-960 when working around energized lines.

(16) Operators ~~((shall))~~ must avoid contacting overhead obstructions which may damage the boom or adversely affect stability. In instances where the operator may have difficulty in observing clearances, a signal person ~~((shall))~~ must be stationed where they can observe clearances and signal the operator.

~~((18))~~ (17) Safe travel across thoroughfares or railroad tracks.

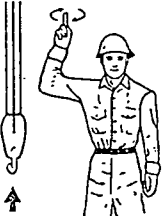
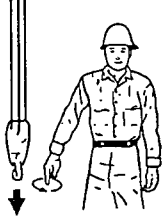
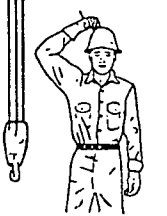
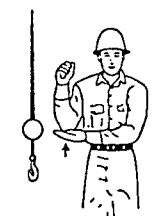
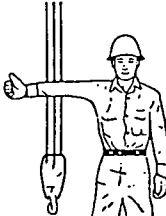
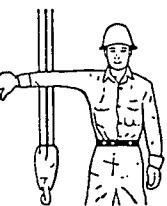
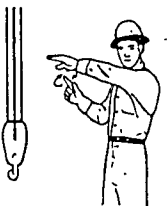
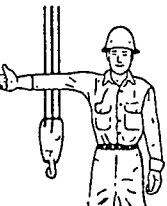
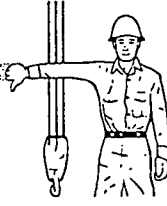
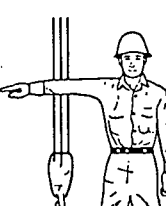
- When moving cranes, shovels or similar types of equipment across thoroughfares or railroad tracks ((with cranes, shovels or similar types of equipment, which by its design does not allow)) and the operator does not have a clear vision of approaching traffic, a flagperson ((shall)) must be used.

- The flag person must be stationed where ((he/she can control other traffic and signal)) the equipment operator can be signaled and other traffic can be controlled.

~~((19) One crew member to give signals:))~~ (18) Only a designated member of the crew ~~((shall))~~ may give signals to the crane operator ~~((except that))~~. Exception: Anyone may give an emergency stop signal.

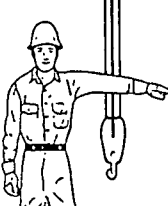
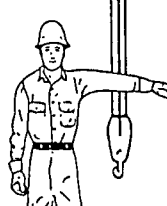
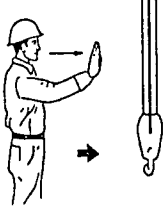
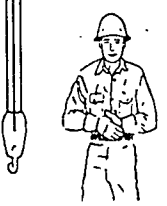
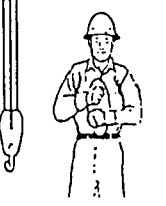

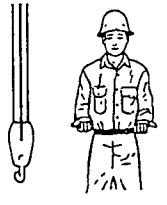

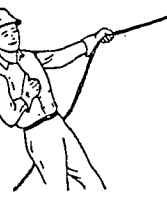

~~((20) Standard hand signals:))~~ (19) When visual signals are used standard hand signals, as illustrated in the general safety and health standards, ~~((shall))~~ must be used for directing crane operators.

**CRAWLER, LOCOMOTIVE, AND TRUCK CRANES  
STANDARD HAND SIGNALS FOR CRANES**

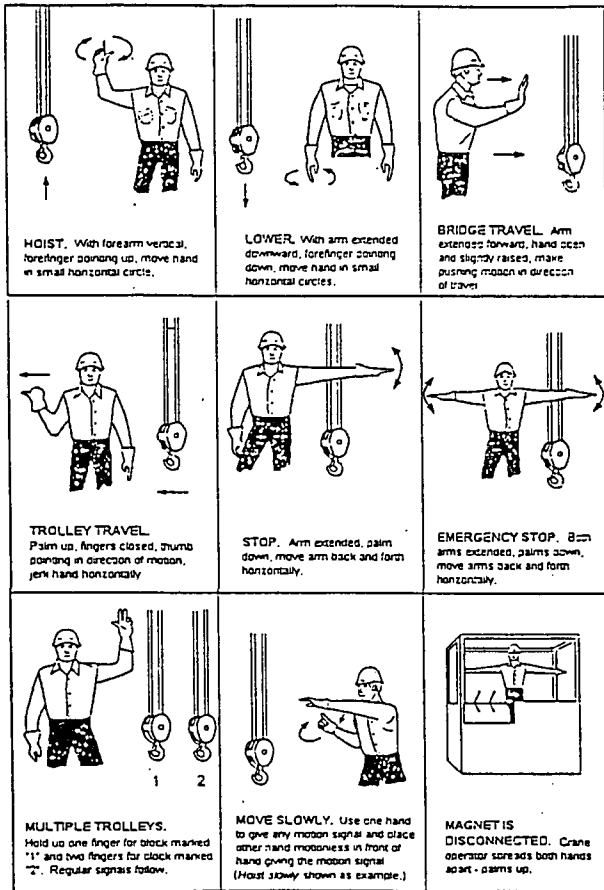
 <p><b>HOIST.</b> With forearm vertical, forefinger pointing up, move hand in small horizontal circle.</p>	 <p><b>LOWER.</b> With arm extended downward, forefinger pointing down, move hand in small horizontal circles.</p>	 <p><b>USE MAIN HOIST.</b> Tap fist on head; then use regular signals</p>	 <p><b>USE WHIPLINE.</b> (Auxiliary Hoist). Tap elbow with one hand; then use regular signals.</p>	 <p><b>RAISE BOOM.</b> Arm extended, fingers closed, thumb pointing upward.</p>
 <p><b>LOWER BOOM.</b> Arm extended, fingers closed, thumb pointing downward.</p>	 <p><b>MOVE SLOWLY.</b> Use one hand to give any motion signal and place other hand motionless in front of hand giving the motion signal. (Hoist slowly shown as example.)</p>	 <p><b>RAISE THE BOOM AND LOWER THE LOAD.</b> With arm extended, thumb pointing up, flex fingers in and out as long as load movement is desired.</p>	 <p><b>LOWER THE BOOM AND RAISE THE LOAD.</b> With arm extended, thumb pointing down, flex fingers in and out as long as load movement is desired.</p>	 <p><b>SWING.</b> Arm extended, point with finger in direction of swing of boom.</p>

**PROPOSED**

**CRAWLER, LOCOMOTIVE, AND TRUCK CRANES (Cont.)**

 <p><b>STOP.</b> Arm extended, palm down, hold position rigidly.</p>	 <p><b>EMERGENCY STOP.</b> Arm extended, palm down, move hand rapidly right and left.</p>	 <p><b>TRAVEL.</b> Arm extended forward, hand open and slightly raised, make pushing motion in direction of travel.</p>	 <p><b>DOG EVERYTHING.</b> Clasp hands in front of body.</p>	 <p><b>TRAVEL (Both Tracks).</b> Use both fists in front of body, making a circular motion about each other, indicating direction of travel; forward or backward. (For crawler cranes only.)</p>
 <p><b>TRAVEL (One Track).</b> Lock the track on side indicated by raised fist. Travel opposite track in direction indicated by circular motion of other fist, rotated vertically in front of body. (For crawler cranes only.)</p>	 <p><b>EXTEND BOOM (Telescoping Booms).</b> Both fists in front of body with thumbs pointing outward.</p>	 <p><b>RETRACT BOOM (Telescoping Booms).</b> Both fists in front of body with thumbs pointing toward each other.</p>	 <p><b>EXTEND BOOM (Telescoping Boom).</b> One Hand Signal. One fist in front of chest with thumb tapping chest.</p>	 <p><b>RETRACT BOOM (Telescoping Boom).</b> One Hand Signal. One fist in front of chest, thumb pointing outward and heel of fist tapping chest.</p>

STANDARD HAND SIGNALS FOR CONTROLLING OVERHEAD AND GANTRY CRANES



PROPOSED

~~((21) Signals by use of radio frequencies. Class "D" citizen's band radio frequencies shall not be used for signaling crane operators.))~~

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

AMENDATORY SECTION (Amending Order 80-31, filed 1/8/81)

**WAC 296-79-180 Privately owned standard gauge railroad operations.** (1) Blue flag or light for railroad operations.

• A blue signal (blue flag or blue light for nonilluminated areas) must be displayed at one or both ends of an engine, car(s), or train, to indicate that workers are under or about the railway equipment.

• When such warning devices are displayed, the equipment must not be coupled to or moved.

• On a dead end spur, a blue signal may be displayed adjacent to the switch opening while cars are being loaded or unloaded.

(2) Blue signals and derrails.

• Work being carried on which subjects employees to the hazard of moving railroad equipment must be protected by blue signals and locked derrails set a minimum of 50 feet from one or both ends of the worksite.

• Where the spur track switch is less than 50 feet from the work location, the switch padlocked in the open position will take the place of the derail and the blue signal must be placed at that point.

(3) Signals unobscured. Equipment which would obscure the blue signal must not be placed on the track.

(4) Signals displayed by each maintenance crew. Each maintenance crew must display and remove its own set of blue signals.

(5) Warning device.

• A flashing warning light or other device must be installed near any opening which leads to a passageway crossing railroad tracks adjacent to the building.

• Such light or device must be activated prior to any switching or movement of railroad equipment to warn workers of the dangerous condition in the area.

(6) Cars to be immobilized. Spotted cars must either have brakes set, wheels blocked, or must be coupled to other immobilized cars to prevent each car from rolling.

(7) Crawling under or between coupled cars prohibited. Workers must not crawl under or pass between coupled railroad cars to cross tracks.

(8) Warning at road crossing. An audible whistle, horn or bell must be sounded by the locomotive engineer to give adequate warning prior to switching across any road crossing.

(9) Flying switches. When switching railroad equipment in congested areas or across roadways or walkways "flying switches" must be prohibited.

(10) Car opening devices. All box car doors and associated mechanisms must be carefully inspected before workers attempt to open or close them. If the door is not free and cannot be opened safely by hand, equipment must be provided, where necessary, and a safe method must be used to open or close the door.

(11) Clearance from railroad tracks. Materials must not be stacked or piled closer than 8 1/2' from the center line of a standard gauge railroad track.

(12) Operating under limited visibility conditions.

~~((a))~~ Unless trains are operated in a manner to allow the operator to see a safe stopping distance in the direction of travel, a flagperson(s) must be positioned in such a manner to safely direct movement of the train.

~~((b))~~ Flagperson must:

• Remain within sight of the operator, or must

• Be equipped to maintain visual or voice communication with the operator as conditions dictate.

(13) A flagperson must direct the movement of trains being moved across main roads or thoroughfares which do not have adequate traffic warning lights, bells or barricades.



**AMENDATORY SECTION** (Amending Order 74-24, filed 5/6/74)

**WAC 296-79-190 Loading and unloading materials from railway cars or trucks.** (1) Safe access to top of railroad cars or trucks. Platforms with ladders or stairways ~~((shall))~~ **must** be installed or made available when needed so that workers may safely gain access to and perform work on the top of railroad cars or trucks when ladders are not installed on such equipment.

(2) Nets not to cover ladders. Rolled chip nets ~~((shall))~~ **must** not be positioned where they cover the ladders on railroad cars or trucks.

(3) Tipple type unloading device. When a tipple type unloading device is used for removing chips from cars, the cars ~~((shall))~~ **must** be properly secured in place and all employees ~~((shall))~~ **must** be in the clear before dumping operation is started.

(4) Handling pulp chips and hog fuel from trucks and trailers.

(a) Elevating platform-type or cable-lift type unloading devices ~~((shall))~~ **must** have adequate back bumper stops.

(b) Side rails or other positive means to prevent the trailer from falling ~~((shall))~~ **must** be used while unloading single trailer units.

(c) The truck or tractor ~~((shall))~~ **must** be secured when elevating platform lifts are used to elevate both the tractor and trailer or single unit trucks.

(d) All personnel ~~((shall))~~ **must** be clear of all hoisting or elevating mechanisms before dumping commences.

(e) No person ~~((shall remain))~~ **is allowed** in any truck while the truck is being elevated.

(5) Taking chip samples. A safe area and suitable device ~~((shall))~~ **must** be provided for the chip tester to use while taking chip samples.

(6) Deraill required ~~((while unloading))~~ **for** hazardous materials. To protect tank cars from being moved while loading or unloading hazardous materials by use of pipes or hoses, a deraill and blue flag ~~((shall))~~ **must** be set between the spotted tank cars and any moving railroad equipment.

(7) Moving cars by tugger or powered drums. When rail cars are moved by a tugger or powered drums with cables, a means should be provided or the area barricaded in such a manner that the moving cables do not endanger the workers.

(8) Handling pulpwood from flatcars and all other railroad cars.

(a) Railroad flatcars for the conveyance of pulpwood loaded parallel to the length of the car ~~((shall))~~ **must** be equipped with safety-stake pockets.

(b) Where pulpwood is loaded crosswise on a flatcar sufficient stakes of sizes not smaller than 4 by 4 inches ~~((shall))~~ **must** be used to prevent the load from shifting.

(c) Cutting stakes on log bundles. When it is necessary to cut stakes~~(:);~~:

- Those on the unloading side should be partially cut through first, and then the binder wires cut on the opposite side.

- Wire cutters equipped with long extension handles ~~((shall))~~ **must** be used.

- No person ~~((shall be))~~ **is** permitted along the dumping side of the car after the stakes have been cut.

(d) Cutting bands on log bundles. When cutting bands on bundled logs, workers ~~((shall))~~ **must**:

- Position themselves in a safe location~~(:);~~;

- Not use double bitted axes ~~((shall not be used))~~ for cutting bands~~(:);~~;

- Use caution ~~((shall be used))~~ to prevent being struck by ends of bands being cut and~~(:);~~;

- If needed, wear personal protective equipment ~~((shall be worn))~~.

(e) Flatcars and all other cars ~~((shall))~~ **must** be:

- Chocked during unloading~~((Where equipment is not provided with hand brakes,))~~ **and**,

- Rail clamping chocks ~~((shall))~~ **must** be used when equipment is not provided with hand brakes.

(9) Handling pulpwood from trucks.

(a) Cutting of stakes and binder wires ~~((shall))~~ **must** be done in accordance with (8)(c) of this section.

(b) Binders or stakes ~~((shall))~~ **must** not be loosened or removed;

- Until the logs are secured and held by equipment which will prevent them from rolling off the truck, or

- Barricades ~~((shall be provided which))~~ will prevent logs from striking the person removing the binders or stakes.

(c) Where binder chains and crane slings are used~~(:);~~:

- The crane slings ~~((shall))~~ **must** be attached and taut before the binder chains are released~~(:);~~ **and**,

- The hooker ~~((shall))~~ **must** see that the helper is clear before signaling for the movement of the load.

(d) ~~((Driver to leave truck cab while unloading.))~~ The truck driver ~~((shall))~~ **must**:

- Leave the truck cab and ~~((be))~~ **remain** in the clear, preferably in a designated area, and ~~((shall))~~

- Be in clear view of the unloading equipment operator while the unloader is approaching the loaded truck.

~~((e) Driver to remain outside cab during unloading. The truck driver shall remain outside the cab and clear of the load while logs are being unloaded except that))~~ • After a complete load is lifted as a unit and held stationary ~~((he)),~~ **the truck driver** may enter the cab and drive forward from under the suspended load.

**AMENDATORY SECTION** (Amending Order 74-24, filed 5/6/74)

**WAC 296-79-200 Bridge and dock plates.** Properly constructed bridge or dock plates ~~((shall))~~ **must** be furnished and used to bridge the area between a dock and truck or railroad car. The following requirements ~~((shall))~~ **must** be complied with for construction and use of such bridge or dock plates:

(1) Strength. The plate ~~((shall))~~ **must** be capable of supporting three times the maximum load to which it will be subjected.

(2) Stops ~~((required))~~. The plates ~~((shall))~~ **must** be provided with positive stops to prevent the plates from shifting or moving.

(3) Plates ~~((to bear solidly))~~.

PROPOSED

- The plates ((~~shall~~)) must bear solidly on the dock and on the floor of the car or truck.
- Plates with excessive teeter or rock ((~~shall~~)) must be repaired or replaced.

(4) Upturn or lip on plates. The sides of bridge or dock plates ((~~shall~~)) must have an upturn or lip of at least 4(~~"~~) inches covering the area between the edge of the loading dock and edge of car or truck floor whenever this distance exceeds 18(~~"~~) inches to prevent wheeled equipment from running off the sides.

(5) Bearing surface. Bridge or dock plates ((~~shall~~)) must have at least 6(~~"~~) inches bearing surface on the loading dock.

(6) Suitable fittings to be used. Bridge or dock plates intended to be moved by mechanized equipment ((~~shall~~)) must be designed for this purpose or appropriate fittings or attachments ((~~shall~~)) must be used.

AMENDATORY SECTION (Amending Order 74-24, filed 5/6/74)

WAC 296-79-210 ((~~Belt, chain and roller type~~)) For conveyors, maintenance and inspection. ((~~(1) Protection from falling material. Whenever conveyors pass adjacent to or over working areas or passageways used by personnel, protective guards shall be installed. These guards shall be designed to catch and hold any load or materials which may fall off or become dislodged and injure a worker.~~

((~~2) Walking on rolls prohibited. Employees shall not be allowed to walk on the rolls of roller type conveyors except for emergency.~~

((~~3) Guarding shaftway and material entrances of elevator type conveyors. Guards, screens or barricades of sufficient strength and size to prevent material from falling shall be installed on all sides of the shaftway of elevator type conveyors except at openings where material is loaded or unloaded. Automatic shaftway gates or suitable barriers shall be installed at each floor level where material is loaded or unloaded from the platform.~~

((~~4) Emergency conveyor stops. Conveyors shall be provided with an emergency stopping device which can be reached from the conveyor. Such device shall be located near the material entrance to each barker, chipper, saw, or similar type of equipment except where the conveyor leading into such equipment is under constant control of an operator who has full view of the material entrance and is located where he cannot possibly fall onto the conveyor.~~

((~~5) Safe access to conveyors. Where conveyors are in excess of 7' in height, means shall be provided to safely permit essential inspection and maintenance operations.~~

((~~6) Adjustment. All take-up devices provided for the purpose of adjusting for stretch in the belt, chain or cable should be checked at intervals for proper functioning and adjustment.~~

((~~7) Worn parts. Any part showing signs of significant wear shall be inspected carefully and replaced prior to reaching a condition where it may create a hazard.~~

((~~8) Replacement of parts. Replacement parts shall be equal to or exceed the manufacturer's specifications.~~) See chapter 296-24 WAC, Part D.

AMENDATORY SECTION (Amending Order 81-9, filed 6/17/81)

WAC 296-79-220 Deactivating and lockout requirements. (1) ((~~Tagout or other alternative security procedures shall be phased out by (one after effective date). In the one year interim, all requirements and procedures of this section shall apply except:~~

((a) Physical restraint devices other than padlocks may be used.

((b) Whenever devices other than identified padlocks are used, a warning information tag shall be required.

((c) Whenever the operating control cannot be physically blocked by the restraining device, a warning information tag shall be required.

((2)) Control requirement. Whenever the unexpected startup of machinery, the energizing of electrical circuits, the flow of material in piping systems or the removal of guards would endanger workers, such exposure ((~~shall~~)) must be prevented by deactivating and locking out the controls as required by ((~~this section~~)) chapter 296-24 WAC, Part A-4.

EXCEPTION: In instances where any machine must be in motion for proper adjustment, for removal or replacement of materials from the machine, for machine clothing changes or for roping up, the following precautions ((~~shall~~)) must be observed:

((~~(a))~~) • The machine ((~~shall~~)) must be operated at ((~~slow~~)) thread or jog speed;

((~~(b))~~) • Extension tools which minimize personnel exposure ((~~shall~~)) must be used where possible;

((~~(c))~~) • The operating controls ((~~shall~~)) must at all times be under the control of a qualified operator or craftsman;

((~~(d))~~) • All personnel ((~~shall~~)) must remain in view of the operator or other means of communication shall be established ((~~whenever possible~~));

((~~(e))~~) • All personnel must be beyond the reach of other machine section(s) or element(s) which offer potential exposure. In any instance where such potential exposure exists, such other section(s) or element(s) ((~~shall~~)) must be separately locked out.

((~~(3) Equipment requirements.~~

((a) The employer shall provide and each employee shall use as many padlocks, tags, chains, or devices as required to implement these requirements.

((b) Provisions shall be made whereby the source of power or exposure can be locked out in accordance with the requirements of this section.

((c) On electrically powered equipment, "stop/start" control switches shall not be used as lockout switches. Lockout switches must be circuit disconnects and must adequately separate the power source from the prime mover so that accidental startup of the equipment being locked out is precluded.

((4) Training requirements.

((a) Each person who will be given authority to implement these requirements shall first be thoroughly trained in the requirements and procedures.

((b) Before being given authority to deactivate and lockout a particular system or piece of equipment, authorized personnel shall be made fully aware of all power sources and/or material entry sources which may offer exposure.

(e) On complex systems or equipment which contain multiple lockout points not at the immediate work location, a complete checklist of all lockout points necessary for isolation is recommended to help eliminate the chance of human error.

(5) Control procedure.

(a) Each person who would be exposed to the hazard shall apply a personal padlock on the control mechanism. Padlocks shall be applied in such a manner as to physically block the control from being moved into the operating position. Each lock shall be personally identified or an information tag identifying the owner shall be attached to the lock.

(b) Padlocks used in lockout procedures may only be removed by the person identified on the lock, except, when it is positively determined that the owner/user of the lock has left the premises without removing a lock, the job supervisor may remove the lock in accordance with a specific procedure formulated by the local plant labor/management safety committee or approved by the department.

(6) Testing after lockout or tagout. After tagging or locking out equipment, a test shall be conducted to ascertain that the equipment has been made inoperative or the flow of material has been positively stopped. Precautions shall be taken to ascertain that persons will not be subjected to hazard while conducting test if power source or flow of material is not shut off.

(7) Alternate lockout procedure. Before an alternate procedure can be utilized, a specific written procedure shall be reviewed by the local plant labor/management safety committee and approved by the department of labor and industries.

(8)) (2) Group lockout or tagout devices. Procedures must meet the minimum requirements of chapter 296-24 WAC, Part A-4.

(3) Temporary or alternate power ((to be avoided)).

• Whenever possible, temporary or alternate sources of power to the equipment being worked on ((shall)) must be avoided.

• If the use of such power is necessary, all affected employees ((shall)) must be informed and the source of temporary or alternate power ((shall)) must be identified.

((9) Where tags are required to implement these lockout and control procedures, the tag and attachment device shall be constructed of such material that it will not be likely to deteriorate in the environment that it will be subjected to.

(10) Provisional exception. Electrical lighting and instrument circuits of 240 volts or less on single phase systems or 277 volts on three phase systems may be exempted from the lockout requirements of (5)(a) of this section provided that:

(a) An information tag meeting the requirements of subsection (9) of this section is used in lieu of a padlock;

(b) The information tag shall be placed on the switch or switch cover handle in such a manner as to easily identify the deactivated switchgear.

((11)) (4) Deactivating piping systems.

((a)) Hazardous material systems are defined as:

• Gaseous systems that are operated at more than 200 psig;

• Systems containing any liquid at more than 500 psig;

• Systems containing any material at more than 130°F;

• Any cryogenic system.

• Systems containing material which is chemically hazardous as defined by NFPA 704 ((M)) 1996 Class 3 and 4;

• Systems containing material classified as flammable or explosive as defined in NFPA Class I.

((b)) Lockout of piping systems ((shall)) must provide isolation to the worksite, including backflow where such potential exists and the system is classified as a hazardous material system. The required method ((shall)) must be applied based on the content of the system as specified below:

((i)) (a) Nonhazardous systems ((shall)) must be deactivated by locking out either the pump or a single valve.

((ii)) (b) Hazardous material systems ((shall)) must be deactivated by one of the following methods:

((A)) • Locking out both the pump and one valve between the pump and the worksite;

((B)) • Locking out two valves between the hazard source and the worksite;

((C)) • Installing and locking out a blank flange between the hazard source and worksite;

((D)) • Line breaking between the hazard and the work-

site:  
• On hazardous chemical systems where the methods ((A), (B) or (C)) already listed are not available, or ((where methods (A), (B) or (C))) by themselves create a hazard, single valve closure isolation may be used provided that potentially exposed employees are adequately protected by other means such as personal protective equipment.

((E)) • On all steam systems where the methods ((A), (B) or (C)) already listed are not available, single valve closure isolation may be used provided that the system is equipped with valves meeting all requirements of ANSI B16.5-1996 and ANSI B16.34-1996. Where single valve isolation is used, the steamline must also be equipped with a bleed valve downstream from the valve closure to prove isolation of the worksite.

((12)) (c) Reactivating separated hazardous material systems. When a blank flange (blind) is used to separate off portions of hazardous material systems from a portion which is in operation, removal of the blind offers potential exposure to employees. The removal procedure shall be protected by:

(a) Two separate valve closures between the blank flange and the potential exposure; or

(b) A single valve closure with a bleeder valve or weep drain between the blank flange and the valve closure. Employees shall closely check for evidence of escapement from the bleeder valve or weep plug before starting to remove the blank flange.

(c) Where subdivisions (a) or (b) are not possible or, in themselves create a hazard, potentially exposed employees must be adequately protected by personal protective equipment before removing the blank flange.

(d) Bleeder valves are recommended behind all primary valve closures on hazardous material systems. Consideration should be given to the nature of the material in the system when installing bleeder valves. To assist in preventing plug-

ging, bleeder valves should generally be installed in the top one-third of the pipe. Short exhaust pipes should be installed on bleeder valves to direct the flow of possible escape ment away from the position where an employee would normally be when using the bleeder valve)). The employer must develop and implement a procedure for removal of the blank flange that will ensure all hazards have been eliminated.

AMENDATORY SECTION (Amending Order 74-24, filed 5/6/74)

**WAC 296-79-230** (~~Vessel or~~) Confined (~~area requirements~~) spaces. (1) (~~Management's responsibility for planning. Management shall be responsible for developing a written procedure to be followed for safe entry of employees into confined areas, tanks, vessels, or sewers and for maintaining a safe condition while work is being performed therein. Such procedure shall include the following minimum requirements:~~

(a) ~~All vessels, sewers or confined areas must be properly ventilated at all times. Such areas shall be tested and/or evaluated by a person thoroughly trained and instructed in the use of instruments required, or qualified to make evaluations of conditions which may be encountered, before employees enter and at reasonable intervals as work progresses. Special consideration shall be given to the possibility that the area may be deficient of oxygen or may contain dangerous concentrations of gases or toxic substances.~~

(b) ~~Each vessel, tank or confined area shall be cleaned and/or purged as thoroughly as practical prior to entry.~~

(e)) Entry into confined spaces must be in accordance with chapter 296-62 WAC, Part M.

(2) All equipment necessary to perform the work, including safety equipment, must be at the (~~job site~~) confined space and (~~shall~~) must be inspected or tested to assure that it functions properly.

(~~d~~) ~~All electrical circuits, valves, ducts, pipes, and other equipment shall be locked out, tagged out, or blanked as required in accordance with the applicable rules contained in WAC 296-79-220 of this chapter.~~

(e) ~~Prior to and while welding or burning is being done in areas where a fire or explosion hazard may exist, the applicable rules contained in WAC 296-79-040 of this chapter, shall be complied with.~~

(f) ~~For evaluating conditions concerning health, fire or explosion hazards, requirements outlined in the general occupational health standards, chapter 296-62 WAC, shall be followed.~~

(2) Designated person in charge. Management shall designate an individual who shall be responsible for the safety of the employees and institute such means, methods, and practices as to render the work and place of work safe. The designated person shall ascertain that the required written procedures are followed.

(3) Employees to be thoroughly instructed in procedure. All employees involved in the entry of vessels or confined areas shall be thoroughly instructed in safe procedures to be followed.

(4) Protective equipment required. Any employee entering a vessel or enclosed area shall use any protective equip-

ment or clothing needed to afford him proper protection. Each person shall wear equipment capable of providing safe respirable air if the area may be deficient of oxygen or shall wear proper respiratory protective equipment if the atmosphere may contain a hazardous concentration of contaminants. In addition, while entering or working in an atmosphere immediately hazardous to health, employees shall wear a safety harness with lifeline attached and continue to wear such equipment so long as the hazard exists.

(5) ~~Attendant required. An attendant shall remain outside at the opening of the confined area to render assistance necessary to persons inside. The attendant shall be provided with life support equipment necessary for his protection if an emergency arises which would require him to enter the area.~~

(6) ~~Life support equipment required. Life support~~) (3) Protective equipment (~~which~~) that will afford proper protection to the employee from any condition which may arise (~~shall~~) based on the hazard assessment, must be available either at the entrance or within the (~~vessel or~~) confined (~~area or at the entrance thereto~~) space.

(~~7~~) ~~Mechanical device required when entry from the top. Where employees must enter a vessel or confined area from the top, and where it would be impossible to manually rescue or remove overcome persons in the area, a mechanical device shall be provided with which the attendant can lift employees out.~~

(8) ~~Electrical shock protection.~~) (4) Electrical circuits leading into (~~vessels or~~) confined (~~areas~~) spaces where electrical conductive hazards exist (~~shall~~) must be protected by a ground fault interrupter or the voltage (~~shall~~) must not exceed 24 volts.

(~~9~~) ~~Battery operated flashlights or lanterns.~~) (5) Battery operated flashlights or lantern (~~shall~~) must be readily available for use by persons working in areas where escape would be difficult if normal lighting system should fail. Only explosion-proof type lights (~~shall~~) may be taken into any atmosphere which may contain an explosive concentration.

(~~10~~) ~~Use of materials which may create hazardous atmosphere. Tests shall be conducted at reasonable intervals when using materials for cleaning, coating or other purposes which may cause the atmosphere to become hazardous.~~)

AMENDATORY SECTION (Amending Order 76-7, filed 3/1/76)

**WAC 296-79-240** Storage of fuel, oil, flammables and chemicals. (~~1~~) Handling and labeling of flammable and hazardous materials. Containers of toxic, flammable or irritating substances shall be properly labeled and stored as specified in "precautionary labeling of hazardous substances used in places of employment," as adopted by the department of labor and industries.

(2) ~~To be stored away from sources of ignition. Fuels, oils, flammable chemicals or other flammable materials shall be stored in a room or area away from sources of ignition.~~

(3) Provide for safe handling. Provisions shall be made for handling drums safely and means shall be afforded to position drums on their sides when material must be discharged from a valve or spigot placed in the top of the drum.

~~(4) Bonding (grounding) required. When dispensing material which may be ignited by static electricity, a method shall be provided to properly bond (ground) the drum and container into which material is being dispensed.~~

~~(5) Storage of drums. Drums shall be stored in a manner which will prevent them from falling or rolling.~~

~~(6) Bagged or drummed chemicals. Bagged or drummed chemicals shall be handled properly to prevent spillage or damage to the containers. Chemicals shall be stored in such a manner that they will not decompose, contaminate, or react with other chemicals which could present a hazard. The manufacturer's safe practices recommendations or those published by the Manufacturing Chemists Association should be followed.~~

~~(7) Storing liquid chlorine tanks. Sufficient and adequate ventilation shall be provided when liquid chlorine tanks are stored in a room. At least two exits, remote from each other, shall be provided for all rooms in which chlorine is stored.~~

~~(8) Hoops for acid storage tanks. Hoops of tanks shall be made of rods rather than flat strips and shall be safely maintained by scheduled inspections.~~

~~(9) Turpentine systems and storage tanks. Nonsparking tools and ground hose shall be used when pumping out the tank. The tank shall be surrounded by a berm or moat. Drainage or diking of tanks shall comply with the general safety and health standards, WAC 296-24-33005.) See chapter 296-24 WAC, Part E.~~

AMENDATORY SECTION (Amending Order 91-07, filed 11/22/91, effective 12/24/91)

**WAC 296-79-250 Safety procedure for handling dry sulfur.** (1) Sulfur burners. Sulfur-burner houses ~~((shall))~~ must:

- Be safely and adequately ventilated, and
- Every precaution ~~((shall be))~~ taken to guard against dust, explosion hazards and fires, in accordance with American National Standards ~~((Z9.2-1960 and Z12.12-1968))~~ Z9.2-1979 (R1991).

(2) Handling/storage of dry sulfur.

(a) Nonsparking tools and equipment ~~((shall))~~ must be used in handling dry sulfur.

(b) Sulfur storage bins ~~((shall))~~ must be kept free of sulfur dust accumulation, and buildings should be designed with explosion relief, in accordance with the latest revision of American National Standard ~~((Z9.2-1960))~~ Z9.2-1979 (R1991).

~~(c) ~~((Electrical equipment shall be of the explosion-proof type, according to the safety standard for installing electric wires and equipment, chapter 296-24 WAC Part L, general safety and health standards.~~~~

~~(d))~~ Sulfur-melting equipment ~~((shall))~~ must not be located in the burner room.

(3) Handling/storage of liquid sulfur.

(a) Each facility utilizing liquid sulfur must:

- Carefully examine its own handling system and
- Formulate a written procedure for maintenance, receiving, storing and using this product.

(b) A minimum of two trained employees must be assigned when a tank car is first opened in preparation for venting and unloading.

(c) Approved respiratory protective equipment for H2S exposure, chemical splash goggles and gloves must be worn when performing this work.

(d) Spark producing or electric operated tools must not be used to unplug railroad car vents.

(e) Where venting can cause harmful exposure to other unprotected workers in the area:

- A venting system must be installed which adequately contains any gas escapement from a tank car while venting.

- The vented gas must be carried to a safe location for discharge or circulated through a scrubbing system.

- The venting system must be connected before valves which would allow escapement are opened.

(f) Smoking, open burning or welding must be prohibited while unloading is in process or danger of gas escapement exists.

(4) Acid plant - Protection for employees.

(a) Where lime slaking takes place, employees must be provided with rubber boots, rubber gloves, protective aprons, and eye protection. A deluge shower and eyewash must be provided to flush the skin and eyes to counteract lime and acid burns.

(b) Hoops for acid storage tanks must be:

- Made of round rods rather than flat strips, and
- Regularly inspected and safety maintained.

(c) Sulphur burner ignitors must have a means to automatically shut off the fuel to the ignitor when the flame has been extinguished.

AMENDATORY SECTION (Amending Order 74-24, filed 5/6/74)

**WAC 296-79-260 Pulpwood storage and handling.**

(1) ~~((Proper))~~ Piling of logs.

- Logs ~~((shall))~~ must be piled or removed in an orderly manner.

- The piles ~~((shall))~~ must be stable and individual logs properly placed to prevent them from rolling or falling.

- The ends ~~((shall))~~ must not project into walkways, roadways or areas reserved for other purposes and

- Sufficient clearance ~~((shall))~~ must be maintained for safe travel of all vehicles and loads.

(2) ~~((Prohibited use of wire rope doglines.))~~ Wire rope doglines used for towing or rafting ~~((shall))~~ must not be used when:

- ~~((a))~~ • They acquire jiggers to the extent that they present a hazard to the employees handling them; or

- ~~((b))~~ • When they are weakened to the extent that they are hazardous.

(3) ~~((Boom stick to support weight.))~~ Boom sticks ~~((shall))~~ must be capable of safely supporting the weight imposed upon them.

(4) ~~((Stiff boom construction.))~~ Stiff booms ~~((shall))~~ must be:

- Made by fastening not less than two boom sticks together. ~~((The width of the stiff boom shall be))~~

• Not less than 36(~~(")~~) inches in width measured from outside to outside of the outer logs. ~~((The boom sticks shall be))~~

• Fastened together with not less than 4(~~(")~~) inch by 6(~~(")~~) inch cross ties or cable lashing properly recessed into notches in the boom sticks and secured.

(5) ~~((Pike poles.))~~ Pike poles ~~((shall))~~ must be kept in good repair. Conductive pike poles ~~((shall))~~ must not be used when it is possible that they may come in contact with electrical conductors.

(6) ~~((Logs not to be lifted over employees.))~~ Logs ~~((shall))~~ must not be lifted over employees and employees ~~((shall))~~ must stay clear of the hazardous area near where logs are being lifted or swung.

(7) ~~((Log storing or sorting in water.))~~ Storing or sorting on water or any boom work other than boom boat operations, ~~((shall))~~ must require a minimum of two persons.

(8) ~~((Overhead protection on mobile equipment.))~~ All mobile equipment used to handle logs, blocks or cants ~~((shall))~~ must be provided with adequate overhead protection.

(9) ~~((Arrangement of unloading lines.))~~ Unloading lines ~~((shall))~~ must be so arranged that it is not necessary for the worker to attach them on the pond or dump side of the load.

(10) ~~((Unauthorized traffic prohibited.))~~ Unauthorized vehicles and unauthorized foot traffic ~~((shall))~~ must not be allowed in any active sorting, storing, loading, or unloading areas.

(11) ~~((Safe movement of equipment.))~~ Log unloaders ~~((shall))~~ must not be moved about the premises with loads raised higher than absolutely necessary.

(12) ~~((High visibility jackets or vests required.))~~ Jackets or vests of fluorescent or other high visibility material ~~((shall))~~ must be worn by persons working on dry land log storage.

(13) ~~((Dumps to be cleaned.))~~ All log dumps ~~((shall))~~ must be periodically cleared of bark and other debris.

(14) ~~((Hand tools.))~~ Handles of wood hooks ~~((shall))~~ must be locked to the shank to prevent them from rotating.

#### AMENDATORY SECTION (Amending Order 74-24, filed 5/6/74)

**WAC 296-79-270 Pulpwood preparation**~~((—Scope and application)).~~ ~~((All sections of this chapter which include WAC 296-79-270 in the section number apply to pulpwood preparation.))~~ (1) Barker feeding devices must be designed in such a manner that the operator will not be required to hold or make any physical contact with any log or bolt during the barking operations.

(2) A dog or locking device in addition to the motor switch, clutch, belt shifter or other power disconnecting device must be installed on all intermittent barking drums to prevent the drum from moving while it is being filled or emptied.

#### (3) Hydraulic barkers.

(a) The inlet and outlet areas of hydraulic barkers must be equipped with baffles or devices that will reasonably prevent material from flying out while the machine is in operation.

(b) The operator must be protected by at least five-ply laminated glass or material of equivalent strength.

(4) The high pressure hoses of hydraulic barkers must be secured in such a manner that the hose connection ends will be restrained if a hose connection fails.

(5) The feed operator's station must not be in direct line with the chipper blades. Suitable safeguards must be installed to prevent chips or chunks from being thrown out and striking the person feeding the machine.

(6) When the operator cannot readily observe the material being fed into the chipper, a mirror or other device must be installed in such a position that the ingoing material can be monitored.

(7) Metal bars or other nonchippable devices must not be used to clear jams or plug-up at the feed entrance to a chipper or hog while the machine is running.

#### (8) Water wheel speed governor.

• Water wheels, when directly connected to marker disks or grinders, must be provided with speed governors, if operated with gate wide open.

• Water wheels directly connected to pulp grinders must be provided with speed governors limiting the peripheral speed of the grinder to that recommended by the manufacturer.

#### (9) Knot cleaners of the woodpecker type.

• The operators of knot cleaners of the woodpecker type must wear eye protection equipment.

• Such knot cleaners should be enclosed to protect passersby from flying chips.

#### AMENDATORY SECTION (Amending Order 74-24, filed 5/6/74)

#### **WAC 296-79-27003 Log hauls, slips, and carriages.**

(1) Controls ~~((shall))~~ must be:

• Arranged to operate from a position where the operator will at all times be in the clear of logs, machinery, lines, and rigging. ~~((Controls shall be))~~

• Marked to indicate their function.

(2) ~~((A guard shall be provided to prevent logs from rolling off the log deck into the well.))~~ Log decks must be provided with effective means to prevent logs from accidentally rolling down the deck and onto the carriage or its runway.

(3) When needed for protection of personnel, an automatic stop or interlocking device ~~((shall))~~ must be installed on log hauls or slips. These devices are not a substitute for lockout.

(4) A barricade or other positive stop of adequate strength ~~((shall))~~ must be provided to protect the sawyer from rolling logs.

(5) Canting gear or other equipment ~~((shall))~~ must not ~~((be allowed to))~~ hang over the log deck in such a manner as to endanger employees.

~~((Canting gear controls shall be marked to indicate their function.))~~

~~((7))~~ The sawyer ~~((shall))~~ must be primarily responsible for the safety of the carriage crew and offbearers~~((—He shall))~~ and must exercise due care in the operation of the carriage and log turning devices.

~~((8))~~ (7) Feed works and log turning control levers ~~((shall))~~ must be so arranged that they may be secured when not in use and ~~((shall))~~ must be adequately guarded against accidental activation.

~~((9))~~ (8) A control device ~~((shall))~~ must be provided so that the sawyer may stop the head rig section of the mill without leaving his stand.

~~((10))~~ (9) An effective method of disengaging the head rig saws from the power unit ~~((shall))~~ must be installed on all head rigs where the power unit is not directly controlled by the sawyer. ~~((The saws shall be disengaged from the source of power and locked or tagged out before repairs or changes are made.~~

~~((11))~~ (10) The sawyer ~~((shall))~~ must be safeguarded either by his location or by use of substantial screens or approved safety glass.

~~((12))~~ (11) Carriages upon which persons are required to work ~~((shall))~~ must be solidly decked over and the employee properly protected.

~~((13))~~ (12) The feed control lever of friction or belt-driven carriage feed works ~~((shall))~~ must be designed to operate away from the saws or carriage track.

~~((14))~~ (13) A substantial stop or bumper ~~((shall))~~ must be installed at each end of the carriage run.

~~((15))~~ (14) Substantial sweeps ~~((shall))~~ must be installed in front of each carriage wheel. Such sweeps ~~((shall))~~ must extend to within 1/4 inch of the rails.

~~((16))~~ (15) Where power-operated log turners are used, carriage knees ~~((shall))~~ must be provided with goosenecks or other substantial means of protecting the carriage crew.

AMENDATORY SECTION (Amending Order 74-24, filed 5/6/74)

**WAC 296-79-27005 Band saws.** (1) Band saws ~~((shall))~~ must be given a thorough daily inspection and any deficiency reported and corrected.

(2) Any band saw found to have developed a crack greater than one-tenth the width of the saw ~~((shall))~~ must be removed from service until the width of the saw is reduced to eliminate the crack, the cracked section is removed, or the development of the crack is arrested by welding.

(3) Band saws ~~((shall))~~ must not be continued in use on the head rig for which they have been designed after they have been reduced 40% in width.

(4) Band saw guides ~~((shall))~~ must be maintained in good condition and proper alignment at all times.

(5) All head band saw wheels ~~((shall))~~ must have a minimum rim thickness of 5/8(<sup>32</sup>) inches, except for a distance not to exceed one inch from the front edge of the wheel.

(6) Band saws ~~((shall))~~ must not be run at a speed in excess of the manufacturer's recommendations.

(7) A band wheel that has developed a crack in the rim ~~((shall))~~ must be immediately removed from service. If a crack has developed in a spoke, the wheel ~~((shall))~~ must be removed from service until properly repaired.

(8) All band wheel guards ~~((shall))~~ must be constructed of not lighter than ten U.S. Gauge metal, or not less than two-inch wood material or equivalent, attached to substantial frames. Necessary ventilating ports, not larger than two by

four inches, and suitable doors or gates for the lubrication and repair of the saw will be permitted.

(9) Every band mill ~~((shall))~~ must be equipped with a saw catcher, rest or guard of substantial construction.

(10) Each gang ripper of band or straight saw type ~~((shall))~~ must have the cutting edges of the saw guarded by a hood or screen substantially secured to the framework of the machine.

AMENDATORY SECTION (Amending Order 74-24, filed 5/6/74)

**WAC 296-79-27007 Circular saws speeds and repairs.** (1) Circular saws ~~((shall))~~ must not be operated at speeds in excess of those specified by the manufacturers.

(2) Circular saws ~~((shall))~~ must be inspected for cracks each time the teeth are filed or set. They ~~((shall))~~ must be discontinued from use until properly repaired when found to have developed a crack exceeding the safe limits specified by the manufacturer.

(3) Damaged saws ~~((shall))~~ must be repaired only by persons experienced and knowledgeable in this type of work or by a manufacturers representative.

AMENDATORY SECTION (Amending Order 74-24, filed 5/6/74)

**WAC 296-79-27009 Slasher saws-tables.** (1) Slasher saws ~~((shall))~~ must be guarded in accordance with WAC 296-79-030~~((4))~~ (3) of this chapter.

(2) Saws ~~((shall))~~ must be stopped and locked or tagged out whenever it is necessary for any person to be on the slasher table.

(3) Saws below table where not protected by the frame of the machine, the underside of the slasher saws ~~((shall))~~ must be adequately guarded.

AMENDATORY SECTION (Amending Order 74-24, filed 5/6/74)

**WAC 296-79-27011 Circular swing saws.** (1) Each circular swing saw ~~((shall))~~ must be provided with a hood guard that completely encloses the upper half of the saw.

(2) Each swing saw ~~((shall))~~ must be equipped with a positive stop at the extent of the swing necessary to cut the material.

AMENDATORY SECTION (Amending Order 74-24, filed 5/6/74)

**WAC 296-79-27013 Drag saws—Fixed chain saws—Circular cut-off saws.** (1) Saws ~~((shall))~~ must be so arranged that they will not project into any passageway when in an idle or working position. When existing conditions do not leave clear passage the saws ~~((shall))~~ must be fenced off in order to make it impossible for anyone to walk into them.

(2) Log decks ~~((shall))~~ must be equipped with a device to hold the material stable when being cut.

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(3) Drag saws and fixed chain saws ~~((shall))~~ must be equipped with a device that will safely lock them in an "up" position.

(4) All persons ~~((shall))~~ must be in the clear before starting operations ~~((of a drag chain or swing saw))~~.

AMENDATORY SECTION (Amending Order 74-24, filed 5/6/74)

**WAC 296-79-27015 Construction and use of pulpwood splitters.** (1) The activating control unit for a splitter ~~((shall))~~ must be of the clutch or positive acting type and ~~((shall))~~ must be so arranged and designed that it will not repeat without additional activation before starting a second cycle.

(2) The base or rest upon which the wood seats while being split ~~((shall))~~ must have a corrugated surface or other means shall be provided which will prevent the wood block or log from shifting as the pressure is applied.

(3) The splitter base or rest and wood to be split ~~((shall))~~ must be free of ice, snow, and chips.

(4) The splitter machine operator ~~((shall))~~ must have a clear, unobstructed view of the work area adjacent to the splitting operation when other workers must be in such area while blocks are being split.

AMENDATORY SECTION (Amending Order 74-24, filed 5/6/74)

**WAC 296-79-280 Chip and hog fuel storage.** (1) Entry into bins and silos.

~~((a))~~ ~~((No worker shall be permitted to enter a bin unless provided with a safety belt, with line attached, and an attendant stationed at the bin to summon assistance.~~

~~((b))~~ ~~((Before))~~ Entry into chip bins and silos, ((all applicable rules under vessel)) must be in compliance with the requirements of confined space entry, WAC 296-79-230, of this chapter, ((shall be complied with)).

~~((c))~~ ~~((b))~~ Chip and sawdust bins. Steam or compressed air lances, or other ~~((facilities, shall))~~ safe methods, must be used for breaking ((down the arches caused by jamming in chip lifts)) bridges and hangups.

~~((d))~~ ~~((c))~~ Employees ~~((shall))~~ must be prohibited from working under or on top overhangs or bridges. Extreme care ~~((shall))~~ must be taken to prevent chips or hog fuel from creating an overhang or bridging.

~~((e))~~ ~~((d))~~ Hog fuel bins ~~((shall))~~ must be provided with an approved railed platform or walkways near the top or other approved means ~~((shall))~~ must be provided for use of employees engaged in dislodging hog fuel.

(2) Exterior chip and hog fuel storage.

~~((a))~~ When mobile equipment is used on top of hog fuel or chip piles, a roll-over protection system ~~((shall))~~ must be installed on the equipment.

~~((b))~~ If the cab is of the enclosed type, windshield wipers ~~((shall))~~ must be installed.

~~((c))~~ If used during hours of darkness the area ~~((shall))~~ must be adequately illuminated or the equipment ~~((shall))~~ must have adequate lights to provide the operator sufficient illumination to safely perform the work.

AMENDATORY SECTION (Amending Order 74-24, filed 5/6/74)

**WAC 296-79-290 Stock preparation and reprocessing**~~((—Scope and application))~~. ~~((All sections of this chapter which include WAC 296-79-290 in the section number apply to stock preparation and reprocessing.))~~

AMENDATORY SECTION (Amending Order 74-24, filed 5/6/74)

**WAC 296-79-29001 Digester valves and piping.** (1) The blow valve of a digester ~~((shall))~~ must be arranged so as to be operated from another room, remote from safety valves.

~~((1))~~ ~~((Digester piping shall meet the criteria of the boiler and pressure vessel standards.))~~

(2) Heavy duty pipe, valves, and fittings ~~((shall))~~ must be used between the digester and blow pit blow tanks and dump tanks. These valves, fittings, and pipes ~~((shall))~~ must be inspected at least semiannually to determine the degree of deterioration and should be replaced when necessary.

(3) Digester blow valves or controls ~~((shall))~~ must be pinned or locked in closed position throughout the entire cooking period.

AMENDATORY SECTION (Amending Order 77-12, filed 7/11/77)

**WAC 296-79-29003 Warning of digester being blown.** (1) Procedures must be developed to ensure that digester operators are aware of personnel entering hazardous areas.

• Audible warning signals and red warning lights ~~((shall))~~ must be installed in areas which may be hazardous to personnel while digesters are being blown.

• Such devices ~~((shall))~~ must be activated prior to blowing a digester and the warning lights ~~((shall))~~ must remain lighted as long as the hazard exists.

~~((1))~~ (2) Blowing digester. Blow-off valves ~~((shall))~~ must be opened slowly.

~~((2))~~ (3) After the digester has started to be blown, the blow-off valve ~~((shall))~~ must be left open, and the hand plate ~~((shall))~~ must not be removed until the person responsible signals the blow-pit person that the blow is completed. Whenever it becomes necessary to remove the hand plate to clear stock, operators ~~((shall))~~ must wear eye protection equipment and protective clothing to guard against burns from hot stock.

~~((3))~~ ~~((In addition to the vessel entry procedure of WAC 296-79-230, of this chapter, the blow pit door or hatch shall be locked open whenever a person is in the blow-pit.))~~

(4) Blow-pit hoops ~~((shall))~~ must be maintained in a safe condition.

(5) Where the processes of the sulfate and soda operations are similar to those of the sulfite processes, the standard of WAC 296-79-29001 and 296-79-29003, of this chapter, ~~((shall apply))~~ applies to both processes.

(6) ~~((At least one unobstructed exit at each end of the room shall be provided on each floor of a digester building.))~~



~~(7))~~ Means ~~((shall))~~ must be provided ~~((whereby))~~ so the digester cook ~~((shall))~~ can signal the ~~((man))~~ employee in the chip bin before starting to load the digester.

AMENDATORY SECTION (Amending Order 74-24, filed 5/6/74)

**WAC 296-79-29005 Unplugging quick lime stop-pages.** Water ~~((shall))~~ must not be used to unplug quick lime stops or plugs in pipes or confined spaces.

AMENDATORY SECTION (Amending Order 74-24, filed 5/6/74)

**WAC 296-79-29007 Bleach plant.** (1) Work areas used for preparation and processing of bleaching mixtures ~~((shall))~~ must be equipped with properly designed exhaust ventilation systems capable of clearing the area of toxic gases. See chapter 296-62 WAC, Part H and Part L.

(2) Bleaching containers, such as cells, towers, etc., except the Bellmer type, ~~((shall))~~ must be completely covered on the top, with the exception of one small opening large enough to allow filling but too small to admit a person. ~~((This opening should be covered by a door and guarded with standard guardrail and toeboards. Platforms leading from one engine to another shall have standard guardrails in accordance with the general safety and health standards, WAC 296-24-75007.))~~

AMENDATORY SECTION (Amending Order 74-24, filed 5/6/74)

**WAC 296-79-29009 Audible alarm in bleach plant.** An audible alarm system ~~((shall))~~ must be installed and it ~~((shall))~~ must be activated whenever a serious leak or break develops in the bleach plant area which creates a health or fire hazard.

AMENDATORY SECTION (Amending Order 74-24, filed 5/6/74)

**WAC 296-79-29011 Pocket grinder doors.** Doors of pocket grinders ~~((shall))~~ must be so designed and arranged as to keep them from closing accidentally.

AMENDATORY SECTION (Amending Order 74-24, filed 5/6/74)

**WAC 296-79-29013 Pulping device procedures.** Each company ~~((shall))~~ must develop a safe procedure which shall be followed for feeding, clearing jams, or removing foreign objects from any pulping device. These procedures ~~((shall))~~ must comply with applicable provisions of this standard.

AMENDATORY SECTION (Amending Order 74-24, filed 5/6/74)

**WAC 296-79-29015 Off machine repulping devices.** (1) When fed manually from the floor above, conveniently located emergency stop devices ~~((shall))~~ must be provided at the top level.

(2) When fed from floor above~~((:))~~:

- The chute opening, if less than standard guardrail height from the feed platform or floor, ~~((shall))~~ must be provided with a complete guardrail or other enclosure to standard guardrail height.

- Openings for manual feeding ~~((shall))~~ must be sufficient only for entry of stock and ~~((shall))~~ must be provided with at least two permanently secured crossrails, in accordance with, the general safety and health standards, WAC 296-24-75003.

AMENDATORY SECTION (Amending Order 74-24, filed 5/6/74)

**WAC 296-79-29017 Pulping device cleaning, inspection and repairing.** When cleaning, inspecting or performing other work that requires that persons enter pulping devices, all control devices ~~((shall))~~ must be locked or tagged out in accordance with the requirements of this standard.

AMENDATORY SECTION (Amending Order 74-24, filed 5/6/74)

**WAC 296-79-29021 Shredders and blowers.** (1) On manually fed broke ~~((shredders [shredders]))~~ shredders, the feed table ~~((shall))~~ must be of ~~((such))~~ a height and distance from the knives as to prevent the operator from reaching or falling into the knives or the operator ~~((shall))~~ must be safeguarded by other acceptable means.

~~((1))~~ (2) A smooth-pivoted idler roll resting on the stock or feed table ~~((shall))~~ must be provided in front of feed rolls except when arrangements prevent the operator from standing closer than 36 inches to any part of the feed rolls.

~~((2))~~ (3) Any manually fed cutter, shredder, or duster ~~((shall))~~ must be provided with an idler roll as specified in ~~((1))~~ (2) of this section or the operator shall use special hand-feeding tools.

~~((3))~~ Hoods of cutters, shredders, and dusters shall have exhaust ventilation, in accordance with American National Standard Z9.2-1960 and chapter 296-62 WAC, general occupational health standards:)

(4) Blowers used for transporting ~~((rags shall))~~ materials must be provided with feed hoppers having outer edges located not less than 48 inches from the fan.

(5) The ~~((arrangement of the))~~ blower discharge outlets and work areas ~~((shall))~~ must be ~~((such as))~~ arranged to prevent material from falling on workers.

AMENDATORY SECTION (Amending Order 74-24, filed 5/6/74)

**WAC 296-79-29023 Clearing shredder jams.** To clear jams or blockage to the machine, the operator ~~((shall))~~ must use objects which will not create a hazard. The use of metal bars for such purposes is prohibited.

AMENDATORY SECTION (Amending Order 76-7, filed 3/1/76)

**WAC 296-79-29027 Guillotine type roll splitters.** (1) The engaging control for activating the guillotine blade ~~((shall))~~ must be a "deadman type" switch that demands continuous operator activation and must be:

- A positive two-hand operating control, or
- Located far enough from the cutting location so that the operator cannot reach the blade during the cutting process ~~((In either control method, "deadman type" switch gear which demands continuous operator activation shall be installed and used))~~.

(2) Personnel ~~((shall))~~ must not position any part of the body under the blade.

(3) Rolls ~~((shall))~~ must be in the horizontal position while being split.

(4) Rolls ~~((shall))~~ must be centered directly below the blade.

AMENDATORY SECTION (Amending Order 80-31, filed 1/8/81)

**WAC 296-79-29029 Broke hole.** (1) An alarm bell or flashing light ~~((shall))~~ must be actuated or other suitable warning ~~((shall))~~ must be given before dropping material through a broke hole when persons working below may be endangered.

(2) Broke holes ~~((shall))~~ must be guarded to the fullest extent possible consistent with operational necessities. The degree of guarding provided by standard height and strength guardrails will be considered as a minimum acceptable level of protection.

(3) When repulping devices or feed conveyor systems for repulping devices are located beneath broke holes, special precautions ~~((shall))~~ must be used.

- The broke hole opening ~~((shall))~~ must be reduced to the smallest practical dimension.

- If ~~((such))~~ the broke hole opening ~~((must be))~~ is large enough to permit a worker to fall through and ~~((the opening))~~ is not guarded at least to the equivalent degree of protection provided by standard guardrails, any employee pushing broke down the broke hole ~~((shall))~~ must wear a safety belt harness attached to a ~~((safety belt line))~~ lanyard.

- The ~~((safety belt line shall))~~ lanyard must be fastened in such a manner that it is impossible for the person to fall into the repulping device.

(4) Guarding to the equivalent degree of protection provided by standard guardrails and meeting the requirements of subsections (2) and (3), may be achieved by the use of guard bars separated no more than 15-1/2 inches in a vertical plane and 12 inches in a horizontal plane, or any other location within that segment.

AMENDATORY SECTION (Amending Order 74-24, filed 5/6/74)

**WAC 296-79-29031 Industrial kiln guns and ammunition.** ~~((Management shall develop))~~ The employer must ensure that there are written instructions, including safety

procedures, for storing and operating industrial kiln guns and ammunition. All personnel working with this equipment ~~((shall))~~ must be instructed in these procedures and ~~((shall))~~ must follow them.

AMENDATORY SECTION (Amending Order 74-24, filed 5/6/74)

**WAC 296-79-29033 Chlorine dioxide system.** See chapter 296-62 WAC, Part P and chapter 296-67 WAC, process safety management. (1) Sodium chlorate.

(a) Personnel handling and working with sodium chlorate shall be thoroughly instructed in precautions to be used in handling and special work habits. ~~((Refer to Manufacturing Chemists Association Chemical Data Sheet No. SD 42 (Sodium Chlorate):~~

~~((b) Personnel exposed to direct contact with sodium chlorate shall wear neoprene or other special protective clothing and special footwear.~~

~~((e))~~ (b) Facilities for storage and handling of sodium chlorate shall be constructed so as to eliminate possible contact of dry or evaporated sodium chlorate with wood or other material which could cause a fire or explosion. ~~((Refer to Manufacturing Chemists Association Chemical Data Sheet No. SD 42 (Sodium Chlorate):~~

~~((d))~~ (c) Sodium chlorate facilities should be constructed with a minimum of packing glands, stuffing boxes, etc. ~~((Refer to Manufacturing Chemists Association Chemical Data Sheet No. SD 42 (Sodium Chlorate):~~

(2) Chlorine dioxide.

~~((a))~~ Chlorine dioxide generating and storage facilities shall be placed in areas which are adequately ventilated and are easily kept clean of wood, paper, pulp, etc., to avoid contamination which might cause a reaction. This can be accomplished by placing these facilities in a separate room or in a designated outside space.

~~((b) Only authorized personnel shall be allowed in close proximity to the chlorine dioxide generating equipment. The generating area shall have signs warning of the hazard and restricting entrance to authorized personnel only.~~

~~((c) When reasonably possible, the sample station should be located on the outside of the generating room. Goggles must be worn when taking samples.~~

~~((d) Two alternate direction exits shall be provided from the generator working areas.)~~

(3) General.

~~((a) (Safety showers and/or jump tanks and eye wash facilities shall be provided for persons working around sodium chlorate and the other hazardous chemicals involved in this process.~~

~~((b) Water hoses for flushing spills shall be adequate in size and located where needed.~~

~~((c) All equipment involved in this process where pressure may be generated shall be provided with adequate pressure relief.~~

~~((d) Welding or burning shall not be performed on the generator system while it is operating. Immediately before maintenance can be performed on the inside of any of this equipment, it shall be thoroughly flushed with water and purged of hazardous gases.~~

(e) Respiratory protective equipment approved for use in chlorine and chlorine dioxide exposures shall be provided at appropriate locations.

(f) Facilities handling sodium chlorate and chlorine dioxide shall be declared "no smoking" areas and shall have signs posted accordingly.

~~((g))~~ (b) Management shall be responsible for developing written instructions including safety procedures for operating and maintaining the generator and associated equipment. All personnel working on this equipment shall be thoroughly trained in these procedures and shall follow them. A periodic review of these procedures is recommended.

AMENDATORY SECTION (Amending Order 76-7, filed 3/1/76)

**WAC 296-79-29035 Piling and unpling pulp.** (1) Piles of wet lap pulp (unless palletized) ~~((shall))~~ must be stepped back one-half the width of the sheet for each 8 feet of pile height. Sheets of pulp ~~((shall))~~ must be interlapped to make the pile secure. Pulp ~~((shall))~~ must not be piled over pipelines to jeopardize pipes, or so as to cause overloading of floors, or to within 18 inches below sprinkler heads.

(2) Piles of pulp ~~((shall))~~ must not be undermined when being unplied.

(3) Floor capacities ~~((shall))~~ must be clearly marked on all floors.

(4) When sprinklers are used for fire protection in the storage area, baled paper and rags ~~((shall))~~ must be stored in stable piles which do not extend into the area necessary for the proper function of sprinkler systems ~~((where sprinklers are used for fire protection in the storage area)).~~

AMENDATORY SECTION (Amending Order 74-24, filed 5/6/74)

**WAC 296-79-29037 Chocking rolls.** ~~((1) Where pulp or paper rolls are of uniform size, cribbing should be constructed to keep rolls from moving.~~

~~(2) Where rolls are stacked and not nested two or more high, chocks shall be installed between each roll on the floor and at every row. The face of each chock should be formed on a radius to conform to the average roll size in use, and the chock shall prevent roll movement.~~

~~(3) When rolls are decked two or more high, the bottom rolls shall be chocked on each side to prevent shifting in either direction.~~

~~(4) A supply of portable roll chocks should be available to be used where there are gaps in the bottom row of rolls. These should be as light as possible while still providing maximum blocking effect.)~~ Rolls must be secured by chocks or other means to prevent movement when stored horizontally.

AMENDATORY SECTION (Amending Order 91-07, filed 11/22/91, effective 12/24/91)

**WAC 296-79-300 Machine room equipment and procedures.** (1) ~~((Lock-out and tag-out procedures to be fol-~~

lowed. Lock-out and tag-out requirements and procedures contained in these standards shall be complied with.

~~(2) Emergency stopping controls.)~~ Pulp and paper machines ~~((shall))~~ must be equipped with emergency stopping control(s) which can be actuated quickly from all normal operating stations. If useful for the safety of personnel, the stopping control(s) ~~((shall))~~ must be interlocked with adequate retarding or braking action to stop the machine as quickly as is practical. The devices must consist of push buttons for electric motive power (or electrically operated engine stops), pull cords connected directly to the prime mover, control clutches, or other devices.

~~((3) Walkways.)~~ (2) Steps and footwalks along the fourdrinier and press section ~~((shall))~~ must have nonslip surfacing and be complete with standard handrails, when practical.

~~((4) Machine lubrication.)~~ (3) If a machine must be lubricated while in operation an automatic lubricating device ~~((shall))~~ must be provided or oil cups and grease fittings ~~((shall))~~ must be provided which can be serviced safely without exposing the worker to any hazards.

~~((5) Weights on levers.)~~ (4) All levers carrying weights ~~((shall))~~ must be so constructed that weights will not slip or fall off.

~~((6))~~ (5) Guarding inrunning nip points.

(a) The drums on pulp and paper machine winders ~~((shall))~~.

• These drums must be provided with suitable guards to prevent a person from being caught between the roll and the front drum on the winder when the pinch point is on the operator's side. ~~((Any))~~

• Such guards ~~((shall))~~ must be interlocked with the drive mechanism to prevent the winder from running while the guard is not in place. Except that the winder may be wired to allow it to run at ~~((a slow))~~ thread or jog speed only for adjustment and start-up purposes while the guard is not in position.

• A zero speed switch or locking device ~~((shall))~~ must be installed to prevent the guard from being removed while the roll is turning above thread or jog speed.

~~((Paper machine winders when used to produce rolls of 15 inches or less in diameter may be exempted from this subsection but must comply with the provisions of (6)(b).))~~

(b) Rewinders.

~~((i))~~ When rewinding large rolls and the nip point is adjacent to the normal work area ~~((;))~~.

• The nip point ~~((shall))~~ must be protected by a barrier guard ~~((;))~~ and

• Such guard ~~((shall))~~ must be interlocked with the drive mechanism to prevent operating the machine above thread or jog speed without the guard in place ~~((;))~~ and

• A zero speed switch ~~((shall))~~ must be installed to prevent the guard from being raised while the roll is turning.

~~((ii) On small rolls 15 inches or less in diameter where barrier guards are impractical they shall not be required if the nip point is separated from the employees by at least 18" while operating at more than jog speed. When the rewinder is running at more than jog speed no worker shall place any part of their body closer than 18" from the nip.)~~

(c) Inrunning nips where paper is not being fed into a calender ~~((should be protected by barriers))~~ must be guarded.

~~((7) Audible alarm in dryer section:))~~ (6) An audible alarm ~~((shall))~~ must be sounded prior to starting up any section of a pulp or paper machine. Sufficient time ~~((shall))~~ must be allowed between activation of the alarm system and start-up of the equipment to allow any persons to clear the hazardous area.

~~((8) Starting up dryer section. In))~~ (7) When starting up a dryer section, steam to heat the drums ~~((shall))~~ must be introduced slowly and while the drums are revolving.

~~((9) Starting paper into nip:))~~ (8) A safe method must be used when starting paper into the nip of drum type reels or calender stacks ~~((a safe method shall be used))~~. This may be accomplished by the use of feeder belts, carrier ropes, air carriage or other device or instrument.

• A rope carrying system should be used wherever possible at points of transfer~~((:)), or~~

• Sheaves should be spaced so that they do not create a nip point with each other and the sheave and its support should be capable of withstanding the speed and breaking strength of the rope for which they are intended.

~~((10) Feeding stack with hand held device:))~~ (9) Employees ~~((shall))~~ must not feed a stack with any hand held device which is capable of going through the nip.

~~((11) Broken carrier rope:))~~ (10) Employees ~~((shall))~~ must not attempt to remove a broken carrier rope from a dryer while the section is running at operating speed.

~~((12) Removing a wrap:))~~ (11) Employees ~~((shall))~~ must stop dryer to remove a wrap except in cases where it can be safely removed by using air or other safe means.

~~((13) Deposits on rolls:))~~ (12) To remove deposits from rolls, a specially designed scraper or tool shall be used. Scraping of rolls ~~((shall))~~ must be performed on the outgoing nip side.

~~((14) Cleaning))~~ (13) Doctor blades.

(a) Cleaning. Employees ~~((shall))~~ must not place their hands between the sharp edge of an unloaded doctor blade and the roll while cleaning the doctor blade.

~~((15) Sharp edges of doctor blades to be covered:))~~ (b) Doctor blades ~~((shall))~~ must have the sharp edges properly guarded during transportation and storage.

~~((16) Handling doctor blades:))~~ (c) Special protective gloves ~~((shall))~~ must be provided and ~~((shall))~~ must be worn by employees when filing or handling sharp edged doctor blades.

~~((17) Steps, platforms or walkways for calender stacks. When steps, platforms, or walkways are necessary to perform work on calender stacks they shall have nonskid type surfaces. Guardrails shall be installed where possible.~~

~~((18) Lifting))~~ (14) Handling reels.

(a) Reels ~~((shall))~~ must stop rotating before being lifted away from reel frame.

~~((b) All lifting equipment (clamps, cables, and slings) shall be maintained in a safe condition and inspected regularly:))~~ Crane hooks must not be used to stop a turning reel.

~~((e))~~ (b) Exposed rotating reel shafts with square block ends ~~((shall))~~ must be guarded.

~~((19) Reels to be properly seated:))~~ (c) The crane operator ~~((shall))~~ must ascertain that reels are properly seated at winder stand or at reel arms before they disengage the hooks.

~~((20) Space between reels:))~~ (d) On ~~((stack))~~ stored reels, a clearance of at least 8 inches between the reels of paper ~~((shall))~~ must be maintained.

~~((21) Set screws. Set screws for securing core collars to winding and unwinding shafts shall not protrude above the face of the collar. All edges of the collar that an operator's hand may come in contact with shall be beveled to remove all sharp corners.~~

(22) Properly set up core cutting device. The worker shall make certain that any core cutting device is properly set up and guard is in proper position before using the machine.

~~((23) Winder shaft:))~~ (15) All winder shafts ~~((should))~~ must be equipped with a winder collar guide. The winder ~~((should))~~ must have a guide rail to align the shaft for easy entrance into the opened rewind shaft bearing housing. If winder shafts are too heavy for manual handling, mechanical equipment ~~((shall))~~ must be used.

~~((24) Barrier guards for shaftless winders:))~~ (16) Shaftless winders ~~((shall))~~ must be provided with a barrier guard of sufficient strength and size to confine the rolls in the event they become dislodged while running.

~~((25) Grounding:))~~ (17) All calender stacks and spreader bars ~~((shall))~~ must be grounded according to chapter 296-24 WAC, Part L as protection against shock induced by static electricity.

~~((26) Sole plates. All exposed sole plates between dryers, calenders, reels and rewinders shall have a nonskid type surface.~~

~~((27))~~ (18) Nonskid type surface required.

(a) All exposed sole plates between dryers, calenders, reels, and rewinders must have a nonskid type surface.

(b) A nonskid type surface ~~((shall))~~ must be provided in the work areas around the winders or rewinders. ~~((Areas in front of the winder shall be kept clear of oil, broke, and other debris that may cause workers to slip, trip, or fall.~~

~~((28) Roll lowering table:))~~ (19) If a powered roll ejector is used it should be interlocked to prevent accidental actuation until the receiving platform or roll lowering table is in position to receive the roll.

~~((29) Lowerator:))~~ (20) Employees ~~((shall))~~ must keep clear of hazardous areas around the lowerator, especially all lowerator openings in a floor and where roll is being discharged.

~~((30) Rider rolls:))~~ (21) Provision ~~((shall))~~ must be made to hold the rider roll when in a raised position unless counterbalancing eliminates the hazard.

~~((31) Gas hood entry procedures. Whenever an employee is inside a gas hood they shall be accompanied by another worker or a person shall be stationed near the entrance.~~

~~((32))~~ (22) Drain openings in pits. Flush floor drain openings larger than 3(<sup>2</sup>) inches in diameter in the bottom of pits ~~((shall))~~ must be guarded to prevent workers from stepping through, while working in this area.

(23) Employees must not enter into or climb on any paper machine roll that is subject to free turning unless a pos-

itive locking device has been installed to prevent the roll from turning.

(24) The employer must develop a formal program for the inspection and nondestructive examination of reel spool and calender roll journals. The type and frequency of testing must be adequate to detect indications of failure. Any reel spool or calender roll journal found to have an indication of failure must be removed from service. Nondestructive examination personnel must be qualified in accordance with SNT-TC 1A.

AMENDATORY SECTION (Amending Order 74-24, filed 5/6/74)

WAC 296-79-310 Converting operations (bag and container manufacturing, printing, coating, finishing and related processes)~~((—Scope and application)). ((All sections of this chapter which include WAC 296-79-310 in the section number apply to converting operations (bag and container manufacturing, printing, coating, finishing and related processes).))~~

AMENDATORY SECTION (Amending Order 76-7, filed 3/1/76)

WAC 296-79-31001 General requirements for converting operations (bag and container manufacturing, printing, coating, finishing and related processes). (1) ~~((Applicable rules of this standard to prevail. Rules contained in this standard shall prevail where applicable to converting operations.~~

~~((2) Use of both hands required to activate guillotine trimmers.))~~ Guillotine-type trimmers ((shall)) must be designed in a manner which will require the operator to use both hands simultaneously to activate the cutting blade. If machine helpers are employed in the control function of the cutter, separate two-hand controls ((shall)) must be provided for the control function performed by the helper.

~~((3) Nonrepeat device required for guillotine trimmers.))~~ (2) Guillotine-type trimmers ((shall)) must be designed in a manner that the trimming blade will not repeat unless manually reactivated.

~~((4))~~ (3) Sorting and counting tables~~((—Tables shall))~~ must be smooth and free from splinters, with edges and corners rounded.

~~((a))~~ Paddles ((shall)) must be smooth and free from splinters.

~~((5) Mirrors should))~~ (4) Devices (i.e., mirrors) must be installed to assist the converting machine operator in viewing blind work stations where a hazard exists.

~~((6))~~ (5) Mechanical lifting devices ((shall)) must be provided for placing and removing rolls from rewinders. Rolls ((shall)) must not be left suspended overhead while the controls are unattended.

~~((7) Rolls handled by cranes or hoists shall not be handled over the heads of workers.~~

~~((8))~~ (6) When using a crane or hoist to place rolls into a backstand and the operator cannot see both ends of the backstand, assistance will be provided or appropriate devices will be installed to eliminate the hazards involved. The operator

((shall)) must ascertain that rolls are properly seated at winder stand or at roll arms before ~~((he disengages))~~ disengaging the hooks.

~~((9))~~ (7) Slitters, slotters, and scorers not in use ((shall)) must be properly stored ~~((as not to create))~~ so a hazard is not created.

~~((10))~~ (8) All power closing sections ((shall)) must be equipped with an audible warning system which will be activated when closing the sections.

~~((11))~~ (9) Roll-type embosser. The nipping point located on the operator's side ((shall)) must be guarded by either automatic or manually operated barrier guards interlocked with the drive.

AMENDATORY SECTION (Amending Order 74-24, filed 5/6/74)

WAC 296-79-31003 Corrugator. (1) Every recessed floor conveyor system ((shall)) must be identified by standard color coding, and so designed and installed to minimize tripping hazards.

(2) All areas subject to wet processes ((shall)) must be provided with drains.

~~((a))~~ Drain trenches ((shall)) must be provided with gratings flush with the adjoining floor.

~~((b))~~ Use of curbing in work areas should be avoided in new installations. If the use of curbing cannot be avoided, the design ((shall)) must be such that the curbs do not constitute a tripping hazard in normal working areas. When curbing exists and constitutes a hazard, it ((shall)) must be color coded.

(3) Rails of rail mounted devices such as roll stands ((shall)) must be flush with the adjacent floor, and so installed to provide a minimum of 18~~(("))~~ inches clearance between the equipment and walls or other fixed objects.

(4) All corrugating and pressure rolls ((shall)) must be equipped with appropriately designed and installed threading guides so as to prevent contact with the infeed nip of the various rolls by the operator.

(5) A minimum of 4~~(("))~~ inches clearance ((shall)) or effective nip guarding must be maintained between heated drums, idler rolls, and cross shafting on all preheaters and preconditioners.

(6) Lower elevating conveyor belt rolls on the single facer bridge ((shall)) must have a minimum nip clearance of 4~~(("))~~ inches or effective nip guarding.

(7) Web shears at the discharge end of the double facer ((shall)) must be equipped with barrier type guards.

(8) Slitter stations not in use ((shall)) must be disconnected from the power source by positive means.

(9) Elevating type conveyors ((shall)) must have the floor area color-coded.

AMENDATORY SECTION (Amending Order 74-24, filed 5/6/74)

WAC 296-79-31009 Die cutting. ~~((1))~~ Bobst type die cutters.

~~((a) The space where the sheet enters the die shall be guarded to prohibit entry of the operator's hand. If this guard~~

is hinged or otherwise moveable it shall be interlocked to prevent the equipment from moving unless the guard is in the proper position.

(b)) A minimum of 4(~~shall~~) inches must be provided between the end of the slat and the guide bar.

AMENDATORY SECTION (Amending Order 74-24, filed 5/6/74)

**WAC 296-79-320 Sulfite recovery furnace area requirements.** (1) (~~Warning system.~~) The employer must have a program to train all personnel associated with recovery boiler operations in safe operating procedures and emergency shutdown procedures.

(2) An audible warning system (~~shall~~) must be installed in kraft and soda base sulfite recovery furnace areas and (~~shall~~) must be actuated whenever an emergency exists.

~~((2) Personnel to be instructed in emergency procedures. All personnel working in recovery furnace areas shall be instructed on procedures to be followed when emergency warning systems are actuated.))~~

(3) All personnel who enter the recovery furnace area must understand the emergency evacuation procedure.

(4) Warning system maintenance. Emergency warning systems in the recovery furnace areas (~~shall~~) must be kept in proper working condition and (~~shall~~) must be tested or checked weekly.

~~((4) Personnel to stand to side while opening firebox door.))~~ (5) Personnel (~~shall~~) must stand to the side while opening a furnace or boiler firebox door.

~~((5) Smelt tanks. Smelt dissolving tanks shall be covered and the cover kept closed, except when samples are being taken.))~~

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 296-79-060	Protection from radiation.
WAC 296-79-255	Safety procedure for handling liquid sulfur.
WAC 296-79-27001	Barkers, chippers, and hog feed devices.
WAC 296-79-29019	Guarding hand knives and sharpening steels.
WAC 296-79-29025	Repairing shredders.
WAC 296-79-31005	Adhesive system.
WAC 296-79-31007	Printing and cutting.
WAC 296-79-31011	Power lifts on gluers, tapers and stitchers.
WAC 296-79-31013	Strapping-banding operations.

**WSR 99-06-088**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
 (Economic Services Administration)  
 [Filed March 2, 1999, 1:59 p.m.]

Original Notice.

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

Title of Rule: WAC 388-450-0195 Utility allowances for food assistance programs.

Purpose: Eliminate use of actual utility expense as a deduction in calculating food stamp benefit. Instead, requires use of a standard allowance as a deduction.

Statutory Authority for Adoption: RCW 74.04.510.

Statute Being Implemented: 7 USC 2014 (e)(7) - Food Stamp Act.

Summary: Eliminate use of actual utility expense as a deduction in calculating food stamp benefit. Instead, requires use of a standard allowance as a deduction.

Reasons Supporting Proposal: 7 USC 2014 (e)(7) - Food Stamp Act.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Joan Wirth, Mailstop 45470, 1009 College Street, Olympia, WA 98504, (360) 413-3073.

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

Rule is necessary because of federal law, 7 USC 2014 (e)(7) (Food Stamp Act, Section 5, (e)(7)).

Explanation of Rule, its Purpose, and Anticipated Effects: The Food Stamp Act, as amended, at 7 USC 2014 (e)(7), allows states to eliminate use of actual utility expenses and to mandate use of standard allowances. This change is expected to reduce food stamp program errors.

Proposal Changes the Following Existing Rules: Amends WAC 388-450-0195 to eliminate actual utility expenses.

No small business economic impact statement has been prepared under chapter 19.85 RCW. DSHS is submitting this rule to comply with federal regulations. See RCW 19.18.061.

RCW 34.05.328 does not apply to this rule adoption. This change does not meet the definition of a significant legislative rule.

Hearing Location: Lacey Government Center (behind Tokyo O! Bento Restaurant), 1009 College Street S.E., Room 104-B, Lacey, WA 98503, on April 6, 1999, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Paige Wall by March 23, 1999, 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.

Date of Intended Adoption: April 12, 1999.

February 24, 1999

Marie Myerchin-Redifer  
 Manager

PROPOSED

AMENDATORY SECTION (Amending WSR 99-01-069, filed 12/14/98, effective 1/14/99)

**WAC 388-450-0195 Utility allowances for food assistance programs.** ~~((H))~~ You can use the amounts in the chart below ~~((or use actual utility costs))~~ to calculate total shelter costs. Total shelter costs are used in calculating your food assistance benefits.

<b>If you have to pay:</b>	<b>Then, you can use the:</b>
Separate heating or cooling costs	Standard utility allowance (SUA) of \$211
Separate utility costs, but no heating or cooling costs	Limited utility allowance (LUA) of \$158
Separate costs for phone service only	Telephone utility allowance (TUA) of \$29

~~((2)) Use actual utility costs if greater than the SUA or LUA or if you are not eligible for the SUA or LUA.)~~

Hearing Location: Office of Superintendent of Public Instruction, WIT Center, Old Capitol Building, 600 South Washington, Olympia, WA 98504-7200, on April 8, 1999, at 11:00 a.m.

Assistance for Persons with Disabilities: Contact Carolyn Berger by March 31, 1999, TDD (360) 664-3631, or (360) 753-6715.

Submit Written Comments to: Rules Coordinator, State Board of Education, P.O. Box 47206, Olympia, WA 98504-7206, fax (360) 586-2357, by March 31, 1999.

Date of Intended Adoption: April 8, 1999.

March 2, 1999

Larry Davis

Executive Director

NEW SECTION

**WAC 180-18-055 Alternative high school graduation requirements.** (1) The shift from a time and credit based system of education to a standards and performance based education system will be a multiyear transition. In order to facilitate the transition and encourage local innovation, the state board of education finds that current credit-based graduation requirements may be a limitation upon the ability of high schools and districts to make the transition with the least amount of difficulty. Therefore, the state board will provide districts and high schools the opportunity to create and implement alternative graduation requirements.

(2) A school district, or high school with permission of the district board of directors, or approved private high school, desiring to implement a local restructuring plan to provide an effective educational system to enhance the educational program for high school students, may apply to the state board of education for a waiver from one or more of the requirements of chapter 180-51 WAC.

(3) The state board of education may grant the waiver for a period up to four school years.

(4) The waiver application shall be in the form of a resolution adopted by the district board of directors which includes a request for the waiver and a plan for restructuring the educational program of one or more high schools which consists of at least the following information:

(a) Identification of the requirements of chapter 180-51 WAC to be waived;

(b) Specific standards for increased student learning that the district or school expects to achieve;

(c) How the district or school plans to achieve the higher standards, including timelines for implementation;

(d) How the district or school plans to determine if the higher standards are met;

(e) Evidence that the board of directors, teachers, administrators, and classified employees are committed to working cooperatively in implementing the plan;

(f) Evidence that students, parents, and citizens were involved in developing the plan; and

(g) Identification of the school years subject to the waiver.

(5) The application also shall include documentation that the school is successful as demonstrated by indicators such as, but not limited to, the following:

**WSR 99-06-089**

**PROPOSED RULES**

**STATE BOARD OF EDUCATION**

[Filed March 2, 1999, 2:02 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-20-016.

Title of Rule: Chapter 180-51 WAC, High school graduation requirements and chapter 180-18 WAC, Waivers for restructuring purposes.

Purpose: Provide school districts and high schools a waiver option from credit based graduation requirements to support performance-based education.

Statutory Authority for Adoption: RCW 28A.230.090, 28A.305.140, 28A.600.010.

Summary: Adoption will promote easy transition for school districts/high schools as they move toward performance-based education.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Larry Davis, State Board of Education, Olympia, (360) 753-6715.

Name of Proponent: State Board of Education.

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

Explanation of Rule, its Purpose, and Anticipated Effects: If adopted, the rules authorize the State Board of Education to implement and ensure compliance with basic education program requirements and allow districts a waiver option from credit-based graduation requirements to support performance-based education.

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. Not applicable.

RCW 34.05.328 does not apply to this rule adoption. Not applicable.

PROPOSED

- (a) The school has clear expectations for student learning;
- (b) The graduation rate of the high school for the last three school years;
- (c) The college admission rate of the school's graduates the last three school years;
- (d) Use of student portfolios to document student learning;
- (e) Student scores on the state eleventh grade test the last three school years;
- (f) Student scores on the secondary Washington assessment of student learning;
- (g) The level and types of parent involvement at the school;
- (h) The school's annual performance report the last three school years; and
- (i) The level of student, parent, and public satisfaction and confidence in the school as reflected in any survey done by the school the last three school years.
- (6) A waiver of WAC 180-51-060 may be granted only if the district or school provides documentation and rationale that any noncredit based graduation requirements that will replace in whole or in part WAC 180-51-060, will support the state's performance-based education system being implemented pursuant to RCW 28A.630.885, and the noncredit based requirements meet the minimum college core admissions standards as accepted by the higher education coordinating board for students planning to attend a baccalaureate institution.
- (7) A waiver granted under this section may be renewed upon the state board of education receiving a renewal request from the school district board of directors. Before filing the request, the school district shall conduct at least one public meeting to evaluate the educational requirements that were implemented as a result of the waiver. The request to the state board shall include information regarding the activities and programs implemented as a result of the waiver, whether higher standards for students are being achieved, assurances that students in advanced placement or other postsecondary options programs, such as but not limited to college in the high school, running start, and tech-prep, shall not be disadvantaged, and a summary of the comments received at the public meeting or meetings.
- (8) The state board of education shall notify the state board for community and technical colleges and the higher education coordinating board of any waiver granted under this section.
- (9) Any waiver requested under this section will be granted with the understanding that the state board of education will affirm that students who graduate under alternative graduation requirements have in fact completed state requirements for high school graduation in a nontraditional program.

### NEW SECTION

**WAC 180-51-107 Alternative high school graduation requirements.** Alternative high school graduation requirements may be established under WAC 180-18-055.

### WSR 99-06-092

#### PROPOSED RULES

#### DEPARTMENT OF HEALTH

(Nursing Care Quality Assurance Commission)

[Filed March 3, 1999, 9:20 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-21-082.

Title of Rule: WAC 246-840-020 Documents which indicate authorization to practice nursing in Washington.

Purpose: This rule describes the documents which are issued to nurses in Washington.

Statutory Authority for Adoption: RCW 18.79.110.

Statute Being Implemented: RCW 18.79.110.

Summary: The proposed amendments include changing the title to make it more clear of the kinds of documents that are issued, to clarify that these documents are issued to all nurses and clarifying that a limited educational license does not authorize practice.

Reasons Supporting Proposal: During a public rules review process it was identified that this rule is not as clear as it could be. These proposed changes should make the rule more understandable to the public and to nurses.

Name of Agency Personnel Responsible for Drafting: Joan Reilly, Ph.D., P.O. Box 47864, Olympia, WA 98504, (360) 236-4709; Implementation and Enforcement: Terry J. West, P.O. Box 47864, Olympia, WA 98504, (360) 236-4712.

Name of Proponent: Nursing Care Quality Assurance Commission, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: These amendments will enhance the language of the current rule.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The purpose of this rule is to list the documents issued to nurses by the Nursing Care Quality Assurance Commission. The amendments will clarify the title to make it more clear what this rule addresses, includes an amendment to make it clear that this rule pertains to all nurses and that issuance of a limited educational license does not authorize practice. The anticipated effect is that this rule will be easier to understand.

Proposal Changes the Following Existing Rules: The amendments will clarify the title to make it more clear what this rule addresses, includes an amendment to make it clear that this rule pertains to all nurses and that issuance of a limited educational license does not authorize practice. The anticipated effect is that this rule will be easier to understand.

A small business economic impact statement has been prepared under chapter 19.85 RCW.

Small Business Economic Impact Statement  
and

Economic Impact Analysis

Background: This rule describes the documents which are issued to nurses in Washington and a brief description of



each document. During a public rules review process this rule was identified as needing amendment to make it more clear and understandable. During the public meeting the exact language was also discussed so a separate rule-writing workshop was not held.

**Necessity of Amendments to Nursing Rules:** The proposed amendments include changing the title to make it more clear of the types of documents that are issued, to clarify that these documents are issued to all nurses and clarifying that a limited educational license does not authorize practice.

**Costs to a Business:** There are no new additional costs to a business to comply with these proposed amendments. This rule defines all of the different types of documents issued by the Nursing Care Quality Assurance Commission and includes a brief explanation of each document. These amendments do not require any additional areas of completion nor do they require any additional expense.

**DOH Costs to Administer the Regulation:** There are no new additional costs to the Department of Health to regulate these amendments. This rule simply defines some documents. These proposed amendments add no additional requirements, no additional forms, no additional review time and no additional analyses.

**Magnitude of Amendments to Rule:** All of these proposed amendments would not necessitate any additional requirements, would not require additional documentation and would not require any additional course work. On the contrary, these amendments clarify to applicants and licensees the kinds of documents issued by the Nursing Care Quality Assurance Commission and include descriptive paragraphs.

**Small Business Economic Impact Statement:** In preparing this small business economic impact statement (SBEIS), the department used SIC Code 809 Miscellaneous Health & Allied Services, Not Elsewhere Classified which has a minor impact threshold of \$53.00. The estimated cost to health care practitioners for amending these rules is zero.

Therefore, there is no disproportionate cost for small businesses.

A copy of the statement may be obtained by writing to Terry J. West, Department of Health, P.O. Box 47864, Olympia, WA 98504, phone (360) 236-4712, fax (360) 236-4738.

RCW 34.05.328 does not apply to this rule adoption. This rule is not significant because it does not require anything of a licensee. This rule is informational and lists all of the documents issued by the Nursing Care Quality Assurance Commission and a short explanation of each document.

**Hearing Location:** Airport Ramada, Spokane International Airport, Spokane, WA 99219, on April 9, 1999, at 9:00 a.m.

**Assistance for Persons with Disabilities:** Contact Terry J. West by March 26, 1999, TDD (360) 664-0064, or (360) 236-4712.

**Submit Written Comments to:** Terry J. West, P.O. Box 47864, Olympia, WA 98504, fax (360) 236-4738, by April 5, 1999.

Date of Intended Adoption: April 9, 1999.

February 24, 1999

Paula R. Meyer, RN, MSN  
Executive Director

AMENDATORY SECTION (Amending WSR 98-05-060, filed 2/13/98, effective 3/16/98)

**WAC 246-840-020 Documents (~~which indicate authorization to practice nursing~~) issued to nurses in Washington.** The following documents are the only documents (~~that indicate legal authorization to practice as a licensed practical nurse or registered nurse~~) issued to nurses in Washington.

(1) Active license. A license is issued upon completion of all requirements for licensure, confers the right to use the title licensed practical nurse or licensed registered nurse and the use of its abbreviation, L.P.N. or R.N., and to practice as a licensed practical nurse or registered nurse in the state of Washington.

A student who has graduated from a basic professional nursing course and who is pursuing a baccalaureate degree in nursing, an advanced degree in nursing or an advanced certification in nursing shall hold an active Washington RN license before participating in the practice of nursing as required to fulfill the learning objectives in a clinical course.

Exception to this requirement may be granted by the commission on an individual basis upon a petition submitted by the dean or director of a school of nursing, on a case-by-case basis.

(a) The exception allows the student to practice in a clinical setting only under the direct supervision of an RN faculty member. The commission requires that any RN faculty member supervising these students meet the requirements of direct supervision as defined in WAC 246-840-010 (13)(c)(ii) and, in addition, that supervising faculty document that all clients under the care of the student be assessed by the RN faculty each clinical day.

(b) The dean or director of the school of nursing shall ensure that each faculty member who supervises these students be provided a copy of these rules and be assigned in a manner that allows for direct supervision.

(c) Nursing students who participate in clinical courses under this section are not eligible for the nursing technician role.

(2) Inactive license. A license issued to a person previously holding an active license in this state, is in good standing and does not practice in Washington state. Refer to chapter 246-12 WAC, Part 4.

(3) Limited educational license. A limited educational license may be issued to a person who has been on inactive or lapsed status for three years or more and who wishes to return to active status. A limited educational license does not authorize practice for employment.

(4) Advanced registered nurse practitioner (ARNP) recognition document. An ARNP recognition document may be issued to any person who meets the requirements of the commission as contained in WAC 246-840-300. Only persons holding this recognition document shall have the right to use the title "advanced registered nurse practitioner" or the abbre-

PROPOSED

viation "ARNP" or any title or abbreviation which may indicate that the person is entitled to practice at an advanced and specialized level as a nurse practitioner, a specialized nurse practitioner, a nurse midwife, or a nurse anesthetist. This document authorizes the ARNP to engage in the scope of practice allowed for his or her specialty area and is valid only with a current registered nurse license.

(5) ARNP interim permit. An interim permit may be issued following satisfactory completion of an advanced formal education program, registration for the first certification examination of an approved program following completion of the education and filing of an application, fee and requested documentation. If the applicant passes the examination the department shall grant advanced registered nurse practitioner status. If the applicant fails the examination, the interim permit shall expire upon notification and is not renewable.

(6) ARNP prescriptive authorization. A notation of prescriptive authorization may be placed on the ARNP recognition document issued to any person who meets the requirements of the commission as contained in WAC 246-840-410. This authorizes the ARNP to prescribe drugs within his or her scope of practice and is valid only with a current registered nurse license.

### WSR 99-06-093

#### PROPOSED RULES

#### DEPARTMENT OF HEALTH

[Filed March 3, 1999, 9:24 a.m.]

Original Notice.

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

Title of Rule: Fees and renewal cycle.

Purpose: This rule outlines the fees and renewal cycle related to the profession of physician assistant.

Other Identifying Information: WAC 246-918-990.

Statutory Authority for Adoption: RCW 18.71.017.

Statute Being Implemented: RCW 18.71A.020(3).

Summary: During the 1998 legislative session, the legislature determined physician assistants are to pay the substance abuse monitoring surcharge of \$25.00 for each license application and \$25.00 per year on each license renewal. The legislation became effective June 10, 1998. The amendment to this rule will include the surcharge.

Reasons Supporting Proposal: The surcharge will fund physician assistant participation in the Washington physicians health program, giving physician assistants a confidential conduit for access to assessment and effective treatment for impairment.

Name of Agency Personnel Responsible for Drafting: Susan Anthony, Licensing Program Manager, 1300 S.E. Quince Street, Olympia, (360) 236-4787; Implementation: Beverly Teeter, Administrator, 1300 S.E. Quince Street, Olympia, (360) 236-4788; and Enforcement: Bonnie King, Executive Director, 1300 S.E. Quince Street, Olympia, (360) 236-4789.

Name of Proponent: Medical Quality Assurance Commission and Department of Health, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: During the 1998 legislative session, the legislature determined physician assistants are to pay the substance abuse monitoring surcharge of \$25.00 for each license application and \$25.00 per year on each license renewal. The legislation became effective June 10, 1998. The amendment to this rule will include the surcharge.

Proposal Changes the Following Existing Rules: The surcharge will fund physician assistant participation in the Washington physicians health program, giving physician assistants a confidential conduit for access to assessment and effective treatment for impairment.

A small business economic impact statement has been prepared under chapter 19.85 RCW.

#### Small Business Economic Impact Statement

Individual providers qualify as small businesses since less than fifty people are employed. Since most providers qualify as small businesses, there is no disproportionate impact to small businesses. When there is no disproportionate impact, mitigation is not necessary.

An estimated one hundred fifty individuals obtaining initial credentials and an estimated 1082 credentialed providers will have to comply with the requirements of these rules.

Public involvement will be solicited from interested parties and licensees with an article in the Medical Quality Assurance Commission UPDATE! publication.

Opportunity for written and oral comments will also be provided during the public hearing to be held January 22, 1999.

A copy of the statement may be obtained by writing to Susan Anthony, Licensing Program Manager, Department of Health, Medical Quality Assurance Commission, P.O. Box 47866, Olympia, WA 98504-7866, phone (360) 236-4787, fax (360) 586-4787.

RCW 34.05.328 does not apply to this rule adoption. Fee set pursuant to legislative standards.

Hearing Location: Seattle Airport Hilton, 17620 Pacific Highway South, Seattle, WA 98188, on April 16, 1999, at 1:30 p.m.

Assistance for Persons with Disabilities: Contact Susan Anthony by April 9, 1999, at TDD (800) 833-6388, or fax (360) 586-4573.

Submit Written Comments to: Susan Anthony, P.O. Box 47866, Olympia, WA 98504-7866, fax (360) 586-4573, by April 9, 1999.

Date of Intended Adoption: April 16, 1999.

February 22, 1999

Bonnie L. King

Executive Director

PROPOSED

**AMENDATORY SECTION** (Amending WSR 98-05-060, filed 2/13/98, effective 3/16/98)

**WAC 246-918-990 Fees and renewal cycle.** (1)

Licenses must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2.

(2) The following nonrefundable fees will be charged:

Title of Fee	Fee
Physician's assistants, certified physician assistants, physician assistant-surgical assistants, acupuncture physician assistants:	
Application	\$50.00
Renewal	35.00
<u>Substance abuse monitoring surcharge</u>	<u>25.00</u>
Expired license reissuance	35.00
Duplicate license	15.00

**WSR 99-06-097  
PROPOSED RULES  
LIQUOR CONTROL BOARD**

[Filed March 3, 1999, 10:12 a.m.]

Supplemental Notice to WSR 98-24-128.

Preproposal statement of inquiry was filed as WSR 98-01-068.

Title of Rule: WAC 314-12-210 Chronic public inebriation (CPI) and alcohol impact areas—Definitions—Purpose, 314-12-215 Alcohol impact areas—Definitions—Guidelines, 314-12-220 General review, and 314-12-225 Severability.

Purpose: The purpose of the proposed rules is to provide a framework under which the board, in partnership with local government subdivisions, can take action to mitigate any negative impacts on a community's livability that result from the presence of chronic public inebriation or illegal activity associated with alcohol sales and consumption.

Statutory Authority for Adoption: RCW 66.08.030.

Statute Being Implemented: RCW 66.24.010.

Summary: The proposed rules establish an expanded local review process for liquor license applications and renewals inside an alcohol impact area; and allow the board, in specific circumstances, to restrict the off-premises sale of certain alcohol products in an alcohol impact area.

Name of Agency Personnel Responsible for Drafting: Bill Daley, P.O. Box 43075, Olympia, WA 98504-3075, (360) 664-9802; Implementation: David Goyette, P.O. Box 43075, Olympia, WA 98504-3075, (360) 753-2724; and Enforcement: Gary Gilbert, P.O. Box 43075, Olympia, WA 98504-3075, (360) 753-6270.

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

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

Explanation of Rule, its Purpose, and Anticipated Effects: Per chapter 66.08 RCW, part of the board's responsibility to protect the welfare, health, peace, and safety of the

people of the state is to ensure that liquor licensees conduct their business in a lawful manner, and that the presence of a licensee's alcohol sales does not unreasonably disturb the health, peace, and safety of the surrounding community.

Therefore, the purpose of these rules concerning alcohol impact areas is to provide a framework under which the board, in partnership with local government subdivisions, can take action to mitigate any negative impacts on a community's livability that result from the presence of chronic public inebriation or illegal activity associated with alcohol sales and consumption.

The proposed rules establish an expanded local review process for liquor license applications and renewals inside an alcohol impact area (AIA); and allow the board, in specific circumstances, to restrict the off-premises sale of certain alcohol products within an AIA.

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**

This small business economic impact statement, created in compliance with chapter 19.85 RCW, pertains to the Liquor Control Board's proposal to add new sections to chapter 314-12 WAC regarding alcohol impact areas.

If you have any questions regarding this statement, please contact Teresa Berntsen, Rules Coordinator, at (360) 568-1641 or by e-mail at [teb@liq.wa.gov](mailto:teb@liq.wa.gov).

**Background:** The Liquor Control Board is proposing to add several new rules within chapter 314-12 WAC, regarding "alcohol impact areas." If an alcohol impact area was implemented, the board could potentially restrict the sale of certain alcohol products for off-premises consumption.

In December of 1997 the board adopted guiding principles concerning chronic public inebriation, neighborhood livability, and cooperation with local jurisdictions and communities regarding alcohol related issues. In February, March, and April of 1998, the board held preliminary public hearings throughout the state concerning these issues. Specifically, the board asked for input on the following questions:

1. Should special alcohol impact areas be created?
2. What rules should the board make concerning the impact that liquor licensed premises have on surrounding neighborhoods?
3. Should certain alcohol products be limited in an effort to lessen the impact of chronic public inebriation and illegal activity associated with alcohol sales and consumption?

Based on testimony received during the hearings and subsequent input, in November of 1998 the board drafted preliminary language for these rules. Further feedback was solicited from business owners, trade associations, government officials, alcohol treatment and prevention groups, community groups, and citizens via meetings and written correspondence. The rules were subsequently redrafted several times, and in December of 1998 the board approved the filing of language and held three additional public hearings throughout the state in January of 1999.

As a result of input received during and after the hearings in January, the board again redrafted the language for these rules. This amended proposed language will be the

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subject of further stakeholder involvement and public hearings (see section titled "Public Hearings.")

**Summary of Proposed Rules:** The purpose of the proposed rules is to provide a framework under which the board, in partnership with local government, can take action to mitigate any negative impacts on a community's livability that result from the presence of chronic public inebriation or illegal activity associated with alcohol sales and consumption. The proposed rules would:

- Allow the board to recognize a geographic area within a city or town as an "alcohol impact area." This area would be designated by local government ordinance as being adversely affected by chronic public inebriation or illegal activity associated with alcohol sales or consumption.
- Establish an expanded local government review process for liquor license applications and renewals inside an alcohol impact area.
- Allow the board, in specific circumstances, to restrict the off-premises sale of certain alcohol products for businesses within a recognized alcohol impact area.

**Impact of Proposed Rules on Businesses:** Alcohol impact areas could potentially affect any business in Washington that holds a liquor license to sell beer and/or wine for off-premises consumption. If an alcohol impact area was implemented, the local government subdivision could potentially request that licensees in the alcohol impact area be restricted from selling certain alcohol products for off-premises consumption.

The board sought to analyze if licensees could experience increased costs and/or a decrease in revenue by not selling certain alcohol products as outlined in the proposed rules. A program has been implemented in the city of Seattle called the "Good Neighbor Agreement Demonstration Project." Under this project, businesses within a certain area of Seattle signed a voluntary agreement to not sell certain high-alcohol, low-cost products. Because these licensees were voluntarily complying with an agreement that would be similar to the requirements imposed by the proposed rules, they were surveyed to gather information regarding potential economic impact. Out of the one hundred four licensees surveyed, thirty-nine responded. The following information was gathered from these surveys:

**Reporting and Record-keeping Requirements:** Thirty-eight licensees stated they had experienced no new reporting or record-keeping requirements, and one business owner indicated new record-keeping or reporting requirements had to be adopted as a result of not selling certain alcohol products. This merchant explained he had to maintain a list of the restricted alcohol products in order to make sure these products were not stocked or sold.

**Increased Costs:** Thirty-two businesses indicated they have not incurred further costs, and seven businesses indicated they have incurred increased costs as a result of not selling certain alcohol products. The following costs were cited:

- One-time expenses for better equipment, such as shelving or freezers, to attract more customers in

order to make up for the revenue lost due to not selling certain alcohol products.

- One merchant reported an increase in certain administrative costs, but did not specify the amount of costs or the nature of the administrative costs.

**Profit Loss:** Twenty-seven businesses indicated they have not lost profits, and twelve businesses indicated they have lost profits as a result of not selling certain alcohol products. Of the twelve that stated they lost profits, the following losses were cited:

- An estimated loss of \$2,000 dollars a year.
- Approximately \$5,000 dollars a month in lost sales from alcohol and other products.
- A loss of approximately \$100 a week.
- More than half of beer sales lost.
- Loss of two-thirds of business.
- A loss of 35% in revenues.
- A loss of "some" profits.

Three of the twelve businesses who indicated that they have lost profits as a result of not selling certain alcohol products stated this loss of revenue has been mitigated by decreased costs in other areas. These merchants indicated the following mitigating factors:

- Revenue has increased as a result of employees and patrons feeling safer in the area due to less individuals loitering and less litter.
- Grocery sales have increased and matters of safety and cleanup have improved.

**Mitigation of Costs:** As a result of the above outlined survey results, the board has determined that the proposed rules will not impose more than minor costs on businesses in the affected industry, and that any minor costs incurred will not be disproportionate to small businesses.

Regarding potential loss of revenue, the survey results were inconclusive (69% indicated no loss in revenue while 31% indicated a loss in revenue with greatly varying figures). It can be concluded that businesses in the affected industry may potentially lose revenue as a result of complying with the proposed rules, and that some of those revenue losses may be mitigated by other factors that occur as a result of the proposed rules.

RCW 19.85.030(3) outlines methods to reduce the costs on small businesses. Of the options outlined in this law, the method applicable to reduce costs imposed by this rule would be "reducing, modifying, or eliminating substantive regulatory requirements." In reviewing the proposed rules, the board believes it cannot modify the regulatory requirements proposed by these rules without eliminating the intent of the proposed rule making; e.g., the only way to eliminate any potential revenue loss would be to not create the alcohol impact areas proposed by the rules. The board believes it is justified in proposing these rules due to their potential benefit to communities.

In an effort to ensure that mandatory product restrictions are only implemented as a result of documented problems and only when other measures have failed, the board has placed the following requirements in the proposed rules:

- The local government subdivision must recommend the adoption of an alcohol impact area by ordinance.

- The recommending ordinance must include findings of fact which establish that chronic public inebriation or illegal activity associated with alcohol sales and/or consumption within the proposed alcohol impact area is contributing to the deterioration of the general quality of life within the area or threatens the welfare, health, peace, or safety of the area's visitors and occupants.
- There must be a pervasive pattern of public intoxication and/or public consumption of alcohol as documented in crime statistics, police reports, emergency medical response data, detoxification reports, sanitation reports, public health records, or similar records.
- The board must find that the off-premises sale of such alcohol products is reasonably linked to the problems associated with chronic public inebriation.
- The local government subdivision must have made a good faith effort to control the problem through voluntary efforts that may include cooperation with neighborhood citizen and/or business organizations, and must include the notification of licensees within the proposed AIA of public intoxication problems and of voluntary remedies available to them to resolve the problem.
- Implementation of these voluntary agreements must have been attempted for at least six months before the government subdivision presents information to the board that voluntary efforts have failed or need augmentation.

**Hearing Information:** On April 7, 1999, at 9:30 a.m., at the Liquor Control Board, Capital Plaza Building, Board Room, 5th Floor, 1025 East Union Avenue, Olympia.

**Submit Written Comments to:** Teresa Berntsen, Liquor Control Board Rules Coordinator, standard mail P.O. Box 43080, Olympia WA 98504-3080, e-mail [teb@liq.wa.gov](mailto:teb@liq.wa.gov), fax (360) 704-4920. Please submit comments by April 14, 1999.

**Date of Intended Adoption:** April 21, 1999.

A copy of the statement may be obtained by writing to Teresa Berntsen, Rules Coordinator, P.O. Box 43080, Olympia, WA 98504-3080, phone (360) 586-1641, fax (360) 704-4920.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The Washington State Liquor Control Board is not a listed agency in section 201.

**Hearing Location:** Liquor Control Board, Capital Plaza Building, Board Room, 5th Floor, 1025 East Union Avenue, Olympia, on April 7, 1999, at 9:30 a.m..

**Assistance for Persons with Disabilities:** Contact Teresa Berntsen by April 6, 1999, TDD (360) 586-4727, or (360) 586-1641.

**Submit Written Comments to:** Teresa Berntsen, Rules Coordinator, P.O. Box 43080, Olympia, WA 98504-3080, fax (360) 704-4920, by April 14, 1999.

**Date of Intended Adoption:** April 21, 1999.

March 3, 1999  
Eugene Prince  
Chair

## NEW SECTION

**WAC 314-12-210 Chronic public inebriation (CPI) and alcohol impact areas (AIA)—Definitions—Purpose (1) What is the purpose of these rules concerning chronic public inebriation and alcohol impact areas?**

(a) The enabling statutes for the liquor control board are contained in Chapter 66.08 RCW. These statutes authorize the board to exercise the police power of the state for the protection of the welfare, health, peace, and safety of the people of Washington.

(b) The board's mandate to protect the welfare, health, peace and safety of the people is to ensure that liquor licensees conduct their business in a lawful manner and that the presence of a licensee's alcohol sales does not unreasonably disturb the welfare, health, peace, or safety of the surrounding community.

(c) The purpose of these rules concerning chronic public inebriation and alcohol impact areas is to establish a framework under which the board, in partnership with local government and community organizations, can act to mitigate negative impacts on a community's welfare, health, peace, or safety that result from the presence of chronic public inebriation.

(d) For the purpose of these rules, chronic public inebriation exists when the effects of the public consumption of alcohol and/or public intoxication occur in concentrations that endanger the welfare, health, peace, or safety of a neighborhood or community.

**(2) What do these rules concerning chronic public inebriation and alcohol impact areas seek to do? WAC 314-12-210 and 12-215 seek to:**

(a) Establish an expanded local review process for liquor license applications, assumptions\*, and renewals inside a recognized alcohol impact area (AIA);

(b) Create standards under which the board may refuse to issue a liquor license; may refuse to permit the assumption or renewal of a liquor license; may place conditions or restrictions upon the issuance, assumption, or renewal of a license; or may place conditions or restrictions on an existing license inside a recognized AIA;

(c) Allow the board, in specific circumstances, to restrict the off-premises sale of certain alcohol products or alcohol product containers inside a recognized AIA.

\*Note: A liquor license assumption refers to an application by a prospective new owner/operator for an existing licensed business. Under certain conditions, such applicants may apply for a temporary license to continue operations during the new license application review period.

## NEW SECTION

**WAC 314-12-215 Alcohol impact areas—Definition—Guidelines (1) What is an alcohol impact area (AIA)?** An alcohol impact area is a geographic area within a city, town, or county that is adversely affected by chronic public inebriation or illegal activity associated with alcohol sales or consumption. The area must be designated by ordinance by the government subdivision and recognized by res-

PROPOSED

olution of the board before any enhanced processes described by these rules are applied.

**(2) What guidelines will the board use to recognize an alcohol impact area (AIA)?** The board, by resolution, may recognize an AIA adopted by a city, town, or county and subsequently referred to the board by that government subdivision. To achieve recognition, the AIA must meet all of the following conditions:

(a) The AIA comprises a geographic area that does not include the entire territory of the local jurisdiction;

(b) The government subdivision has given a rationale, expressed in the ordinance, for the establishment of the proposed boundaries of the AIA;

(c) The government subdivision has described the boundaries of the AIA in the ordinance in such a way that:

(i) the board can determine which liquor licensees are in the proposed area; and

(ii) the boundaries are understandable to the public at large.

(d) The AIA ordinance includes findings of fact which establish:

(i) chronic public inebriation or illegal activity associated with alcohol sales and/or consumption within the proposed AIA is contributing to the deterioration of the general quality of life within the area or threatens the welfare, health, peace, or safety of the area's visitors and occupants;

(ii) there is a pervasive pattern of public intoxication and/or public consumption of alcohol as documented in crime statistics, police reports, emergency medical response data, detoxification reports, sanitation reports, public health records, or similar records; and,

(iii) a good faith effort has been made by the government subdivision to control the problem through voluntary efforts that may include cooperation with neighborhood citizen and/or business organizations, and must include the notification of licensees within the proposed AIA of public intoxication problems and of voluntary remedies available to them to resolve the problem.

(e) The AIA will take effect on the date of the board's resolution extending recognition to the AIA.

**(3) Once an AIA is recognized by the board, what processes, conditions, or restrictions may the board apply?**

(a) The board will apply a unique local license review process for liquor license applications, assumptions, and renewals within the AIA.

(b) The board may place conditions or restrictions on the off-premises sale privilege of liquor licenses within the AIA. These restrictions must be reasonably related to reducing chronic public inebriation or illegal activity associated with off-premises alcohol sales and/or consumption. These restrictions may include but are not limited to:

(i) restrictions on the hours of operation for off-premises alcohol sale within the AIA,

(ii) restrictions on the off-premises sale of certain alcohol products within the AIA, and

(iii) restrictions on alcohol container sizes available for off-premises sale within the AIA.

**(4) What are the circumstances required for the board to restrict the off-premises sale of alcohol within an AIA?** The board may restrict the off-premises sale of alcohol within an AIA, subject to all of the following conditions:

(a) Product restrictions must be requested by the government subdivision's law enforcement agency or public health authority;

(b) The board must find that the off-premises sale of such alcohol products is reasonably linked to the problems associated with chronic public inebriation; and

(c) The government subdivision must have shown that voluntary efforts have failed to significantly reduce the impact of chronic public inebriation, or that voluntary efforts need augmentation by license restrictions described in WAC 314-12-215(3).

**(5) What type of voluntary efforts must the government subdivision attempt before the board will implement mandatory product restrictions?** Before the board will implement mandatory product restrictions, the government subdivision's voluntary efforts must include:

(a) Notification of all off-premises sales licensees in the proposed AIA that behavior associated with alcohol sales is having an impact on chronic public inebriation.

(b) Documentation that the government subdivision has made reasonable efforts to implement voluntary agreements to promote business practices that reduce chronic public inebriation and promote public welfare, health, peace, and safety with licensees within the AIA who sell alcohol for off-premises consumption.

(c) Implementation of these voluntary agreements must have been attempted for at least six months before information is presented to the board that voluntary efforts have failed or need augmentation.

**(6) If restrictions are approved for an AIA, the Board will:**

(a) Notify the appropriate beer and wine distributors of the product restrictions placed on off-premises licensees within the AIA.

(b) When product restrictions on the off-premises sale of alcohol products are placed on licensees within an AIA, no state liquor store or agency within the AIA may sell these restricted products.

**(7) What is the process for liquor license applications and renewals for licensees inside a recognized AIA?** Subject to the provisions of RCW 66.24.010(8):

(a) When the board receives an application for a liquor license that includes an off-premises sale privilege, the board will establish an extended time period of 60 days for the government subdivision to comment on the liquor license application or assumption.

(i) The government subdivision may and is encouraged to submit comment before the end of this 60 day period, but may request an extension of this period when unusual circumstances, explained in the request, require additional time for comment.

(ii) The requesting government subdivision will notify the licensee or applicant when an extension of the 60 day comment period is requested.

(b) For renewals, notice will be mailed to the government subdivision not less than 90 days before the current license expires.

**(8) How long will an AIA be in effect?** An AIA will remain in effect until:

(a) The sponsoring government subdivision repeals the specific enabling ordinance that originally defined the specific AIA recognized by the board, or

(b) The board repeals its recognition of an AIA as the result of a public hearing, called by the board acting on its own initiative or at the request of a community organization within the AIA, made after the AIA has been in effect for at least two years.

#### NEW SECTION

**WAC 314-12-220 General review.** The board will initiate a study of the effectiveness of WAC 314-12-210 and 12-215 one year following recognition of the first AIA under these rules. The study, which shall take no more than 90 days, will recommend the continuation, modification, or repeal of these rules.

#### NEW SECTION

**WAC 314-12-225 Severability.** If any provision of WAC 314-12-210 through 314-12-220 or the application thereof to any person or circumstance shall be held invalid, such invalidity shall not affect the provisions or the application of these rules which can be given effect without the invalid provision or application, and, to this end, the provisions of these rules are declared to be severable.

### WSR 99-06-098

#### PROPOSED RULES

#### DEPARTMENT OF SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed March 3, 1999, 11:05 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-03-040.

Title of Rule: WAC 388-450-0050 How are your cash assistance and food assistance benefits determined when you are participating in the community jobs program?

Purpose: Amends WAC 388-450-0050 to change the earned income incentive from 20% to 50%. Editorial changes to the WAC have been made to meet the requirements of Executive Order 97-02.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, and 74.08.090.

Statute Being Implemented: RCW 74.08A.230 and 74.08A.320.

Summary: Effective June 1, 1999 the earned income incentive will increase to 50% from 20% when determining countable income for community jobs participants.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Cindy Anderson, Work-First Division, Program Support Unit, Mailstop 45480, 1009 College Street S.E., Olympia, WA 98504, (360) 413-3095.

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: Amends WAC 388-450-0050 to change the earned income incentive from 20% to 50%. Editorial changes to the WAC have been made to meet the requirements of Executive Order 97-02.

Proposal Changes the Following Existing Rules: Amends WAC 388-450-0050, see above.

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

RCW 34.05.328 does not apply to this rule adoption. This does not meet the definition of a significant legislative rule.

Hearing Location: Lacey Government Center (behind Tokyo Bento Restaurant), 1009 College Street S.E., Room 104-B, Lacey, WA 98503, on April 6, 1999, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Paige Wall by March 26, 1999, 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 April 6, 1999.

Date of Intended Adoption: April 10, 1999.

February 24, 1999

Marie Myerchin-Redifer, Manager  
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 98-16-044, filed 7/31/98, effective 9/1/98)

**WAC 388-450-0050 ((~~Income from~~)) How are your cash assistance and food assistance benefits determined when you are participating in the community jobs (CJ) program((s))? ((This section applies to the TANF/SFA program.))**

(1) ~~The department estimates your total monthly ((wage received by a TANF/SFA client who participates in the)) income from your community jobs (CJ) ((wage subsidy program is:~~

~~(a) Not counted as income for the first month of CJ participation; and~~

~~(b) Budgeted prospectively as defined in WAC 388-450-0215 beginning with the second month of CJ participation)) position based on the number of hours you, your case manager and the CJ contractor expect you to work for the month multiplied by the federal or state minimum wage, whichever is higher.~~

~~(2) ((The CJ participant's grant amount is computed by disregarding twenty percent of the expected income and treating the remainder as countable income)) Once the~~

department determines what your total monthly income is expected to be the department will not redetermine your cash benefit amount even if you do not work the number of hours you were expected to work.

(3) ((CJ participants are not subject to monthly reporting or income reporting requirements)) The department considers the total income it expects you to get each month from your CJ position as:

(a) Earned income for determining your cash assistance benefits. Except for your first month of CJ participation, none of your expected CJ income will be used to determine your cash assistance benefit amount.

(b) Unearned income for determining your food assistance benefits.

(4) When ((a change in income or resources causes the assistance unit's grant amount to be less than ten dollars or results in ineligibility, a CJ participant's cash grant)) determining your benefits the department will use:

(a) ((Will be suspended following rules in WAC 388-450-0245;)) One-half of your CJ income for figuring cash assistance benefits.

(b) ((Will continue to be suspended until participation is redetermined according to WAC 388-310-1300(8); and

(e) Can be in suspense for no more than nine months)) All of your CJ income for figuring food assistance benefits.

(5) ((Each month a CJ participant's cash grant is suspended will count toward the assistance unit's sixty month lifetime time limit for receipt of TANF/SFA benefits)) Monthly reports are not required for CJ participants.

(6) If your anticipated CJ income is more than your grant amount:

(a) Your cash grant will be suspended, see WAC 388-450-0245(1). The grant suspension can be up to a maximum of nine months; and

(b) Each month your cash grant is suspended will count toward your assistance unit's sixty month lifetime time limit, see WAC 388-484-0005.

(7) You, your case manager and the CJ contractor will review your CJ position every ninety days during your nine-month placement. During this review they will look at:

(a) Your continued TANF/SFA eligibility; and

(b) Any earned or unearned income received by you or another member of your assistance unit.

### WSR 99-06-099

#### PROPOSED RULES

#### DEPARTMENT OF

#### SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed March 3, 1999, 11:07 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-03-040.

Title of Rule: WAC 388-470-0012 How do the resources of an ineligible or disqualified person effect eligibility for cash assistance?

Purpose: Adds WAC 388-470-0012 which requires the department to include the resources of ineligible or disqualified financially responsible persons toward the assistance units cash eligibility determination.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, and 74.08.090.

Statute Being Implemented: RCW 74.04.005(10).

Summary: Effective June 1, 1999, the resources of ineligible or disqualified financially responsible persons will be included in the cash eligibility determination of eligible assistance unit members.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Cindy Anderson, Work-First Division, Program Support Unit, Mailstop 45480, 1009 College Street S.E., Olympia, WA 98504, (360) 413-3095.

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: Adds WAC 388-470-0012 which requires the department to include the resources of ineligible or disqualified financially responsible persons toward the assistance units cash eligibility determination.

Proposal does not change existing rules.

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

RCW 34.05.328 does not apply to this rule adoption. This does not meet the definition of a significant legislative rule.

Hearing Location: Lacey Government Center (behind Tokyo Bento Restaurant), 1009 College Street S.E., Room 104-B, Lacey, WA 98503, on April 6, 1999, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Paige Wall by March 26, 1999, 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 April 6, 1999.

Date of Intended Adoption: April 10, 1999.

February 25, 1999

Marie Myerchin-Redifer, Manager  
Rules and Policies Assistance Unit

#### NEW SECTION

**WAC 388-470-0012 How do the resources of an ineligible or disqualified person effect eligibility for cash assistance?** (1) As used in this section; ineligible, disqualified and financially responsible persons are defined in WAC 388-450-0100.

(2) When determining the cash eligibility of an assistance unit, the department includes the resources of a financially responsible person who lives in the home even when the person is ineligible or disqualified from receiving cash assistance.



**WSR 99-06-100**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Medical Assistance Administration)  
[Filed March 3, 1999, 11:09 a.m.]

## Original Notice.

Preproposal statement of inquiry was filed as WSR 98-21-123.

Title of Rule: WAC 388-513-1380 Institutional—Participation, client cost of care.

Purpose: To adopt changes in the federal standards for community spouses and family needs allowances. To incorporate a state plan amendment allowing an increase in the personal needs allowance (PNA) for certain persons. To implement a section of the Balanced Budget Act (BBA) of 1997 that mandates including certain veteran benefits when the department determines how much a person is able to participate in the cost of long-term care services.

Statutory Authority for Adoption: RCW 72.36.160, 74.04.050, 74.04.057, 74.08.090, and 74.09.500.

Statute Being Implemented: Section 1924(g) of the Social Security Act; Section 4715 of the BBA of 1997 (Public Law 105-33 (H.R. 2015)).

Summary: This rule adopts increases in federal standards for resources and income for community spouses and family needs allowances. It also incorporates a state plan amendment that allows an increase in the personal needs allowance (PNA) by the amount of income garnisheed for child support, and the allocation of a PNA to a veteran's surviving spouse who lives in a state veterans home. The rule implements a section of the Balanced Budget Act (BBA) of 1997 that mandates including certain veteran benefits when the department determines how much a person is able to contribute to the cost of long-term care services.

Reasons Supporting Proposal: To adopt into rule changes in federal standards, amendments to the state plan, and federally mandated provisions of the BBA of 1997.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Steven Kozak, Department of Social and Health Services, Medical Assistance Administration, 617 8th Avenue S.E., Olympia, WA 98504, (360) 586-1034.

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

Rule is necessary because of federal law, Section 1924(g) of the Social Security Act; Section 4715 of the BBA of 1997 (Public Law 105-33 (H.R. 2015)).

Explanation of Rule, its Purpose, and Anticipated Effects: To adopt into rule those federal and state changes that affect how the department determines how much a person is able to contribute to the cost of long-term care services. The purpose is to implement federal and state mandated regulations. The anticipated effect is that by increasing allocation amounts for persons in various situations, this will increase the possibility that these persons may obtain assistance.

Proposal Changes the Following Existing Rules: It increases the allowances for community spouse resources

and family needs allowances. It increases the personal needs allowance (PNA) for persons and veterans' surviving spouses who live in a state veterans home, for persons in a medical facility, and for the amount of income garnisheed for child support during the PNA period. It increases the standard shelter allocation.

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

RCW 34.05.328 does not apply to this rule adoption. This rule applies only to client and financial eligibility. RCW 34.05.328 (5)(b)(vii) exempts DSHS rules that [apply] only 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 April 6, 1999, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Paige Wall by March 26, 1999, 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 April 6, 1999.

Date of Intended Adoption: April 7, 1999.

March 1, 1999

Marie Myerchin-Redifer, Manager  
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 98-08-077, filed 3/31/98, effective 4/1/98)

**WAC 388-513-1380 Institutional—Participation—Client (~~(share of monthly institutional payments)~~) cost of care.** This section describes ~~((the))~~ allocations ~~((which can be deducted from the institutional client's))~~ of income and excess resources ((in order to determine the amount available for the client's participation in the cost of care)) used to determine a person's participation in the cost of care for institutional services in a medical facility. Income allocations described in this section are used to reduce countable income that remains after exclusions described in WAC 388-513-1340.

(1) ~~((The client's excess resources are available to meet the cost of care after the following deductions in this order))~~ Allocations used to reduce excess resources are amounts for incurred medical expenses, not subject to third-party payment, for which the person is liable, including:

(a) Health insurance and Medicare premiums, deductions, and co-insurance ~~((not paid by a third party))~~ charges; and

(b) ~~((Nonecovered medical bills which are the liability of the client and not paid by a third party))~~ Necessary medical care recognized under state law, but not covered under the state's Medicaid plan.

(2) ~~((The allocations used to reduce excess resources under subsection (1) of this section cannot be used to reduce income under subsection (3) of this section.~~

~~((3) The client's nonexempt income is available to meet the cost of care after the following deductions in this))~~ Allo-

PROPOSED

cations used to reduce countable income are made in the following order:

(a) ~~((Deductions))~~ Amounts described in subsection ~~((3))~~ (2)(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))~~ person living in a ~~((Medicaid-certified))~~ state veteran~~((s))~~'s home ~~((nursing facility))~~;

(B) Ninety dollars for a ~~((single))~~ veteran~~((;))~~ or ~~((widow or widower of))~~ a ~~((veteran receiving an improved))~~ veteran's surviving spouse, who receives an improved pension and does not live in a state veterans' home; or

(C) Forty-one dollars and sixty-two cents for all other ~~((clients))~~ persons in a medical facility.

(ii) Federal, state, or local income taxes:

(A) Mandatorily withheld from earned or unearned income for income tax purposes before receipt by the ~~((client))~~ person; or

(B) Not covered by withholding, but are owed, become an obligation, or have been paid by the ~~((client))~~ person during the time period covered by the PNA.

(iii) Wages for a ~~((client))~~ person 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))~~ person for a less restrictive placement. When determining this deduction employment expenses 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) Income garnisheed for child support:

(i) For the time period covered by the PNA; and

(ii) Not deducted under another provision in the post-eligibility process.

(c) A monthly needs allowance for the community spouse not to exceed, effective January 1, ~~((1998))~~ 1999, two thousand ~~((nineteen))~~ forty-nine dollars, unless ~~((specified))~~ a greater amount is allocated as described in subsection ~~((5))~~ (4) of this section. The monthly needs allowance ~~((is))~~:

(i) Consists of a combined total of both:

(A) An amount added to the community spouse's gross income to provide a total of one thousand three hundred fifty-eight dollars;

~~((ii))~~ and

(B) Excess shelter expenses as specified under subsection ~~((4))~~ (3) of this section; and

~~((iii))~~ (ii) Is allowed only to the extent the ((client's)) person's income is made available to the community spouse.

~~((e))~~ (d) A monthly maintenance needs amount for each dependent or minor child, dependent parent or dependent sibling:

(i) Residing with the community spouse, equal to one-third of the amount that one thousand three hundred fifty-~~((eight))~~ seven dollars exceeds the family member's income. Child support received from an absent parent is the child's income.

(ii) Not residing with the community spouse, equal to the MNIL for the number of family members in the home less the income of the family members.

~~((d))~~ Incurred medical expenses, not subject to third-party payment, which are the current liability of the client including:

(i) ~~Health insurance premiums, deductions, and coinsurance amounts; and~~

(ii) ~~Necessary medical care recognized under state law, but not covered under Medicaid.)~~

(e) Incurred medical expenses described in subsections (1)(a) and (b) not used to reduce excess resources.

(f) 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;

(iii) When a physician has certified that the ~~((client))~~ person 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.

~~((4))~~ (3) For the purposes of this section, "excess shelter expenses" equal the actual expenses under subsection ~~((4))~~ (3)(a) ~~((of this section))~~ less the standard shelter allocation under subsection ~~((4))~~ (3)(b) ~~((of this section))~~:

(a) Shelter expenses 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, provided the utilities are not included in the maintenance charges for a condominium or cooperative.

(b) The standard shelter allocation is four hundred ~~((eight))~~ seven dollars, effective April 1, ~~((1997))~~ 1998.

~~((5))~~ (4) The amount ~~((the institutional spouse may allocate))~~ allocated to the community spouse may be greater than the amount in subsection ~~((3)(b) of this section))~~ (2)(c) only when:

(a) A court enters an order against the ~~((institutionalized client))~~ person for the support of the community spouse; or

(b) A hearings officer determines a greater amount is needed because of exceptional circumstances resulting in extreme financial duress.

~~((6))~~ (5) A person receiving SSI ~~((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:

(a) Stay in the institution or facility is not expected to exceed three months; and

(b) The ~~((client))~~ person plans to return to former living arrangements.

**WSR 99-06-004****EXPEDITED ADOPTION****DEPARTMENT OF TRANSPORTATION**

[Filed February 18, 1999, 10:40 a.m.]

Title of Rule: WAC 468-500-001.

Purpose: To establish the date, time and place of commission meetings.

Statutory Authority for Adoption: RCW 47.01.061.

Statute Being Implemented: RCW 47.01.061.

Summary: The rule is being amended to correct the address of the Transportation Building to 310 Maple Park Drive, Olympia, WA 98504-7308.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Chris Rose, Transportation Building, (360) 705-7070.

Name of Proponent: Transportation Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The regulation informs the public of the usual date, time and location of the monthly commission meetings. The correction of the address will prevent members of the public from being confused as to the location of the Transportation Building.

Proposal Changes the Following Existing Rules: Correct the street address from 410 Maple Park Drive to 310 Maple Park Drive.

**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 Tom Green, Chair, Transportation Commission, Transportation Building, 310 Maple Park Drive, Olympia, WA 98504-7308, AND RECEIVED BY May 1, 1999.

February 17, 1999

Thomas A. Green  
Chair**AMENDATORY SECTION** (Amending WSR 97-06-002, filed 2/20/97, effective 3/23/97)

**WAC 468-500-001 Commission meetings.** Regular public meetings of the Washington state transportation commission are held monthly on the third Thursday of every month and on the Wednesday immediately preceding that day commencing at 9:00 a.m. or such other time as determined by the commission chair. Each such regular meeting shall be held in the transportation commission meeting room (1D2) in the Transportation Building, ((410)) 310 Maple Park Drive, Olympia, Washington. Persons desiring to know the

starting time for a specific meeting can call the commission office at (360) 705-7070.

**WSR 99-06-027****EXPEDITED ADOPTION****DEPARTMENT OF REVENUE**

[Filed February 23, 1999, 3:25 p.m.]

Title of Rule: Amendatory section WAC 458-20-119 Sales of meals.

Purpose: The purpose of the rule is to explain the application of the B&amp;O and retail sales tax to sales of meals.

Statutory Authority for Adoption: RCW 82.32.300.

Statute Being Implemented: RCW 82.04.050, 82.04.-070, 82.04.290, and 82.08.020 as they apply to sales of meals.

Summary: This rule explains the retail sales and B&amp;O taxes for sales of meals. It also explains the tax-reporting requirements of persons providing meals without a specific charge. This rule also explains the application of tax to sales of meals by food service contractors and caterers.

Reasons Supporting Proposal: This rule needs to be amended to reflect the repeal of the selected business services B&amp;O tax rate by chapter 7, Laws of 1997.

Name of Agency Personnel Responsible for Drafting: D. Douglas Titus, 711 Capitol Way South, #303, Olympia, WA, (360) 664-0687; Implementation: Claire Hesselholt, 711 Capitol Way South, #303, Olympia, WA, (360) 753-3446; and Enforcement: Russell W. Brubaker, 711 Capitol Way South, #303, Olympia, WA, (360) 586-0257.

Name of Proponent: Department of Revenue, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This rule explains how sales of meals are taxed. It provides tax-reporting information to caterers and food service contractors, and to persons who provide meals without a specific charge. The tax consequences of meals furnished to employees are also discussed.

Proposal Changes the Following Existing Rules: This is an amendment of an existing rule, WAC 458-20-119 Sales of meals. This rule is being revised to notify the reader that the selected business services B&amp;O tax rate was repealed effective July 1, 1998, chapter 7, Laws of 1997. Specifically, this rule is being revised to explain that persons performing food management services are taxed at the service and other activities B&amp;O tax rate effective July 1, 1998.

**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 D. Douglas Titus, Department of Revenue, P.O. Box 47467, Olympia, WA 98504-7467, fax (360) 664-0693, e-mail dougt@dor.wa.gov, AND RECEIVED BY May 3, 1999.

February 23, 1999  
 Claire Hesselholt  
 Rules Manager  
 Legislation and Policy Division

AMENDATORY SECTION (Amending WSR 93-23-019, filed 11/8/93, effective 12/9/93)

**WAC 458-20-119 Sales of meals. (1) Introduction.** This ~~((section))~~ rule explains Washington's B&O and retail sales tax applications to the sales of meals. This ~~((section))~~ rule also gives tax reporting information to persons who provide meals without a specific charge. It explains how meals furnished to employees are taxed. Persons in the business of operating restaurants should also refer to WAC 458-20-124 and persons operating hotels, motels, ~~((boarding houses,))~~ or similar businesses should refer to WAC 458-20-166.

Retail sellers who are required by law to have a food and beverage service worker's permit under RCW 69.06.010 are subject to the retailing B&O tax and must collect and remit retail sales tax on sales of prepared food products, unless a specific exemption applies. For additional information regarding sales by persons required to have a food and beverage worker's permit, refer to WAC 458-20-244 (Food products).

(2) **Business and occupation tax.** The sales of meals and the providing of meals as a part of services rendered are subject to tax as follows:

(a) **Retailing.** The retailing B&O tax applies as follows.

(i) **Restaurants, cafeterias and other eating places.** Sales of meals to consumers by restaurants, cafeterias, clubs, and other eating places are subject to the retailing tax. (See WAC 458-20-124-Restaurants, etc.)

(ii) **Caterers.** Sales of meals and prepared food by caterers are subject to the retailing tax when sold to consumers. "Caterer" means a person who provides, prepares and serves meals for immediate consumption at a location selected by the customer. The tax liability is the same whether the meals are prepared at the customer's site or the caterer's site. The retailing tax also applies when caterers prepare and serve meals using ingredients provided by the customer. Persons providing a food service for others should refer to the subsection below entitled "Food service contractors."((-))

(iii) **Hotels, motels, bed and breakfast facilities, resort lodges and other establishments offering meals and transient lodging.** Sales of meals by hotels, motels, and other persons who provide transient lodging are subject to the retailing tax.

(iv) **Boarding houses, American plan hotels, and other establishments offering meals and nontransient lodging.** Sales of meals by boarding houses and other such places are subject to retailing tax.

(A) Except for guest ranches and summer camps, when a lump sum is charged to non-transients for providing both

lodging and meals, the fair selling price of the meals is subject to the retailing tax. Unless accounts are kept showing the fair selling price, the tax will be computed upon double the cost of the meals served. This cost includes the price paid for food and drinks served, the cost of preparing and serving meals, and all other incidental costs, including an appropriate portion of overhead expenses.

(B) It will be presumed that guest ranches and summer camps are not making sales of meals when a lump sum is charged for the furnishing of lodging, and meals are included.

(v) **Railroad, Pullman car, ship, airplane, or other transportation company diners.** Sales of meals by a railroad, Pullman car, ship, airplane, or other transportation company served at fixed locations in this state, or served upon the carrier itself while within this state, are subject to the retailing tax.

Where no specific charge is made for meals separate and apart from the transportation charge, the entire amount charged is deemed a charge for transportation and the retailing tax does not apply to any part of the charge.

(vi) **Hospitals, nursing homes, and other similar institutions.** The serving of meals by hospitals, nursing homes, sanitariums and similar institutions to patients as a part of the service rendered in the course of business by such institutions is not a sale at retail. However, many hospitals and similar institutions have cafeterias or restaurants through which meals are sold for cash or credit to doctors, visitors, nurses, and other employees. Some of these institutions have agreements where the employees are paid a fixed wage in payment for services rendered and are provided meals at no charge. Under those circumstances, all sales of meals to such persons are subject to the retailing tax, including the value of meals provided at no charge to employees. Refer to the subsection below entitled "Meals furnished to employees."

(vii) **School, college, or university dining rooms.** Public schools, high schools, colleges, universities, or private schools operating lunch rooms, cafeterias, dining rooms, or snack bars for the exclusive purpose of providing students and faculty with meals or prepared foods are not considered to be engaged in the business of making retail sales of meals. However, if guests are permitted to dine with students or faculty in such areas, the sales of meals to the ~~((quests))~~ guests are retail sales.

(A) Unless the eating area is situated so that it is available only to students and faculty, the lunch room, cafeteria, dining room, or snack bar must have a posted sign stating that the area is only open to students and faculty. In the absence of such a sign, there will be a presumption that the facility is not exclusively for the use of students and faculty. The actual policy in practice in these areas must be consistent with the posted policy.

(B) If the cafeteria, lunch room, dining room, or snack bar is generally open to the public, all sales of meals, including meals sold to students, are considered retail sales.

(C) For some educational institutions, the meals provided to students is considered to be part of the charge for tuition and may not be subject to the B&O tax. Public schools, high schools, colleges, universities, and private schools should refer to WAC 458-20-167 to determine

whether the retailing B&O tax applies to the sales of meals described above. (See also WAC 458-20-189 for a discussion of B&O tax for schools operated by the state.)

(viii) **Fraternities and sororities.** Fraternities, sororities, and other groups of individuals who reside in one place and jointly share the expenses of the household including expense of meals are not considered to be making sales when meals are furnished to members.

(b) **Wholesaling-other.** Persons making sales of prepared meals to persons who will be reselling the meals are subject to the wholesaling-other tax classification. Sellers must obtain resale certificates from their customers to support the resale nature of any transaction. (See WAC 458-20-102.)

(c) **Service and other business activities.** Private schools, which do not meet the definition of "educational institutions," (:) operating lunch rooms, cafeterias, or dining rooms for the exclusive purpose of providing meals to students and faculty are subject to the service and other business activities B&O tax on the charges to students and faculty for meals. (See WAC 458-20-167 for definitions of the terms "private school" and "educational institution," (:)) Persons managing a food service operation for a private school should refer to the subsection below entitled "Food service contractors."

(3) **Retail sales tax.** The sales of meals, upon which the retailing tax applies under the provisions (set forth) above, are generally subject to tax under the retail sales tax classification. However, a retail sales tax exemption is available for the following sales of meals:

(a) Prepared meals sold under a state-administered nutrition program for the aged as provided for in the Older Americans Act (Public Law 95-478 Title III) and RCW 74.38-.040(6).

(b) Prepared meals sold to or for senior citizens, disabled persons, or low-income persons by a not-for-profit organization organized under chapter 24.03 or 24.12 RCW. However, this exemption does not apply to purchases of prepared meals by not-for-profit organizations, such as hospitals, which provide the meals to patients as a part of the services they render.

(c) Prepared meals sold to the federal government. (See WAC 458-20-190.) However, meals sold to federal employees are taxable, even if the federal employee will be reimbursed for the cost of the meals by the federal government.

(4) **Deferred sales or use tax.** If the seller fails to collect the appropriate retail sales tax, the purchaser is required to pay the deferred sales or use tax directly to the department.

(a) Purchases of dishes, kitchen utensils, linens, and items which do not become an ingredient of the meal, are subject to retail sales tax.

(b) Retail sales tax or use tax applies to purchases of equipment, repairs, appliances, and construction.

(c) The retail sales or use tax does not apply to purchases of food or beverage products which are ingredients of meals being sold at retail or wholesale.

(d) Purchases of food products and prepared meals by persons who are not in the business of selling meals at retail or wholesale are subject to the retail sales tax. However, cer-

tain food products are statutorily exempt of retail sales or use tax. (See WAC 458-20-244.)

(e) Private schools, educational institutions, nursing homes, and similar institutions who are not making sales of meals at retail or wholesale are required to pay retail sales tax on all purchases of paper plates, paper cups, paper napkins, toothpicks, or any other articles which are furnished to customers, the first actual use of which renders such articles unfit for further use. However, purchases of such items by restaurants and similar businesses which are making retail or wholesale sales of meals are not subject to the retail sales or use tax.

(f) Transportation companies not segregating their charges for meals, and transporting persons for hire in interstate commerce, generally will be liable to their (venders) sellers for retail sales tax upon the purchase of the food supplies or prepared meals to the extent that the meals will be served to passengers in Washington. Certain food items are statutorily exempt of retail sales or use tax. (See WAC 458-20-244.)

(5) (~~Sales by persons having a food and beverage worker's permit. Retail vendors who are required by law to have a food and beverage service worker's permit under RCW 69.06.010 are subject to the retailing and retail sales taxes on sales of prepared food products. (See RCW 82.08-.0293.) This includes, but is not limited to, sales of sandwiches prepared or chicken cooked on the premises, deli trays, home delivered pizzas, etc. However, sales of the following food products are exempt of sales tax even though sold by a person required to have a food and beverage service worker's permit:~~

~~(a) Raw meat prepared by persons who slaughter animals, including fish and fowl, or dress or wrap slaughtered raw meat such as fish dealers, butchers, or meat wrappers;~~

~~(b) Meat and cheese sliced and/or wrapped, in any quantity determined by the buyer, sold by vendors such as meat markets, delicatessens, and grocery stores;~~

~~(c) Baked goods sold by bakeries which sell no food products other than baked goods, including bakeries located in grocery stores; and~~

~~(d) Bulk food products sold from bins or barrels, including but not limited to, flour, fruits, vegetables, sugar, salt, candy, chips and cocoa.~~

(6)) **Food service contractors.** The term "food service contractor" means a person who operates a food service at a kitchen, cafeteria, dining room, or similar facility owned by an institution or business. Food service contractors may manage the food service operation on behalf of the institution or business, or may actually make sales of meals or prepared foods.

(a) Sales of meals. Food service contractors who sell meals or prepared foods to consumers are subject to the retailing B&O and retail sales taxes upon their gross proceeds of sales. For example, the operation of a cafeteria which provides meals to employees of a manufacturing or financial business is generally a retail activity. The food service contractor is considered to be making retail sales of meals, whether payment for the meal is made by the employees or the business, unless the business itself is reselling the meals to the employees.

EXPEDITED ADOPTION

In all cases where the meals are prepared at off-site facilities not owned by the institution or business, the food service contractor is considered to be making sales of meals and the retailing B&O and retail sales taxes apply to the gross proceeds of sale, or gross income for sales to consumers.

(b) Food service management. ~~((For periods prior to))~~ Effective July 1, ((1993)) 1998, the gross proceeds derived from the management of a food service operation are subject to the service and other business activities B&O tax. ~~((On and after))~~ (Chapter 7, Laws of 1997.) For the period of July 1, 1993, through June 30, 1998, these proceeds ~~((are))~~ were subject to the selected business services classification of the B&O tax. ~~((Chapter 25, Laws of Washington 1993, 1st Special Session.))~~ These tax reporting provisions apply whether the staff actually preparing the meals or prepared foods are employed by the institution or business hiring the food service contractor, or by the food service contractor itself. If the food service contractor merely manages the food service operation on behalf of an institution or business, that institution or business is considered to be selling meals or providing the meals as a part of the services the institution or business renders to its customers. These institutions and businesses should refer to the subsections (2) and (3) above to determine their B&O and retail sales tax liabilities.

Food service management includes, but is not limited to, the following activities:

(i) Food service contractors operating a cafeteria or similar facility which provides meals and prepared food for employees and/or guests of a business, but only where the business owning the facility is the one actually selling the meals to its employees.

(ii) Food service contractors managing and/or operating a cafeteria, lunch room, or similar facility for the exclusive use of students or faculty at an educational institution or private school. The educational institution or private school provides these meals to the students and faculty as a part of its educational services. The food service contractor is managing a food service operation on behalf of the institution, and is not making retail sales of meals to the students, faculty, or institution. Sales of meals or prepared foods to ~~((guests))~~ guests in such areas are, however, subject to the retailing B&O and retail sales taxes. (Refer also to the subsection above entitled "School, college, or university dining rooms.")

(iii) Food service contractors managing and/or operating the dietary facilities of a hospital, nursing home, or similar institution, for the purpose of providing meals or prepared foods to patients or residents thereof. These meals are provided to the patients or residents by the hospital, nursing home, or similar institution as a part of the services rendered by the institution. The food service contractor is managing a food service operation on behalf of the institution, and is not considered to be making retail sales of meals to the patients, residents, or institution. Meals sold to doctors, nurses, visitors, and other employees through a cafeteria or similar facility are, however, subject to the retailing B&O and retail sales taxes. (Refer also to the subsection above entitled "Hospitals, nursing homes, and other similar institutions.")

(c) The following examples explain the application of the B&O and retail sales taxes to typical situations involving food service contractors managing a food service operation.

These examples should be used only as a general guide. The tax results of other situations must be determined after a review of all ~~((of the))~~ facts and circumstances.

(i) GC Inc. is a food service contractor managing and operating an on-site cafeteria for B College. This cafeteria is operated for the exclusive use of students and faculty. ~~((However,))~~ Guests of students or faculty members, however, are allowed to use the facilities. All monies collected in the cafeteria are retained by B College. College B pays GC's direct costs for managing and operating the cafeteria, including the costs of the unprepared food products, employee salaries, and overhead expenses. GC also receives a management fee.

GC Inc. is managing a food service operation. The measure of tax is the gross proceeds received from B College. GC Inc. may not claim a deduction on account of cost of materials, salaries, or any other expense. For periods prior to July 1, ~~((1993))~~ 1998, the gross proceeds are subject to the ~~((service and other business activities))~~ selected business services B&O tax. On and after July 1, ~~((1993))~~ 1998, these proceeds are subject to the ~~((selected business))~~ service and other activities B&O tax classification. B College is considered to be making retail sales of meals to the guests ~~((B College))~~ and must collect and remit retail sales taxes on the gross proceeds of these sales ~~((derived therefrom))~~. B College should refer to WAC 458-20-167 to determine whether the retailing B&O tax applies.

(ii) DF Food Service contracts with Hospital A to manage and operate Hospital A's dietary and cafeteria facilities. DF is to receive a per meal fee for meals provided to Hospital A's patients. DF Food Service retains all proceeds for sales of meals to physicians, nurses, and visitors in the cafeteria.

The gross proceeds received from Hospital A in regards to the meals provided to the patients is derived from the management of a food service operation. For periods prior to July 1, ~~((1993))~~ 1998, these proceeds are subject to the ~~((service and other business activities))~~ selected business services B&O tax. On and after July 1, ~~((1993))~~ 1998, these proceeds are subject to the ~~((selected business))~~ service and other activities B&O tax classification. ~~((However,))~~ DF, however, is making retail sales of meals to physicians, nurses, and visitors in the cafeteria. DF Food Service must pay retailing B&O, and collect and remit retail sales tax, on the gross proceeds derived from the cafeteria sales.

~~((7))~~ (6) **Meals furnished to employees.** Sales of meals to employees are sales at retail and subject to the retailing B&O and retail sales taxes. This is true whether individual meals are sold, whether a flat charge is made, or whether meals are furnished as a part of the compensation for services rendered.

(a) Where a specific and reasonable charge is made to the employee, the measure of the tax is the selling price.

(b) Where no specific charge is made, the measure of the tax will be the average cost per meal served to each employee, based upon the actual cost of the food.

(c) It is often impracticable to collect the retail sales tax from employees on such sales. The employer may, in lieu of collecting such tax from employees, pay the tax directly to the department of revenue.

(d) Where meals furnished to employees are not recorded as sales, the tax due shall be presumed to apply

according to the following formula for determining meal count:

- (i) Those employees working shifts up to five hours, one meal; and
- (ii) employees working shifts of more than five hours, two meals.

~~((8))~~ **(7) Sales of meals, beverages, and food at prices including sales tax.** Persons who advertise and/or sell meals, alcoholic or other beverages, or any kind of food products upon which retail sales tax is due should refer to WAC 458-20-244 (Food products), WAC 458-20-124 (Restaurants, etc.), and WAC 458-20-107 (Advertised prices including sales tax). The taxability of persons operating class H licensed restaurants is specifically addressed in WAC 458-20-124.

~~((9))~~ **(8) Gratuities.** Tips or gratuities representing donations or gifts by customers under circumstances which are clearly voluntary are not part of the selling price subject to tax. However, mandatory additions to the price by the seller, whether labeled service charges, tips, gratuities, or otherwise must be included in the selling price and are subject to both the retailing classification of the B&O tax and the retail sales tax.

~~((10))~~ **(9) Examples.** The following examples identify a number of facts and then state a conclusion. These examples should be used only as a general guide. The tax results of other situations must be determined after a review of all ~~((of the))~~ facts and circumstances.

(a) ABC Hospital operates a cafeteria and sells meals to physicians and to persons who are visiting patients in the hospital. Meals are also provided to its employees at no charge. However, there is no accounting for the number of meals consumed by the employees. Payroll records do record the number of hours worked. On average, employees working shifts of up to five hours consume one meal while those working shifts of more than five hours consume two meals.

ABC Hospital is subject to retailing and retail sales taxes on the gross proceeds derived from the sales of meals to physicians and visitors. The retailing and retail sales taxes also apply to the value of ~~((the))~~ meals consumed by ABC's employees. The value subject to tax is determined by the average cost of meals consumed by the employees, based upon the actual cost of the food items, multiplied by the number of meals as determined through a review of the payroll records. While the presumption is that employees working shifts of up to five hours consume one meal with those working shifts of five to eight hours consuming two, this presumption may be rebutted under particular circumstances.

(b) X operates a boarding house and provides lodging and meals to ten non-transient residents. Each resident is charged a lump sum to cover both lodging and meals with no accounting for a fair selling price for the meals. X is making retail sales of meals to its residents. Retailing and retail sales taxes are due on the value of the meals served. This value must be computed as double the cost of the meal, including the cost of the food and drink ingredients, costs of meal preparation, and other costs associated with the meal preparation such as overhead expenses.

(c) Y Motor Inn contracts with Z Company to provide catering services for a function to be held at the motor inn.

During discussions concerning the services to be provided, Z Company is informed that a 15% gratuity is generally recommended. Z Company negotiates the gratuity percentage to 10% and signs a catering contract stating that the agreed gratuity will be added. The gratuity charged to Z Company is subject to both the retailing B&O and retail sales taxes. This is not a voluntary gratuity since it is required to be paid as a condition of the contract. Gratuities are not part of the selling price only when they are strictly voluntary.

### WSR 99-06-028

#### EXPEDITED ADOPTION

#### DEPARTMENT OF REVENUE

[Filed February 23, 1999, 3:27 p.m.]

Title of Rule: WAC 458-20-263 Wind, ~~((energy))~~ land-fill gas, and solar energy electric generating facilities sales and use tax exemption.

Purpose: To implement the provisions of RCW 82.08.02567 and 82.12.02567 which provide retail sales and use tax exemptions for sales of or charges made for machinery and equipment used directly in generating electricity using the wind or solar energy as the principal source of power.

Statutory Authority for Adoption: RCW 82.32.300.

Statute Being Implemented: RCW 82.08.02567 and 82.12.02567.

Summary: This rule explains the sales and use tax exemptions available for machinery and equipment, as well as labor and services used for installing the machinery and equipment, used directly in generating electricity using the wind or solar energy as the principal source of power.

Reasons Supporting Proposal: This rule is being revised to reflect the expansion of the exemption to include machinery and equipment of generating facilities powered by land-fill gas by chapter 309, Laws of 1998.

Name of Agency Personnel Responsible for Drafting: D. Douglas Titus, 711 Capitol Way South, Suite #303, Olympia, WA, (360) 664-0687; Implementation: Claire Hesselholt, 711 Capitol Way South, Suite #303, Olympia, WA, (360) 753-3446; and Enforcement: Russell Brubaker, 711 Capitol Way South, Suite #303, Olympia, WA, (360) 586-0257.

Name of Proponent: Department of Revenue, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This rule provides an explanation of the exemptions provided in RCW 82.08.02567 and 82.12.02567 and the exemption certificate required to take advantage of these exemptions. The exemption is available to a purchaser developing a facility meeting certain minimum statutory power requirements using wind or solar energy as a principal source of power. The exemption applies to machinery and equipment as well as installation labor and services, if the machinery and equipment is used directly in generating power using

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wind or solar energy. The rule assists taxpayers in taking advantage of the statutory exemption.

Proposal Changes the Following Existing Rules: This is an amendment of an existing rule, WAC 458-20-226 (Rule 263) Wind energy and solar electric generating facilities sales and use tax exemption. This rule is being revised to notify the reader that the exemption has been expanded to include facilities powered by landfill gas, effective April 3, 1998 (chapter 309, Laws of 1998).

#### 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 D. Douglas Titus, Department of Revenue, P.O. Box 47467, Olympia, WA 98504-7467, fax (360) 664-0693, e-mail dougt@dor.wa.gov, AND RECEIVED BY May 3, 1999.

February 23, 1999

Claire Hesselholt  
Rules Manager

Legislation and Policy Division

AMENDATORY SECTION (Amending WSR 97-03-027, filed 1/8/97, effective 2/8/97)

**WAC 458-20-263 Wind ~~((energy))~~, landfill gas, and solar energy electric generating facilities sales and use tax exemption.** (1) **Introduction.** ~~((Effective July 1, 1996, chapter 166, Laws of 1996, (HB 2290) provides a retail sales tax exemption for sales of or charges made for:~~

~~(a) Machinery and equipment used directly in generating electricity using the wind or solar energy as the principal source of power; or~~

~~(b) Labor and services for installing the machinery and equipment.~~

~~The sales tax exemption applies if the purchaser develops with the machinery, equipment, labor, and services a facility capable of generating not less than two hundred kilowatts of electricity using the wind or solar energy as the principal source of power. The law provides a corresponding use tax exemption for the use of machinery and equipment used directly in generating not less than two hundred kilowatts of electricity using the wind or solar as the principal source of power.~~

~~(2) Expiration.~~ The sales and use tax exemptions expire on June 30, 2005.

~~(3)) This rule explains the retail sales and use tax exemptions provided by RCW 82.08.02567 and 82.12.02567 for the sale and/or use of machinery and equipment used directly in generating electricity using wind, landfill gas, or solar energy as the principal source of power. These exemptions expire on June 30, 2005.~~

**(2) Definitions.** The following definitions apply to this section:

(a) "Machinery and equipment" means industrial fixtures, devices, and support facilities that are integral and necessary to the generation of electricity using the wind, landfill gas, or solar energy as the principal source of power.

(i) "Machinery and equipment," where solar energy is the principal source of ~~((energy))~~ power, includes, but is not limited to: Solar modules; power conditioning equipment; batteries; transformers; power poles; power lines; and connectors to the utility grid system.

(ii) "Machinery and equipment," where wind is the principal source of power, includes, but is not limited to: ~~((Wind))~~ Turbines; blades; generators; towers and tower pads; substations; guy wires and ground stays; control buildings; power conditioning equipment; anemometers; recording meters; transmitters; power poles; power lines; and connectors to the utility grid system.

(iii) "Machinery and equipment," where landfill gas is the principal source of power, includes, but is not limited to: Turbines; blades; blowers; burners; heat exchangers; generators; towers and tower pads; substations; guy wires and ground stays; control buildings; pipe; valves; power conditioning equipment; pressure control equipment; recording meters; transmitters; power poles; power lines; and connectors to the utility grid system.

(iv) "Machinery and equipment" does not include: The utility grid system and any tangible personal property used to connect electricity directly to consumers; hand tools; property with a useful life of less than one year; repair parts required to restore machinery and equipment to normal working order; replacement parts that do not increase productivity, improve efficiency, or extend the useful life of the machinery and equipment; buildings; or building fixtures that are not integral and necessary to the generation of electricity that are permanently affixed to and become a physical part of a building.

(b) "Used directly" means the machinery and equipment provides any part of the process that captures the energy of the wind, landfill gas, or solar, converts that energy to electricity, and transforms or transmits that electricity for entry into electric transmission and distribution systems.

(c) "Installation charges" means sales of or charges made for labor and services rendered in respect to installing the machinery and equipment.

(i) Labor and services to install machinery and equipment includes both the charges for labor and charges for the rental of equipment with an operator.

(ii) Labor and services to install machinery and equipment does not include the rental of tangible personal property used by the ~~((purchaser))~~ buyer to install machinery and equipment. See WAC 458-20-211.

~~((4))~~ **(3) Retail sales tax exemption.** The retail sales tax does not apply to the purchase ~~((of or charges for machinery and equipment used directly in generating electricity using the wind or solar energy as the principal source of power or labor and services for installing the machinery and equipment.))~~ or lease of machinery and equipment used directly in generating electricity using wind, landfill gas, or solar energy as the principal power source, but only if the



purchaser develops with such machinery and equipment a facility capable of generating not less than two hundred kilowatts of electricity. Retail sales tax also does not apply to installation charges for this machinery and equipment. RCW 82.08.02567.

(a) The exemption is effective July 1, 1996, for machinery and equipment using wind and solar energy, and April 3, 1998, for machinery and equipment using landfill gas (chapter 309, Laws of 1998).

(b) Prior approval is not required from the department of revenue in order to claim the retail sales tax exemption. However, the ~~((purchaser))~~ buyer is required to provide the seller with an exemption certificate. ~~((Both the purchaser and))~~ The seller must retain a copy of the certificate to document the exemption.

~~((a))~~ The exemption certificate may be ~~((in the form shown below, or may be in any other form that contains substantially the following information and language))~~:

(i) Issued for each purchase; or

(ii) In blanket form certifying all future purchases as being exempt from sales and use tax. Blanket forms must be renewed every four years.

(c) This certificate should be in substantially the following form:

Sales and Use Tax Exemption Certificate for Wind, Landfill Gas, or Solar Powered Electrical Generation Facilities

The ~~((purchaser))~~ buyer (user) certifies that the items listed below are machinery and equipment, or are labor and services rendered to install the machinery and equipment, used directly in generating electricity using the wind, landfill gas, or solar energy as the principal source of power at a facility capable of generating not less than two hundred kilowatts of electricity, and that such purchase is exempt from the retail sales tax under RCW 82.08.02567. This certificate is given with full knowledge of, and subject to, the legally prescribed penalties for fraud and tax evasion.

~~((Purchaser))~~ Buyer (User) UBI/Registration # . . . . .  
Name of ~~((Purchaser))~~ Buyer (User) . . . . .  
Address of ~~((Purchaser))~~ Buyer (User) . . . . .  
Seller UBA/Registration # . . . . .  
Name of Seller. . . . . Date . . . . .  
Item or category of items . . . . .  
~~((Authorized agent for Purchaser))~~  
Buyer or Buyer's Agent (Print) . . . . .  
Authorized signature . . . . . Title . . . . .  
Date . . . . .

~~((b))~~ In lieu of providing the certificate to the department each time a purchase is made, the purchaser may provide the department with an annual summary of exempt purchases by January 31 of the year following the calendar year in which the items were purchased. The annual summary must provide the same information required in (a) of this subsection.

~~((5))~~ (4) Use tax. ~~((The use tax does not apply to the use of machinery and equipment used directly in generating not less than two hundred kilowatts of electricity using the wind~~

or solar energy as the principle source of power. The user of exempt machinery and equipment is required to file an annual summary of exempt machinery and equipment similar to that described for the sales tax exemption.

Instead of an annual summary the user may elect to file with the department of revenue an exemption certificate, similar to the retail sales tax exemption certificate described in subsection (4) of this section. If so, the certificate must be filed within sixty days of the first use of the machinery and equipment in this state.

~~((6))~~ The law provides a corresponding use tax exemption for the use of machinery and equipment used directly in generating not less than two hundred kilowatts of electricity using wind, landfill gas, or solar energy as the principal source of power. RCW 82.12.02567. The use tax exemption is effective July 1, 1996, machinery and equipment, using wind and solar energy and April 3, 1998, for machinery and equipment using landfill gas (chapter 309, Laws of 1998).

(5) Time of sale. The existing rules pertaining to time and place of sale and when tax liability arises apply for purposes of whether a given transaction occurred on or after the effective date of the law~~((s))~~. The effective date with respect to machinery and equipment used to generate electricity using wind or solar energy is July 1, 1996, ~~((for purposes of the sales and use tax exemption))~~ and, machinery and equipment using landfill gas, April 3, 1998. See WAC 458-20-103, 458-20-178, and 458-20-197.

(a) In the case of an outright purchase of goods, the sale takes place when the goods are delivered to the ~~((purchaser))~~ buyer in this state. Thus, machinery and equipment delivered to the ~~((purchaser))~~ buyer on or after July 1, 1996, or April 3, 1998, respectively, can qualify for exemption, regardless of when the order for the goods was placed.

(b) If machinery and equipment is acquired without payment of retail sales tax, use tax is due at the time of first use. Thus, machinery and equipment for electricity generating facilities using wind or solar energy which is first put to use after July 1, 1996, can qualify for the exemption. See WAC 458-20-178.

(c) In the case of leases or rentals of tangible personal property, liability for sales tax arises as of the time the lease or rental payment falls due. Thus, in the case of leased machinery and equipment using landfill gas, rental payments that fall due on or after ~~((July 1, 1996))~~ April 3, 1998, can qualify for exemption, regardless of when the lease was initiated.

**WSR 99-06-091**  
**EXPEDITED ADOPTION**  
**DEPARTMENT OF HEALTH**  
[Filed March 3, 1999, 9:17 a.m.]

Title of Rule: WAC 246-100-042 Reporting of blood lead levels.

Purpose: Adverse health effects resulting from elevated levels of lead in the blood has been acknowledged as a public health concern throughout the United States; epidemiologic investigation based on reports of the results of blood level

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tests may contribute to the understanding of the condition, its prevalence within the state of Washington, and especially the extent to which the condition affects both children and those who may be exposed to lead in the work place; rapid follow-up and appropriate management of potentially hazardous blood lead levels is necessary to assure safe public health, and assists in development of programs to prevent future lead overexposure.

Statutory Authority for Adoption: RCW 43.20.050.

Statute Being Implemented: RCW 43.20.050.

Summary: Removes the current expiration date from this section of WAC.

Reasons Supporting Proposal: Removal of the expiration date is necessary to assure continued operation of the data bases it is incorporated into the revised, integrated notifiable conditions system.

Name of Agency Personnel Responsible for Drafting: Greg Smith, Department of Health, P.O. Box 47815, Olympia, WA 98504-7815, (360) 236-3704; Implementation and Enforcement: Juliet VanEenwyk, Department of Health, P.O. Box 47812, Olympia, WA 98504-7812, (360) 236-4250.

Name of Proponent: Department of Health and Department of Labor and Industries, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Greg Smith, Washington State Department of Health, Office of Health Policy, P.O. Box 47815, Olympia, WA 98504-7815.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Repeals the expiration date currently found in the rule. The reporting of increased blood lead level incidence will continue and ultimately be integrated into an integrated notifiable conditions surveillance system.

Proposal Changes the Following Existing Rules: Repeals the subsection describing the effective date.

#### 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 Greg Smith, Washington State Department of Health, Office of Health Policy, P.O. Box 47815, Olympia, WA 98504-7815, AND RECEIVED BY May 1, 1999.

February 24, 1999

Dennis Braddock, Chairman  
State Board of Health

AMENDATORY SECTION (Amending WSR 96-11-077, filed 5/13/96, effective 6/13/96)

**WAC 246-100-042 Reporting of blood lead levels.** (1) ((Pursuant to WAC 246-100-041,)) The state health officer finds as follows:

(a) Adverse health effects resulting from elevated levels of lead in the blood has been acknowledged as a public health concern throughout the United States;

(b) Epidemiologic investigation based on reports of the results of blood level tests may contribute to the understanding of the condition, its prevalence within the state of Washington, and especially the extent to which the condition affects both children and those who may be exposed to lead in the work place;

(c) Rapid follow-up and appropriate management of potentially hazardous blood lead levels is necessary to assure safe public health, and assists in development of programs to prevent future lead over-exposure.

(2) **Definitions.** For the purposes of this section, the following words and phrases have the following meanings:

(a) "Blood lead level" means a measurement of lead content in whole blood.

(b) "Reporting organization" means any medical laboratory which performs blood lead analysis at a site within the state of Washington; or any individual or organization which sends blood specimens to an out-of-state medical laboratory for lead testing, including in-state organizations which receive blood specimens from other in-state individuals or organizations, and then send those specimens to an out-of-state testing laboratory.

(c) "Testing laboratory" means a medical laboratory which performs a blood lead analysis.

(3) **Reporting of blood lead levels.**

(a) A reporting organization shall report all blood lead levels to the department of health, including those which are within normal limits. The department of health shall send a copy of any report with a blood lead level equal to or greater than 40 micrograms per deciliter in adults, or equal to or greater than 10 micrograms per deciliter in children less than 15 years of age, to the local health department serving the jurisdiction in which the tested person resides.

(b) An individual or organization which sends blood specimens to an out-of-state laboratory may fulfill its reporting obligation by arranging for the testing laboratory to submit adequate reports.

(c) Reports shall be made in a format approved by the department.

(d) For blood lead levels equal to or greater than 40 micrograms per deciliter for adults, or equal to or greater than 20 micrograms per deciliter in children less than 15 years of age, the department must be notified by telephone, fax or mail within seven calendar days of the date test was performed, or if the test was performed by an out-of-state laboratory the date when the test result was received. Telephone reports must be supplemented by a written report submitted no later than the fifth business day of the next month after the telephone contact. In event age of patient is not known, the reporting organization shall follow the reporting schedule for children less than 15 years of age.

(e) For blood lead levels equal to or greater than 20 micrograms per deciliter in adults, or equal to or greater than 10 micrograms per deciliter in children less than 15 years of age, a report shall be made to the department no later than the fifth business day of the next month after the month in which the test was performed, or if the test was performed by an out-of-state laboratory the month during which the test result was received. In the event age of patient is not known, the reporting organization shall follow the reporting schedule for children less than 15 years of age.

(f) Information to be reported to the department for blood lead levels specified in parts (3)(d) and (3)(e) shall include the following:

- (i) Name of the person tested;
- (ii) Name of the reporting organization;
- (iii) Name of the testing laboratory;
- (iv) Date specimen received;
- (v) Blood lead level of person tested;
- (vi) Name of health care provider ordering test;
- (vii) Address or telephone number of health care provider ordering test, if available;
- (viii) Date of birth or the age of the person tested, if available;
- (ix) Sex of person tested, if available;
- (x) Race and ethnicity of person tested, if available;
- (xi) Whether blood specimen is venous or capillary, if available;
- (xii) Free erythrocyte or zinc protoporphyrin or zinc protoporphyrin/heme ratio, if performed, when available;
- (xiii) Address and occupation of the person tested, or if a child the parents' occupation, if available;
- (xiv) Name, address and telephone number of the employer, or if a child the parents' employer, if available;

(g) For all other blood lead levels, the reporting organization must either report the information specified in (3)(f) or submit a monthly summary report by the fifth day of the next month. The monthly summary must be categorized by the number of tests performed on specimens for children less than 15 years of age, the number of tests performed for individuals 15 years of age or older and the number of tests performed where patient's age is unknown. In each category the number of tests must be sorted by one of the following geographic indicators: patient county of residence, or patient postal zip code of residence, or provider county of practice, or provider postal zip code of practice.

(4) **Responsibilities of health care providers.** Upon request of a representative of the department of health or the department of labor and industries, a health care provider who has ordered a blood lead test shall provide the patient's address and telephone number to the department of health or the department of labor and industries, and when known the following information:

- (a) Circumstances of lead exposure;
- (b) Employer's name, address and telephone number, or, if a child, the same information on the employers of the parents;
- (c) Occupation of person tested, or, if a child, occupation of parents;
- (d) Type of industry of employer of person tested, or, if a child, type of industry of the employers of the parents;

(e) Reason for drawing lead level.

**(5) Confidentiality.**

(a) The medical laboratory report and all patient information provided by the health care provider shall be maintained in a confidential manner as with other disease reports and are not subject to public disclosure in any form under which the patient may be identified.

(b) The department of labor and industries shall have full access to information collected pursuant to this section, for the purposes of research, analysis, and follow-up of blood lead levels.

~~((6) This rule shall apply to tests performed for blood specimens drawn between May 15, 1996, and May 14, 1999.))~~



**WSR 99-06-001**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**GENERAL ADMINISTRATION**

[Filed February 17, 1999, 2:40 p.m.]

Date of Adoption: February 8, 1999.

Purpose: To repeal WAC 236-47-001 through 236-47-017 pertaining to the acquisition, warehousing and distribution of federal surplus property by the state. GSA regulations have been modified several years ago making the above rules obsolete and no longer needed.

Citation of Existing Rules Affected by this Order: Repealing WAC 236-47-001 through 236-47-017.

Adopted under preproposal statement of inquiry filed as WSR 99-01-151 on December 22, 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 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.

February 12, 1999

Pat Kohler

Assistant Director

**WSR 99-06-003**  
**PERMANENT RULES**  
**DEPARTMENT OF LICENSING**  
 (Uniform Commercial Code)

[Filed February 18, 1999, 9:07 a.m., effective April 1, 1999]

Date of Adoption: February 18, 1999.

Purpose: Amend rules to include fee increases, set fees in rule, clarify rule language, and repeal unnecessary rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 308-400-050, 308-400-054, 308-400-070 and 308-410-050; and amending WAC 308-400-030, 308-400-053, 308-400-058, 308-400-059, 308-400-062, 308-400-095, 308-400-120, and 308-410-070.

Statutory Authority for Adoption: Chapters 62A.9, 60.11, 60.13, and 60.68 RCW.

Adopted under notice filed as WSR 98-23-074 on November 17, 1998.

Changes Other than Editing from Proposed to Adopted Version: Fee changes to WAC 308-400-095, subsections (2), change from seventeen dollars and seventy-one cents to sev-

enteen dollars and seventy cents; subsection (5), change from five dollars to two dollars; and subsection (6), change from two dollars to one dollar.

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 8, Repealed 4.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 8, Repealed 4.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 8, Repealed 4.

Effective Date of Rule: April 1, 1999.

February 17, 1999

Alan E. Rathbun

BPD Assistant Director

AMENDATORY SECTION (Amending Order BLS 130, filed 3/1/89)

**WAC 308-400-030 Definitions.** As used in this regulation: "Filing officer" means the director of the department of licensing or the county auditor or any person commissioned by them to act on their behalf in a Uniform Commercial Code or crop lien or processor or preparer filing procedure.

"Person" includes groups of persons, corporations, cooperatives, business trusts and all other entities capable of holding title to property.

"Filings" includes all financing statements and related documents, or documents submitted to a filing officer in lieu of financing statements under Title 62A RCW and chapters 60.11, 60.13, and 60.68 RCW.

"Claimant" means a person who claims or asserts a right, demand, or claim.

"Secured" means supported or backed by security or collateral.

~~((("Standard filing forms" mean the filing forms approved by the department of licensing.))~~

AMENDATORY SECTION (Amending Order BLS 105, filed 12/2/86, effective 1/1/87)

**WAC 308-400-053 Acceptance of documents for filing.** (1) The department of licensing, Uniform Commercial Code section, does not, by accepting or rejecting a document submitted for filing, determine the legal validity of the document.

(2) When proper filing fees are submitted, the filing officer will accept for filing, documents that meet the basic filing requirements described by statute.

(3) The filing officer will return, without filing, any continuation that is received after the expiration of the original financing statement. ~~((No exception will be made for contin-~~

~~uation statements which are received following a weekend or holiday during which the original statement or previous continuation statement expired.) Documents must be received on the business day immediately following a Sunday or holiday.~~

AMENDATORY SECTION (Amending Order BLS 130, filed 3/1/89)

**WAC 308-400-058 Signature requirements.** (1) A financing statement must be signed by each person listed by name as the debtor.

(2) If a financing statement or filing form lists collateral clearly identified to multiple secured parties, either on the original financing statement or by partial assignment, individual secured parties may terminate their clearly identified security interest(s) without the signature(s) of the remaining secured parties.

~~(3) ((All required signatures on UCC-3 actions must be original.~~

~~(4))~~ When a filing form is signed by someone in a representative capacity, the signer must be identified as the representative.

AMENDATORY SECTION (Amending Order BLS 130, filed 3/1/89)

**WAC 308-400-059 Termination statement, statement of discharge lien termination statement and certificate of release.** (1) A "termination statement" is used to terminate a security interest under a financing statement (RCW 62A.9-404). A "statement of discharge" is used to discharge a processor or preparer lien which has been filed with a filing officer (RCW 60.13.060). A "lien termination statement" is used for terminating a crop lien pursuant to chapter 60.11 RCW.

(2) For a security interest under a financing statement, whenever there is no outstanding secured obligation and no commitment to make advances, incur obligations or otherwise give value, a secured party must on written demand by the debtor send the debtor, for each filing officer with whom the financing statement was filed, a properly signed termination statement to the effect that he no longer claims a security interest under the financing statement, which shall be identified by file number. A secured party's failure to file such a termination statement or to send such a termination statement within ten days after proper demand therefor, the secured party shall be liable to the debtor for one hundred dollars plus any damages caused to the debtor by such failure.

(3) For a processor or preparer lien which has been filed with the filing officer, if the producer has received full payment for the obligation, the producer shall promptly file with the filing officer a statement declaring that full payment has been received and that the lien is discharged. If, after payment, the producer fails to file such statement of discharge within ten days following a request to do so, the producer shall be liable to the processor, conditioner or preparer in the sum of one hundred dollars plus actual damages caused by the failure.

(4) For a crop lien, the lienholder shall file with the filing officer a lien termination statement within fifteen days following receipt of full payment of the amount of the lien. Failure to file a lien termination statement by the lienholder or its assignee shall cause the lienholder or its assignee to be liable to the debtor for the attorneys' fees and costs incurred by the debtor to have the lien terminated plus damages incurred by the debtor due to the failure of the lienholder to terminate the lien.

(5) Failure to file a statement of discharge or a lien termination statement with the department of licensing may result in retention of filings records beyond the duration of the secured interest or the lien.

(6) Certificate of release of notice of federal lien. Federal certificates of release shall be filed in accordance with provisions of the Uniform Federal Lien Registration Act, chapter 60.68 RCW.

AMENDATORY SECTION (Amending Order 674-DOL, filed 6/9/82)

**WAC 308-400-062 Incompatible actions.** The department will reject any UCC-3 change statement where incompatible actions, such as simultaneous release and termination, are requested on the same statement. ~~((The parties may not submit a corrected UCC-3 statement, but must submit a new signed UCC-3 statement indicating the desired action to be taken:))~~

AMENDATORY SECTION (Amending WSR 93-01-061, filed 12/11/92, effective 7/1/93)

**WAC 308-400-095 Fees.** (1) Beginning July 1, 1993, a fee of twelve dollars and fifty cents shall be charged for filing and indexing each of the following types of statements:

(a) Original financing statement pursuant to RCW 62A.9-403;

(b) Deed of trust or mortgage pursuant to RCW 62A.9-302;

(c) Continuation statement pursuant to RCW 62A.9-403;

(d) Separate statement of assignment pursuant to RCW 62A.9-405;

(e) Statement of partial release pursuant to RCW 62A.9-406;

(f) Statement of amendment pursuant to RCW 62A.9-402;

(g) Processor or preparer lien pursuant to chapter 60.13 RCW;

(h) Crop lien pursuant to chapter 60.11 RCW;

(i) Notice of federal tax lien pursuant to chapter 60.68 RCW.

(2) A fee of seventeen dollars and seventy cents shall be charged for a certificate of information pursuant to RCW 62A.9-407.

(3) A fee of ~~((twenty-four))~~ twenty-five dollars shall be charged for certificate of information and copies of any filed financing and related statements naming a particular debtor.

(4) An additional fee ~~((as specified by contractual agreement between the purchaser and the department))~~ shall be charged for each page transmitted to the purchaser by fac-

similar. The fee amount shall be one dollar per page for the first five pages, and fifty cents per page for the sixth page and subsequent pages.

(5) A fee of two dollars shall be charged for each debtor name look up.

(6) A fee of one dollar shall be charged for each computer printout of filing information.

(7) A fee of two dollars shall be charged for each microfilm copy.

(8) A fee of two dollars shall be charged for the certification of each document copy.

(9) Data base information shall be made available on magnetic tape and microfilm pursuant to contract between the department and purchaser. Costs will be specified in the contract.

AMENDATORY SECTION (Amending Order BLS 130, filed 3/1/89)

**WAC 308-400-120 Forms, fees, and procedures—Filing federal liens.** The filing fees and procedures for filing information with and obtaining information from the department of licensing pertaining to notice of federal liens pursuant to chapter 60.68 RCW shall correspond to the filing fees and procedures prescribed by the department of licensing pursuant to Article 62A.9 RCW. The filing forms shall be those forms approved between the department of licensing and the Internal Revenue Service.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 308-400-050 Official approval of standard forms.
- WAC 308-400-054 Power of attorney.
- WAC 308-400-070 Request for certificate of information.

AMENDATORY SECTION (Amending Order BLS 115, filed 1/19/88)

**WAC 308-410-070 Fees.** The fees for use of the Uniform Commercial Code field access system shall be based on ~~((the established))~~ a preestablished rate per hour for use of mainframe computer time. ~~((The fee for access to the Uniform Commercial Code field access system shall be based on the prevailing rate for surface transmission telephone line use.))~~ The specific fees for access and use shall be contained in the user contract.

REPEALER

The following section of the Washington Administrative Code is repealed:

- WAC 308-410-050 Standard for allocating users.

**WSR 99-06-005**

**PERMANENT RULES**

**STATE BOARD OF EDUCATION**

[Filed February 18, 1999, 12:11 p.m.]

Date of Adoption: January 27, 1999.

Purpose: The newly adopted section of chapter 180-82 WAC establishes an endorsement in early childhood special education for teacher certificates.

Statutory Authority for Adoption: RCW 28A.410.010 and 28A.305.130 (1) and (2).

Adopted under notice filed as WSR 99-01-171 on December 23, 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 1, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

February 17, 1999

Larry Davis

Executive Director

NEW SECTION

**WAC 180-82-331 Early childhood special education—Primary.** In order to receive a primary endorsement in early childhood special education, the candidate shall have completed a state approved preparation program in early childhood special education which shall be comprised of the appropriate pedagogy courses and field experiences/internship pursuant to chapter 180-78A WAC, as well as forty-five quarter credit hours (thirty semester credit hours) in the subject areas below. Through the completion of this course work and/or an alternative performance-based assessment acceptable to the college/university, the candidate shall have demonstrated knowledge and skills in the following areas:

- (1) Typical and atypical growth and development (cognitive, linguistic, motor and social).
- (2) Dynamics of family systems and involving parents and community agencies in early childhood development, including knowledge of cultural and linguistic diversity.
- (3) Exceptionally—defined as an overview of all disabling conditions, including low to high incidence disabilities.
- (4) Curriculum modification and adaptation (including developmental precursors to the essential academic learning requirements), accommodations, special aids, technology, and equipment.

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(5) Age appropriate child assessment and evaluation strategies:

(a) Functional analysis of behavior, including caregiver-child interactions.

(b) Individualized family service plan/individualized education plan development.

(c) Accommodations for the Washington assessment of student learning.

(6) Strategies for environmental design and management of physical space, equipment, and materials.

(7) Procedural and substantive legal issues in special education, including provisions for eligible infants and toddlers.

(8) Least restrictive environment/natural environment/inclusion strategies for early childhood special education.

(9) Specially designed instruction, including curriculum materials in all developmental domains and content areas.

(10) Age and developmentally appropriate, effective strategies for teaching pro-social skills and addressing behavioral problems.

(11) Transition planning for new settings.

(12) Organization and management systems (i.e., individualized family service plan/individualized education plan, scheduling, evaluation, and recordkeeping/data collection).

(13) Collaboration, teaming, and partnerships with families, professionals, and related human services agency personnel.

(14) Supervision of paraprofessionals.

#### WSR 99-06-006

##### PERMANENT RULES

#### STATE BOARD OF EDUCATION

[Filed February 18, 1999, 12:14 p.m.]

Date of Adoption: January 27, 1999.

Purpose: This amendment aligns the implementation date of vocational certificate endorsements with the implementation of other endorsements.

Citation of Existing Rules Affected by this Order: Amending WAC 180-79A-300.

Statutory Authority for Adoption: RCW 28A.410.010.

Adopted under notice filed as WSR 98-23-032 on November 10, 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 Mak-

ing: 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.

February 17, 1999

Larry Davis

Executive Director

**AMENDATORY SECTION** (Amending WSR 98-01-027, filed 12/8/97, effective 1/8/98)

**WAC 180-79A-300 Certificate endorsement.** Teacher certificates shall be endorsed as follows:

(1) Teacher certificates shall specify endorsements in subject area(s) and grade level(s).

(2) In order to change or add an endorsement to any teaching certificate, the candidate must complete an application, pay the certification fee specified in WAC 180-79A-130, and submit verification of completion of the necessary requirements specified in this chapter: *Provided*, That in order to change or add an endorsement to any teaching certificate in the vocational areas of agriculture education, business education, family and consumer sciences education, marketing education, and technology education after August 31, ((1999)) 2000, the candidate must also complete requirements under WAC 180-77-031.

#### WSR 99-06-021

##### PERMANENT RULES

#### HIGHER EDUCATION

#### COORDINATING BOARD

[Filed February 22, 1999, 4:00 p.m.]

Date of Adoption: February 22, 1999.

Purpose: Rule identifies four conditions that disqualify administrator of a degree-granting institution: (a) Conviction of a felony within ten years; (b) involuntary surrender of license to operate a school in Washington; (c) served with cease and desist order for activities in violation of current WAC; (d) denied renewal of license because of violation of current WAC.

Citation of Existing Rules Affected by this Order: Amending WAC 250-61-090.

Statutory Authority for Adoption: Chapter 28B.85 RCW.

Adopted under notice filed as WSR 99-01-039 on December 9, 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 1, Repealed 0.



Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

February 17, 1999

Jane E. Battey

Associate 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 99-06-022

### PERMANENT RULES

### HIGHER EDUCATION

### COORDINATING BOARD

[Filed February 22, 1999, 4:03 p.m.]

Date of Adoption: February 22, 1999.

Purpose: The conditions in WAC 250-61-060(3) are not clear regarding the need for an institution to meet all conditions of subsections (3)(a), (b), (c), and (d). We propose that "and" be added to the end of subsection (3)(a), (b), and (c).

Citation of Existing Rules Affected by this Order: Amending WAC 250-61-060(3).

Statutory Authority for Adoption: Chapter 28B.85 RCW.

Adopted under notice filed as WSR 99-01-040 on December 9, 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 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

February 17, 1999

Jane E. Battey

Associate 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

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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((-);

(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 99-06-023

### PERMANENT RULES

### WASHINGTON STATE PATROL

[Filed February 22, 1999, 4:08 p.m.]

Date of Adoption: February 22, 1999.

Purpose: To amend WAC 204-24-050 Use of tire chains or other traction devices, to include SR-14 between Gibbons Creek (MP 18) and the junction to SR-97 (MP 102) to the list of chain-up areas.

Citation of Existing Rules Affected by this Order: Amending WAC 204-24-050.

Statutory Authority for Adoption: RCW 46.37.005.

Adopted under notice filed as WSR 99-01-084 on December 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 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

February 22, 1999

Annette M. Sandberg

Chief

**AMENDATORY SECTION** (Amending WSR 98-19-042, filed 9/11/98, effective 10/12/98)

**WAC 204-24-050 Use of tire chains or other traction devices.** (1) Vehicles under 10,000 pounds gross vehicle weight.

(a) When traffic control signs marked "approved traction tires required" are posted by the department of transportation it shall be unlawful for any vehicle to enter the controlled area without having mounted on its drive tires at least one of the traction devices meeting the requirements of WAC 204-24-040.

(b) When traffic control signs marked "chains required" are posted by the department of transportation it shall be unlawful for any vehicle to enter the controlled area without having mounted on its drive tires, tire chains meeting the standards in chapter 204-22 WAC.

(i) Exception for all wheel drive vehicles. When "chains required" signs are posted, all-wheel drive vehicles shall be exempt from the chain requirement when all wheels are in gear and are equipped with approved traction devices as specified in WAC 204-24-040 provided that tire chains for at least one set of drive tires are carried in the vehicle.

(2) Vehicles or combinations of vehicles over 10,000 pounds gross vehicle weight.

When traffic control signs marked "approved traction tires required" or "chains required" are posted by the department of transportation it shall be unlawful for any vehicle or combination of vehicles to enter the controlled area without having mounted on its tires, tire chains as follows: *Provided*, That highway maintenance vehicles operated by the department of transportation for the purpose of snow removal and its ancillary functions are exempt from the following requirements if such vehicle has sanding capability in front of the drive tires.

(a) Vehicles or vehicle combinations with two to four axles including but not limited to trucks, truck-tractors, buses and school buses: For vehicles with a single drive axle, one tire on each side of the drive axle shall be chained. For vehicles with dual drive axles, one tire on each side of one of the drive axles shall be chained. For vehicle combinations including trailers or semi-trailers; one tire on the last axle of the last trailer or semi-trailer, shall be chained. If the trailer or semi-trailer has tandem rear axles, the chained tire may be on either of the last two axles.

(b) Automobile transporters are any vehicle combination designed and used specifically for the transport of assembled (capable of being driven) highway vehicles. For vehicles with single drive axles, one tire on each side of the drive axle shall be chained. For vehicles with dual drive axles, one tire on each side of each of the drive axles shall be chained. For vehicle combinations including trailers or semi-trailers, one tire on the last axle of the last trailer or semi-trailer shall be chained. If the trailer or semi-trailer has tandem rear axles, the chained tire may be on either of the last two axles.

(c) Vehicle combinations with five axles consisting of a truck tractor with dual drive axles and a tandem axled semi-trailer; all tires on one drive axle may be chained or one tire on each side of each of the drive axles may be chained. Chains must be applied to a minimum of four tires on the drive axles. On the tandem axle semi-trailer, the chained tire may be on either of the last two axles.

(d) Vehicle combinations with five axles, consisting of a truck and trailer, or truck tractor and semi-trailer with a single drive axle, or truck tractor, semi-trailer and full trailer: For vehicles with a single drive axle, all tires on the drive axle shall be chained. For vehicles with dual drive axles, all tires on one of the drive axles shall be chained. For vehicle combinations including trailers or semi-trailers, one tire on the last axle of the last trailer or semi-trailer shall be chained. If the trailer or semi-trailer has tandem rear axles, the chained tire may be on either of the last two axles.

(e) Vehicle combinations with six or more axles, including but not limited to truck and trailer or truck tractor and semi-trailer or truck tractor semi-trailer and full trailer: For vehicles with a single drive axle, all tires on the drive axle shall be chained. For vehicles with dual drive axles where traffic control signs marked "approved traction tires required" are posted, all tires on one of the drive axles shall be chained. For vehicles with dual drive axles where traffic control signs marked "chains required" are posted, all tires on one of the drive axles shall be chained. In addition, one tire on each side of the additional drive axle shall be chained. For vehicle combinations including trailers or semi-trailers, one tire on the last axle shall be chained. For vehicles with tandem axle trailers or semi-trailers, the chained tire may be on either of the last two axles.

(f) All vehicles over 10,000 pounds gross vehicle weight shall carry a minimum of two extra chains for use in the event that road conditions require the use of more chains or in the event that chains in use are broken or otherwise made useless.

(g) Approved chains for vehicles over 10,000 pounds gross vehicle weight shall have at least two side chains to which are attached sufficient cross chains of hardened metal so that at least one cross chain is in contact with the road surface at all times. Plastic chains shall not be allowed. The state patrol may approve other devices as chains if the devices are equivalent to regular chains in performance.

(h) On the following routes all vehicles and combinations of vehicles over 10,000 pounds shall carry sufficient tire chains to meet the requirements of this chapter from November 1 to April 1 of each year or at other times when chains are required for such vehicles:

(i) I-90 - between North Bend (MP 32) and Ellensburg (MP 101).

- (ii) SR-97 - between (MP 145) and Junction SR-2.
- (iii) SR-2 - between Dryden (MP 108) and Index (MP 36).
- (iv) SR-12 - between Packwood (MP 135) and Naches (MP 187).
- (v) SR-97 - between the junction of SR-14 (MP 4) Columbia River and Toppenish (MP 59).
- (vi) SR-410 - from Enumclaw to Naches.
- (vii) SR-20 - between Tonasket (MP 262) and Kettle Falls (MP 342); and SR-20 between Newhalem (MP 120) and Winthrop (MP 192).
- (viii) SR-155 - between Omak (MP 79) and Nespelem (MP 45).
- (ix) SR-970 - between (MP 0) and (MP 10).
- (x) SR-14 - between Gibbons Creek (MP 18) and Junction SR-97 (MP 102).

Vehicles making local deliveries as indicated on bills of lading and not crossing the mountain pass are exempt from this requirement if operating outside of a chain required area.

(3) The Washington state department of transportation or Washington state patrol may prohibit any vehicle from entering a chain/approved traction tire control area when it is determined that the vehicle will experience difficulty in safely traveling the area.

#### WSR 99-06-026

##### PERMANENT RULES

#### HORSE RACING COMMISSION

[Filed February 23, 1999, 11:49 a.m.]

Date of Adoption: February 10, 1999.

Purpose: Clarifying and to conform to nationally accepted model rules regarding refunds, betting interests, superfecta pool rules.

Citation of Existing Rules Affected by this Order: Amending WAC 260-48-600 Refunds and 260-48-620 Pools dependent upon betting interests; and new sections WAC 260-48-910 Superfecta pools, and 260-48-700, 260-48-710, and 260-48-720.

Statutory Authority for Adoption: RCW 67.16.040.

Adopted under notice filed as WSR 99-02-081 on January 6, 1999.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 1, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 2, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, 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.

February 23, 1999

Bruce Batson  
Executive Secretary

#### AMENDATORY SECTION (Amending WSR 96-10-014, filed 4/19/96)

**WAC 260-48-600 Refunds.** (1) Notwithstanding other provisions of these rules, refunds of the entire pool shall be made on:

(a) Win pools, exacta pools, and first-half double pools, offered in races in which the number of betting interests has been reduced to fewer than two.

(b) Place pools and quinella pools, offered in races in which the number of betting interests has been reduced to fewer than three.

(c) Show pools, in races in which the number of betting interests has been reduced to fewer than four.

(d) Superfecta pools, t ((F))rifecta pools and first half twin trifecta pools, offered in races in which the number of betting interests has been reduced to fewer than six.

(2) Authorized refunds shall be paid upon presentation and surrender of the affected parimutuel ticket.

#### AMENDATORY SECTION (Amending WSR 96-10-014, filed 4/19/96)

**WAC 260-48-620 Pools dependent upon betting interests.** Unless the commission otherwise provides, at the time the pools are opened for wagering, the association:

(1) Shall offer win, place, and show wagering on all races with five or more betting interests.

(2) May be allowed to prohibit show wagering on any race with four or fewer betting interests.

(3) May be allowed to prohibit place wagering on any race with three or fewer betting interests.

(4) May be allowed to prohibit quinella wagering on any race with three or fewer betting interests.

(5) May be allowed to prohibit exacta wagering on any race with three or fewer betting interests.

(6) Shall prohibit trifecta wagering on any race with seven or fewer betting interests scheduled to start one hour prior to the first scheduled post time of the day.

(7) Shall prohibit twin trifecta wagering on any race with seven or fewer betting interests scheduled to start one hour prior to the first scheduled post time of the day.

(8) Shall prohibit superfecta wagering on any race with seven or fewer betting interests scheduled to start one hour prior to the first scheduled post time of the day.

#### NEW SECTION

**WAC 260-48-910 Superfecta pools** (1) The superfecta requires selection of the first four finishers, in their exact order, for a single race.

(2) The net superfecta pool shall be distributed to winning wagers in the following precedence, based upon the official order of finish:

(a) As a single price pool to those whose combination finished in correct sequence as the first four betting interests; but if there are no such wagers, then

(b) As a single price pool to those whose combination included, in correct sequence, the first three betting interests; but if there are no such wagers, then

(c) As a single price pool to those whose combination included, in correct sequence, the first two betting interests; but if there are no such wagers, then

(d) As a single price pool to those whose combination correctly selected the first-place betting interest only; but if there are no such wagers, then

(e) The entire pool shall be refunded on superfecta wagers for that race.

(3) If less than four betting interests finish and the race is declared official, payoffs will be made based upon the order of finish of those betting interests completing the race. The balance of any selection beyond the number of betting interests completing the race shall be ignored.

(4) If there is a dead heat for first involving:

(a) Horses representing four or more betting interests, all of the wagering combinations selecting four betting interests which correspond with any of the betting interests involved in the dead heat shall share in a profit split.

(b) Horses representing three betting interests, all of the wagering combinations selecting the three dead-heated betting interests, irrespective of order, along with the fourth-place betting interest shall share in a profit split.

(c) Horses representing two betting interests, both of the wagering combinations selecting the two dead-heated betting interests, irrespective of order, along with the third-place and fourth-place betting interests shall share in a profit split.

(5) If there is a dead heat for second involving:

(a) Horses representing three or more betting interests, all of the wagering combinations correctly selecting the winner combined with any of the three betting interests involved in the dead heat for second shall share in a profit split.

(b) Horses representing two betting interests, all of the wagering combinations correctly selecting the winner, the two dead-heated betting interests, irrespective of order, and the fourth-place betting interest shall share in a profit split.

(6) If there is a dead heat for third, all wagering combinations correctly selecting the first two finishers, in correct sequence, along with any two of the betting interests involved in the dead heat for third shall share in a profit split.

(7) If there is a dead heat for fourth, all wagering combinations correctly selecting the first three finishers, in correct sequence, along with any of the betting interests involved in the dead heat for fourth shall share in a profit split.

(8) There shall be only one instance of two horses having common ties through a trainer in any superfecta race, stakes races are excepted with permission of the stewards.

## NEW SECTION

### **WAC 260-48-700 Inter-jurisdictional common pool wagering (1) DEFINITIONS**

(a) The host association is the association conducting a licensed parimutuel meeting from which authorized contests or entire performances are simulcast.

(b) The guest association is the association that offers licensed parimutuel wagering on contests conducted by the host association.

(2)(a) Except as otherwise authorized by the commission, a request for simulcasting must be filed on a form provided by the commission not later than 7 business days before the first simulcast race covered by the request. The executive secretary may approve a request for simulcasting, subject to rescission of the approval by the commission at its next regular meeting.

(b) The application must include at a minimum:

(i) The simulcast agreement between the host and guest association;

(ii) The approval by the horsemen's association represented at the host and guest site;

(iii) The alternate jurisdiction approval;

(iv) When acting as the host site, approval also requires a list of all locations that will be receiving and/or wagering on the races under the guest site; and

(v) The executive secretary may require the association to submit additional information if the executive secretary determines the additional information is necessary to effectively evaluate the request.

(3) A Class I association shall not be allowed to simulcast until the following are filed with the commission.

(a) A written agreement with the local horsemen's group.

(b) A description of how simulcast purse monies are to be maintained

(c) A description of how breeder awards are to be maintained.

(d) A monthly statement showing amounts contributed to and balance in the purse fund and the breeders awards fund. This statement shall be filed with the commission no later than ten days after the end of each month.

(4) The approval of any particular simulcasting or wagering on particular simulcast races or programs is not binding on the commission for other requests for approval of simulcasting or wagering on simulcast races or programs.

(5) In determining whether to approve an inter-jurisdiction common pool which does not include the host track or which includes contests from more than one association, the commission shall consider and may approve use of a bet type which is not utilized at the host track, application of a takeout rate not in effect at the host track, or other factors which are presented to the commission.

(6) No Class 1 racing association shall enter a contractual agreement that is in violation of, or may be construed as waiving any provision of Chapter 67.16 RCW, Title 260 WAC and any federal, state or local law.

(7) The mutuel manager or the mutuel manager's designee shall be present on association grounds at all times that the association is accepting wagers on simulcast races. He/she shall be responsible for communicating all errors or omissions regarding simulcast wagering to the board of stewards or the commissions on duty mutuel inspector.

(8) There shall be a facsimile machine located in each mutuel area or tote room and a direct, private telephone line to be located in the tote room. Phone access to the tote room shall not require routing through the switchboard.

(9) Every Class 1 racing association shall file with the commission an annual report of its simulcast operations including financial data as specified by the commission.

(10) Not less than 30 minutes prior to the commencement of transmission of the performance of parimutuel contests for each day or night, the guest association shall initiate a test program of its transmitter, encryption and decoding, and data communication to assure proper operation of the system.

(11) The audio or the video signals must be present at the start of a wagering event in order for wagering to begin and shall continue to be displayed to the public during the entire wagering card.

(12) In the event of the loss of both the audio and video signals the Class 1 association mutuel manager shall ensure that wagering and racing information is provided through the public address system or totalisator information screens.

(13) If a guest association is unable to establish or to maintain the audio or video signal from the host association, the guest association may continue to accept wagers while attempting to establish the signal provided:

(a) An announcement is made to the public informing them of the technical difficulties;

(b) The totalisator system licensee transmits the odds on the affected race to the video department to be displayed to the patrons; and

(c) The totalisator system licensee locks all wagering on the affected race at zero minutes to post to ensure the integrity and transfer of the wagering pools.

(14) Wagering may not take place without the presence of both the audio and the video signals on a performance day following a performance day in which either the audio or the video was missing.

(15) If the host association loses the ability to transmit the audio or video signal, the host association:

(a) Shall notify all receiving locations of the technical difficulties being experienced;

(b) May continue to accept wagers from the receiving location on that days races; and

(c) May not accept wagers from the receiving locations for subsequent race days until the technical difficulties have been corrected.

(16) The content and format of the visual display of racing and wagering information at facilities in other jurisdictions where wagering is permitted in the inter-jurisdiction common pool need not be identical to the similar information permitted or required to be displayed under these rules.

(17) Washington intratrack breakage and minus pools shall be prorated based on amounts wagered.

(18) The commission may permit adjustment of the takeout from the parimutuel pool so that the takeout rate in this jurisdiction is identical to that at the host jurisdiction, or identical to that of other jurisdictions participating in a merged pool

(19) Any surcharges or withholdings in addition to the takeout shall only be applied in the jurisdiction otherwise imposing such surcharges or withholdings.

(20) Where takeout rates in the merged pool are not identical, the net price calculation may be the method by which the differing takeout rates are applied.

(21) Parimutuel pools may be combined for computing odds and calculating payouts but will be held separate for auditing and all other purposes.

#### NEW SECTION

**WAC 260-48-710 Participation in common pools as guest.** (1) With the prior approval of the commission, parimutuel-wagering pools may be combined with corresponding wagering pools in the host jurisdiction, or with corresponding pools established by one or more other jurisdictions.

(2) Rules established in the jurisdiction of the host association designated for a parimutuel pool shall apply.

(3) The guest association and all authorized receivers shall conduct parimutuel wagering pursuant to the applicable jurisdiction rules.

(4) Class 1 associations which import races and propose to offer types of wagers other than those currently defined in Chapter 260-48 WAC, shall submit to the commission a copy of the host jurisdiction's rule governing the wager.

(5) If, after the close of wagering, it becomes impossible to successfully merge the bets placed into the interjurisdiction common pool, the association shall make payouts in accordance with payout prices that would have been in effect if prices for the pool of bets were calculated without regard to wagers placed elsewhere: In the event the host association has offered a wager not covered by chapter 260-48 WAC, the ARCI model rules regarding such wager shall govern. Information regarding this emergency procedure shall be posted throughout the Class 1 association facility and published in its racing program.

(6) An authorized Class 1 racing association when acting as a guest association shall provide:

(a) A voice communication system between each guest association and the host association, providing timely voice contact among the commission designees and parimutuel departments.

(b) Parimutuel terminals and odds displays, modems and equipment enabling parimutuel data transmissions, and data communications between the host and guest associations.

(c) Adequate transmitting and receiving equipment of acceptable broadcast quality, which shall not interfere with the closed circuit TV system of the host association for providing any host facility patron information.

#### NEW SECTION

**WAC 260-48-720 Participation in common pools as host.** (1) A host association is responsible for content of the simulcast and shall use all reasonable effort to present a simulcast that offers the viewers an exemplary depiction of each performance.

(2) Unless otherwise permitted by the commission, every simulcast will contain in its video content the date, a digital display of actual time of day, the host facility's name from where it emanates and the number of the contest being displayed.

(3) The host association shall maintain such security controls including encryption over its uplink and communications systems as directed or approved by the commission.

(4) Any contract of interjurisdiction common pools entered into by the association shall contain a provision to the effect that if, for any reason, it becomes impossible to successfully merge the bets placed in another jurisdiction into the interjurisdiction common pool formed by the Class 1 association, or if, for any reason, the commission's or the association's representative determines that attempting to effect transfer of pool data from the guest jurisdiction may endanger the association's wagering pool, the association shall have no liability for any measures taken which may result in the guest's wagers not being accepted into the pool.

(5) If for any reason it becomes impossible to successfully merge pool data into the interjurisdiction common pool of the Class 1 association, or it is determined that attempting to effect transfer of pool data from the guest jurisdiction may endanger the Class 1 associations wagering pool, or cause an unreasonable delay of the racing program, the Class 1 association representative shall determine under the circumstances whether to manually merge guests pools, exclude guests pools or delay the Washington pools.

(6) Scratched horses must be communicated via facsimile machine, telephone or other approved method by the host mutuel manager to all guest mutuel managers except when the operating totalisator protocol performs these functions automatically or when the information is disseminated to the wagering network via satellite or video display. The host mutuel manager must communicate program changes to all guest sites via facsimile machine, telephone or other approved method.

**WSR 99-06-029**  
**PERMANENT RULES**  
**DEPARTMENT OF LICENSING**

[Filed February 24, 1999, 9:06 a.m.]

Date of Adoption: February 20, 1999.

Purpose: Meet criteria supporting Governor Locke's Executive Order 97-02.

Citation of Existing Rules Affected by this Order: Repealing 4 [WAC 308-96A-100, 308-96A-105, 308-96A-106 and 308-96A-120]; and amending 4 [WAC 308-96A-110, 308-96A-135, 308-96A-136, and 308-96A-145.]

Statutory Authority for Adoption: RCW 46.16.276.

Other Authority: RCW 43.17.060, 46.16.600, 46.01.-110.

Adopted under notice filed as WSR 99-01-139 on December 22, 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 2, Amended 4, Repealed 4.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 2, Amended 4, Repealed 4.

Number of Sections Adopted Using Negotiated Rule Making: New 2, 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.

February 22, 1999

Fred Stephens

Director

**NEW SECTION**

**WAC 308-96A-099 Use class descriptions. (1) Why does the department assign use classes to vehicles?**

The department assigns use classes to:

- (a) Assess the proper license fees and excise tax for vehicles;
- (b) Assign special brands on subsequent owner's certificate of ownership;
- (c) Apply certain restrictions on the use of the vehicles, which prints on the vehicle registrations;
- (d) Assign the proper license plates.

**(2) Under what authority does the department assign use classes to vehicles?**

The department assigns use classes under the authority of RCW 46.16.040.

**(3) What use classes does the department assign and when do they apply?**

The use classes the department assigns are described below:

ABBREVIATION	TRANSLATION	DESCRIPTION
CAB	TAXI CAB	Vehicle is used for carrying passengers between two points for compensation for an on-demand trip rather than a scheduled route. A vehicle with this use class may not carry any luggage or commodities that do not belong to a passenger being carried at the same time. In other words, the vehicle cannot just carry cargo between two points.
C/G	CONVERTER GEAR	Vehicle is an axle that is used to convert a semi-trailer to a full trailer. A converter gear may be titled but may not be licensed.

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ABBREVIATION	TRANSLATION	DESCRIPTION
CMB	COMBINATION	Vehicle is either (1) a power unit with a declared gross weight of 42,000 pounds or more and towing a trailer; or (2) a trailing unit with permanent plates. The trailer may be towed only by a power unit with a CMB use class, or FCB depending on what is being hauled.
CMP	CAMPER	Vehicle is a slide-in pickup camper (not a canopy) as defined in RCW 46.04.085. Even if the owner has chosen to permanently attach the camper to the pickup, the units need to be titled and licensed separately.
COM	COMMERCIAL	Vehicle is either (1) a power unit that does <b>not</b> pull a trailer or that pulls a trailer but the gross weight for the truck and trailer does not exceed 40,000 pounds; or (2) a trailing unit that is titled in a business name (including the name of a farm). A commercial trailer may be towed by a vehicle with PAS, TRK, COM, CMB, FAR or FCB use classes. If the trailer is being towed by a vehicle with FAR or FCB use class, the use of the trailer (items carried, etc.,) must meet the farm use class requirements.
CYC	MOTORCYCLE	Vehicle is a motorcycle, motor driven cycle or scooter. A moped does not qualify to be licensed as a motorcycle as defined in RCW 46.04.330 and 46.04.332.
EX	EXEMPT	Vehicle can be any type of vehicle, which is owned by a city, county or state government agency or federally recognized Indian tribe located in the state of Washington. This includes school buses, which are owned or leased by school districts. If the school district contracts a company to provide total bus service, such as the bus, the driver and the maintenance, and the vehicle is registered in the name of the school district as registered owner, the vehicle qualifies for exempt license plates.
FAR	FARM	Vehicle is a truck (or tractor) used to transport the farmer's own farm, orchard or dairy products as defined in RCW 46.16.090, or aquatic products as defined in RCW 15.85.020, from point of production to market or warehouse. The vehicle may also be used to transport the farmer's own farm supplies.
FCB	FARM COMBINATION	Vehicle is (1) a power unit (not a trailer) with a declared gross weight of 42,000 pounds or more and towing a trailer; and (2) meets the criteria of FAR use class above.
FED	FEDERAL	Vehicle is owned by the federal government of the United States. Like exempt vehicles, this could be any type of vehicle. This does not include vehicles displaying license plates issued by the federal government.
FEX	FARM EXEMPT	Vehicle is used exclusively in agricultural pursuits on farms as defined in RCW 46.16.010(3) and 46.04.181. The vehicle is usually a truck, but it could also be a bus, a motorcycle or off-road cycle.
FIX	FIXED LOAD	Vehicle as defined in RCW 46.16.070(1). These vehicles have a unique use class because they are exempt from the law, which requires vehicles with a scale weight of more than six thousand pounds to have a declared gross weight of at least 150 percent of the scale weight. The basic license fee is based on the declared gross weight, or the next two thousand pound increment above the scale weight, or the next two thousand pound increment above the legal maximum gross weight as determined by the Washington state patrol or department of transportation. Fixed load vehicles are the only ones whose gross weight may actually be less than their scale weight, depending on their legal maximum gross weight. An oversize permit is required in addition to the registration in these cases.



ABBREVIATION	TRANSLATION	DESCRIPTION
F/H	FOR HIRE	Vehicle is used to transport people and/or commodities for compensation as defined in RCW 46.72.010. A for hire permit from business and professions division (BPD) is required.
H/C	HORSELESS CARRIAGE	Vehicle is a motorized vehicle over 40 years old with limited use as defined in RCW 46.16.307. The vehicle may not be used for normal transportation to and from work, to go to the store and pick up groceries, and so on.
H/D	HOUSE DOLLY	Vehicle constructed and used exclusively to move buildings or homes.
LOG	LOGGING	Vehicle is a truck or trailer used exclusively for hauling logs.
MH	MOTOR HOME	Motorized vehicle designed for human habitation and defined in RCW 46.04.305
MOB	MOBILE HOME	Vehicle is a manufactured home as defined in RCW 46.04.302. Mobile homes are titled but generally not registered because of their size. Manufactured homes are taxed by the county, either as personal property or real property.
ORV	OFF-ROAD VEHICLE	Vehicle is used off-road. A vehicle licensed only as an ORV may not be operated on public roadways or ocean beaches.
PAS	PASSENGER	Vehicle is used to transport passengers as defined in RCW 46.04.382. Typically passenger cars, utility or multipurpose vehicles, passenger vans, and private busses are licensed as passenger vehicles.
PED	MOPED	Vehicle as defined in RCW 46.04.304 and subject to the restrictions in RCW 46.61.710.
PER	PERSONAL	Vehicle is a personal use trailer as defined in RCW 46.16.065. Trailers owned by businesses or used for commercial purposes do not qualify for this use class.
RES	RESTORED	Vehicle is a motorized collector vehicle over 30 years old with limited use as defined in RCW 46.16.307. The vehicle may display either a collector vehicle license plate provided by the department or a license plate, which must have been first issued, for use the year the vehicle was manufactured. The vehicle must be currently registered in order to be assigned this use class and receive a special collector license plate or authority to use a restored license plate.
SCH	SCHOOL	Vehicle is owned and operated by a private school meeting the accreditation requirements of RCW 28A.195.010. The vehicle is used to transport children to and from school or in connection with school activities.
SNO	SNOWMOBILE	Vehicle is a snowmobile as defined in RCW 46.10.020(2).
SNX	EXEMPT SNOWMOBILE	Vehicle is a snowmobile as defined in RCW 46.10.010(2) and owned by a city, county or state agency.
STA	STAGE	Vehicle is used as an auto stage as defined in RCW 46.04.050.
TLR	TRAILER	Vehicle is a personal use trailer as defined in RCW 46.04.620 but does not meet the size criteria for a PER use class. Trailers used by businesses or others for commercial purposes do not qualify for this use class.
TOW	TOW	Vehicle is a tow truck as defined in RCW 46.16.079 and 46.55.010(8). If the vehicle carries other vehicles, it does not qualify for the TOW use class and must be licensed as COM.
TRK	TRUCK	Vehicle is a personal use, light duty truck, with a declared gross weight of twelve thousand pounds or less. Trucks used for business or commercial purposes do not qualify for the TRK use class.

ABBREVIATION	TRANSLATION	DESCRIPTION
TVL	TRAVEL TRAILER	Vehicle is a travel trailer as defined in RCW 46.04.623, which includes park models of four hundred square feet or less and camp/tent trailers. It is designed and manufactured for temporary habitation.

**(4) What use classes may the department assign to specific types of vehicles?**

Use classes are assigned as listed below:

VEHICLE TYPE	USE CLASS	SPECIAL REQUIREMENTS
PASSENGER CARS	CAB, COM, EX, FED, F/H, H/C, PAS, RES, ORV, FEX, STA	COM-Scale weight, Statement of use F/H and STA-Scale weight, Number of seats
LIGHT DUTY TRUCKS (INCLUDING SMALL VANS)	COM, EX, FAR, FED, FEX, H/C, RES, STA, TOW, TRK, FIX, F/H, ORV	F/H and STA-Number of seats All use classes-Scale weight
MEDIUM/HEAVY DUTY TRUCKS (INCLUDING BUSES)	CMB, COM, EX, FAR, FCB, FEX, FIX, LOG, SCH, TOW, TRK, FED, H/C, RES, F/H	F/H and STA-Number of seats All use classes-Scale weight
TRAILERS	C/G, CMB, COM, EX, FEX, LOG, PER, TLR, FED	PER-Number of wheels All use classes-Scale weight
CYCLES		
MOTORCYCLES	CYC, EX, FED, FEX, H/C, ORV, RES	
MOPEDS	EX, FED, FEX, ORV, PED	
SNOWMOBILES	SNO, SNX	
UTILITY/MULTIPURPOSE VEHICLES	CAB, COM, EX, FED, F/H, PAS, STA, TRK, FAR, FEX, H/C, ORV, RES, SCH	COM, F/H, STA, TRK, FAR and FEX-Scale weight F/H and STA-Number of seats
RECREATION VEHICLES		
TRAVEL TRAILERS (INCLUDING CAMP AND TENT TRAILERS)	EX, FED, TVL	
CAMPERS	CMP, EX, FED	
MOTOR HOMES	EX, FED, MH	
NOTE: Gross weight and seat requirements per RCW 46.16.040.		

**(5) Do all powered three-wheeled vehicles need to be licensed as motorcycles?**

No. If the vehicle qualifies as a motorcycle as defined in RCW 46.04.330 or 46.04.332, it will be licensed as a motorcycle for street use. However, if the vehicle has a bench seat and a steering wheel, it will be licensed as a passenger vehicle or truck.

**(6) What license plates and use class will be assigned to my for hire vehicle?**

The license plates and use class assigned to your for hire vehicle depends upon how you use your vehicle. All for hire vehicles transport passengers and commodities for compensation. For hire vehicles include cabulances, limousines, taxi cabs, and busses hauling passengers for compensation in addition to transporting school children. There are two use classes and license plate combinations assigned to for hire vehicles:

- (a) CAB use class vehicles are assigned passenger license plates. These vehicles are used exclusively for transporting passengers and their possessions; and
- (b) F/H use class vehicles are assigned truck license plates. These vehicles not only transport passengers for compensation, but also transport commodities, without passengers, for compensation.

**(7) When may truck license plates be assigned to my passenger vehicle?**

Truck license plates may be assigned to your passenger vehicle whenever the vehicle is used to transport commodities, produce, freight or animals for commercial purposes. The use class would be COM instead of PAS. This would require a title application, a scale weight slip and a certified/notarized statement of use describing how the vehicle will be used commercially.

**(8) When may passenger license plates be assigned to my pick-up truck?**

Passenger license plates may only be assigned to your pick-up truck if it has been modified to qualify as a passenger vehicle. The department requires confirmation from the Washington state patrol that the vehicle has been modified to qualify for passenger use.

**(9) What use classes and license plates will be assigned to school buses?**

- (a) EX use class and county exempt license plates will be assigned to a school bus owned or leased by an exempt agency (school district);
- (b) SCH use class and passenger license plates will be assigned to a school bus owned or leased by an accredited private school; or

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(c) F/H use class and truck license plates will be assigned to school buses used for transporting passengers for compensation and not used exclusively for transporting school children to and from school or school related activities.

**(10) May I license my motorcycle or any other motor vehicle for both road and off road use?**

Yes, you may license your motorcycle or any other motor vehicle for both uses as long as the vehicle qualifies for road use. You will receive two registration certificates showing the vehicle is licensed for both uses. However, the certificate of ownership will show the use class associated with the road use.

**(11) May I license my amphibious vehicle as a vehicle and a vessel?**

Yes, you may license your amphibious vehicle for both uses as long as it qualifies for both uses. You will receive two registration certificates showing the vehicle is licensed for both uses. However, the certificate of ownership will show the use class associated with the road use.

**(12) May I license my truck, truck tractor or tractor as a motor home?**

Yes, you may license your truck, truck tractor or tractor as a motor home if:

(a) The vehicle meets the definition of a motor home in RCW 46.04.305; and

(b) You provide a Washington state patrol inspection confirming your vehicle may be licensed as a motor home; and

(c) You certify the vehicle will be used exclusively as a motor home and is not used for commercial use.

**(13) Is my truck, truck tractor or tractor which I use exclusively for towing my travel trailer licensed differently than any other like truck?**

No. Your truck, truck tractor or tractor used exclusively for towing your travel trailer must be licensed in accordance with RCW 46.16.070. Depending on scale weight the use class will be TRK or COM.

**NEW SECTION**

**WAC 308-96A-101 Scale weight. (1) What is scale weight?**

Scale weight is the weight of a vehicle without a load.

**(2) When does the department require the scale weight of my vehicle?**

The department requires the scale weight of your vehicle when:

(a) The use class requires gross weight under RCW 46.16.070 and 46.16.090;

(b) The vehicle is a trailer;

(c) The use class is F/H or STA;

(d) The vehicle is powered by propane, natural gas or butane;

(e) There is a discrepancy between the scale weight on department records or supporting documents and the actual weight of the vehicle; or

(f) The vehicle has been structurally modified changing the empty weight.

**(3) What sources does the department accept for scale weight verification?**

The department will accept:

(a) The shipping weight as shown on a manufacturer's statement/certificate of origin or factory invoice;

(b) A weight slip from a certified scale;

(c) Information provided by any guidebook or other publication of recognized standing in the vehicle industry;

(d) Unladen or scale weight as shown on supporting documentation issued by another jurisdiction; or

(e) In extenuating circumstances and as approved by the department, either a weight slip from a noncertified scale or an agreement reached between the applicant and the department.

**AMENDATORY SECTION** (Amending Order MV-328, filed 7/24/75)

**WAC 308-96A-110 Private bus. When may a vehicle be licensed as a private bus?**

A vehicle may be licensed as a private bus without a load license if it carries passengers without compensation and is:

(1) Used by a hotel, resort or lodge to transport guests;

(2) Used by a parking service to transport parking customers to and from a transportation terminal or other destination;

(3) Used by its owner to transport an athletic team, an educational group, members of a religious organization, a show troupe or similar organization;

(4) Used by its owner to transport family, guests or employees;

(5) ~~((Used solely for the transportation of students, teachers or staff members for school activities, operated under contract to a school district, used for no other purpose and not owned or leased by the district; or~~

~~(6)))~~ Used, as a school bus by a private school not accredited by the superintendent of public instruction.

**AMENDATORY SECTION** (Amending Order TL/RG 24, filed 5/5/86)

**WAC 308-96A-135 Fixed load vehicles. (1) ~~((Vehicles designed primarily for highway use with permanently attached structures such as well-drilling machinery, air compressor, rock crusher, conveyor, hoist, wrecker, donkey engine, cook house, tool house, bunk house, specialized underwater exploration support equipment or similar machine or structure may be licensed as fixed load vehicles. If the vehicle carries lading in addition to this fixed load, it must be licensed for the total gross weight, and not as a fixed load.~~**

~~(2) Owners of vehicles designed primarily for off-highway use and taxed as personal property are not required to pay excise taxes but must pay all other applicable fees when applying for a license or permit.~~

~~(3) A vehicle carrying a variable load such as a concrete mixer of the "ready mix" type, in which the concrete is mixed while the vehicle is making delivery, may not be licensed as a fixed load.)~~ **What is a fixed load vehicle?**

A fixed load vehicle is specified in RCW 46.16.070 and described in WAC 308-96A-099.

**(2) Am I required to pay excise tax when I license my fixed load vehicle?**

Washington law requires vehicles used on the public highways to be assessed excise tax. If your fixed load vehicle is used incidentally on the public highways and its primary purpose is not transportation, you may be eligible to place your vehicle on the county personal property tax rolls. If you provide the department with proof that your vehicle is listed on the county personal property tax rolls, you will pay personal property tax in lieu of excise tax.

AMENDATORY SECTION (Amending WSR 97-07-013, filed 3/11/97, effective 4/11/97)

WAC 308-96A-136 Mopeds—License plates. (1) ((Applicants registering a moped pursuant to RCW 46.16.630 shall be issued motorcycle series license plates. The number on the license plates shall serve as the moped's registration number.

(2) License plates issued for mopeds shall be displayed as provided in RCW 46.16.240 for motorcycles.

(3) Moped registrations shall be renewed annually as provided in chapter 46.16 RCW for motor vehicles. Upon renewal of registration, the applicant shall be issued license number tabs which shall be displayed on the license plates in the manner provided in WAC 308-96A-295 for motorcycles.

(4) Upon the loss, defacement, or destruction of a license plate issued for the moped, the owner shall make application for replacement license plates and pay a fee as provided in RCW 46.16.630 for an original decal or other identifying device:)) **Will the department issue a license plate to my moped?**

The department will issue a motorcycle series license plate for your moped when you make proper application.

The number on the license plate serves as the moped's registration number as required in RCW 46.16.630.

**(2) How do I display my license plate on my moped?**

The license plate shall be displayed on the rear of your moped as provided in RCW 46.16.240.

AMENDATORY SECTION (Amending Order TL/RG 24, filed 5/5/86)

WAC 308-96A-145 Cab and chassis. ((A truck may be licensed as a cab and chassis. When the body or special equipment has been installed, the owner must apply for a reissue of title and registration to show the new series and body type. Proof of ownership, a new weight slip and additional excise tax covering the additional value of the vehicle must accompany the application:)) (1) **What is a cab and chassis?**

A cab and chassis is an incomplete truck shipped from the manufacturer. The customer chooses the type of bed to be installed.

**(2) Will the department issue a certificate of ownership for my cab and chassis?**

Yes. However, because the cab and chassis is an incomplete vehicle, when the body or special equipment has been

installed you must apply for a new certificate of ownership to reflect the correct series and body type, scale weight and the completed vehicle's new value.

**(3) Will the department issue a certificate of registration for my cab and chassis?**

Yes, if you intend to use the vehicle on the public highways. The gross weight will be limited to one hundred fifty percent of the scale weight. Gross weight is rounded up to the nearest two thousand pound increment and may not be increased until the certificate of ownership is corrected to reflect the completed vehicle information.

**(4) What do I need to provide the department when my cab and chassis has been converted to a complete vehicle and I am applying for a new license and certificate of ownership?**

Whether you titled the cab and chassis or waited until the vehicle was completed before titling, you need to provide the department with the following before you use the completed vehicle on the public highways:

(a) Proof of ownership for the cab and chassis;

(b) Proof of ownership for the equipment installed to make it a complete vehicle;

(c) A weight slip from a certified scale;

(d) Proof or payment of sales or use tax on the equipment installed to make a complete vehicle; and

(e) Applicable fees and excise tax for any increased value of the completed vehicle.

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

WAC 308-96A-100	Licensing according to use instead of vehicle type.
WAC 308-96A-105	Motor homes.
WAC 308-96A-106	Campers titled as motor homes.
WAC 308-96A-120	Campers.

**WSR 99-06-033**

**PERMANENT RULES**

**UNIVERSITY OF WASHINGTON**

[Filed February 25, 1999, 1:50 p.m.]

Date of Adoption: February 19, 1999.

Purpose: To repeal chapter 478-210 WAC, Thomas Burke Memorial Washington State Museum, concerning procedures for permanent acquisition of loaned specimens. These WAC rules are redundant since the enactment of chapter 63.26 RCW.

Citation of Existing Rules Affected by this Order: Repealing WAC 478-210-010 and 478-210-020.

Statutory Authority for Adoption: RCW 27.40.034.

Adopted under preproposal statement of inquiry filed as WSR 99-01-131 on December 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 0, Repealed 2.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 2.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 2.

Effective Date of Rule: Thirty-one days after filing.  
February 23, 1999  
Rebecca Goodwin Deardorff  
Administrative Procedures Officer

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

- WAC 478-210-010 Authority.
- WAC 478-210-020 Procedures for permanent acquisition of loaned specimens.

**WSR 99-06-034**  
**PERMANENT RULES**  
**DEPARTMENT OF TRANSPORTATION**  
[Order 187—Filed February 25, 1999, 3:58 p.m.]

Date of Adoption: February 24, 1999.

Purpose: The modifications to this rule clarify and simplify the language of the rule. It also provides for tenant and emergency services as well as property owner notification when a project impacts access to abutting property. Provides for a variance permit. Streamlines the appeal process to make it easier on the property owner. Specifies [no further information supplied by agency].

Citation of Existing Rules Affected by this Order: Amending chapter 468-51 WAC.

Statutory Authority for Adoption: Chapter 47.50 RCW. Adopted under notice filed as WSR 98-22-061 on November 2, 1998.

Changes Other than Editing from Proposed to Adopted Version: Proposed rule included fee changes, these changes have been removed due to the limits imposed by Initiative 601.

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 10, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 12, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 13, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 10, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.  
February 24, 1999  
Gerald E. Smith  
Deputy Secretary, Operations

**AMENDATORY SECTION** (Amending WSR 92-14-044, filed 6/24/92, effective 7/25/92)

**WAC 468-51-010 Purpose.** This chapter is adopted for use by the Washington state department of transportation to implement chapter 47.50 RCW for the regulation and control of vehicular access and connection points of ingress to, and egress from, the state highway system within unincorporated areas that are under the jurisdiction of the Washington state department of transportation. However, this chapter and chapter 468-52 WAC may be used, as a default, by cities that are the permitting authorities if they have not adopted an enacting ordinance as required under chapter 47.50 RCW.

This chapter describes the connection permit application process and procedures, including a preapplication conceptual review process, and requirements for closure of unpermitted and nonconforming connections to the state highway system.

**AMENDATORY SECTION** (Amending WSR 92-14-044, filed 6/24/92, effective 7/25/92)

**WAC 468-51-020 Definitions.** For the purposes of this chapter, the following definitions of ((the)) terms shall apply unless the context clearly indicates otherwise:

(1) "Application" means an application form supplied by the department and completed by the applicant, a certified check or money order for the required application fee, and related property site, driveway, roadway, and traffic information.

(2) "Average daily traffic (ADT)" means the volume of traffic passing a point or segment of a highway, in both directions, during a period of time, divided by the number of days in the period and factored to represent an estimate of traffic volume for an average day of the year.

(3) "Average weekday vehicle trip ends (AWDVTE)" means the estimated total of all trips entering plus all trips leaving the applicant's site based on the final stage of proposed development.

((3)) (4) "Conforming connection" means a connection that meets current department location, spacing, and design criteria.

((4)) (5) "Connection" means approaches, driveways, turnouts, or other means of providing for the right of access

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to or from controlled access facilities on the state highway system.

~~((5))~~ (6) "Connection category" means a permit category of all state highway connections, in accordance with the type of property served and the estimated traffic generated by the applicant's site based on rates accepted by the department.

~~((6))~~ (7) "Connection permit" means a written authorization given by the department for a specifically designed connection to the state highway system at a specific location for a specific type and intensity of property use and specific volume of traffic for the proposed connection, based on the final stage of proposed development of the applicant's property. The actual form used for this authorization will be determined by the department.

~~((7))~~ (8) "Controlled access facility" means a transportation facility (excluding limited access facilities as defined in chapter 47.52 RCW) to which access is regulated by the governmental entity having jurisdiction over the facility. Owners or occupants of abutting lands and other persons have a right of reasonable access to and from such facility at such points only and in such manner as may be determined by the governmental entity.

~~((8))~~ (9) "Department" means the Washington state department of transportation.

~~((9))~~ (10) "Development approval" means an official action by a governmental land use planning authority authorizing the developer or land owner to begin construction of any permanent improvements on the property.

~~((10))~~ (11) "Governmental entity" means, for the purpose of this chapter, a unit of local government or officially designated transportation authority that has the responsibility for planning, construction, operation, maintenance, or jurisdiction over transportation facilities.

~~((11))~~ (12) "Joint use connection" means a single connection point that serves as a connection to more than one property or development, including those in different ownerships or in which access rights are provided in the legal descriptions.

~~((12))~~ (13) "Limited access facility" means a highway or street especially designed or designated for through traffic, and over, from, or to which owners or occupants of abutting land, or other persons have no right or easement, or only a limited right or easement of access, light, view or air by reason of the fact that their property abuts upon such limited access facility, or for any other reason to accomplish the purpose of a limited access facility.

~~((13))~~ (14) "Median" means the portion of a divided highway or divided connection separating vehicular traffic traveling in opposite directions; not including speed change lanes, storage lanes for left turning or U-turning vehicles, or two way left turn lanes.

~~((14))~~ (15) "Median opening" means either a full opening in a continuous median for the specific purpose of allowing vehicles to make a left turn maneuver into or out of a property abutting the highway, to facilitate U-turns, or to allow for a vehicle to totally cross the road, or a directional opening allowing for left turn maneuvers into the property and U-turn maneuvers, but not allowing for left turns or cross movements out of the property.

~~((15))~~ (16) "Nonconforming connection" means a connection not meeting current department location, spacing, or design criteria.

~~((16))~~ (17) "Permit" means written approval issued by the department, subject to conditions stated therein, authorizing construction, reconstruction, maintenance, or reclassification of a state highway connection and associated traffic control devices on or to the department's right of way.

~~((17))~~ (18) "Permitting authority" means the department or any county, municipality, or transportation authority authorized to regulate access to their respective transportation systems.

~~((18))~~ (19) "Reasonable access" means an access connection that is suitable for the existing and/or proposed property use and does not adversely affect the safety, operations or maintenance of the highway system.

(20) "Right of way (R/W)" means a general term denoting land or interest therein, acquired for or designated for transportation purposes. More specifically, land in which the department, a county, or a municipality owns the fee simple title, has an easement devoted to or required for use as a public road and appurtenant facilities, or has established ownership by prescriptive right (~~(pursuant to RCW 47.04.040)~~), or lands that have been dedicated for public transportation purposes.

~~((19))~~ (21) "Shoulder" means the portion of the highway contiguous with the traveled lanes for the accommodation of stopped vehicles for emergency use, and for lateral support of base and surface courses and for other uses as allowed by law.

~~((20))~~ (22) "State highway system" means all roads, streets, and highways designated as state routes (~~(pursuant to)~~ in compliance with chapter 47.17 RCW.

~~((21))~~ (23) "Temporary connection" means a permitted connection for a specific property use, conditioned to be open for a specific purpose and traffic volume for a specific period of time with the right of way to be restored by the (~~(permittee)~~) permit holder to its original condition upon connection closure.

(24) "Variance permit" means a special nonconforming or additional connection permit, issued for a location not normally permitted by current department standards, after an engineering study demonstrates, to the satisfaction of the department, that the connection will not adversely affect the safety, maintenance or operation of the state highway in accordance with its assigned classification. This permit will remain valid until modified or revoked by the permitting authority.

**AMENDATORY SECTION** (Amending WSR 92-14-044, filed 6/24/92, effective 7/25/92)

**WAC 468-51-030 General provisions.** (1) When connection permits required. Every owner of property which abuts a state highway, or has a legal easement to the state highway, where limited access rights have not been acquired has a right to reasonable access, but may not have the right to a particular means of access, to the state highway system. The right of access to the state highway may be restricted if, (~~(pursuant to)~~) in compliance with local regulation, reasonable

access to the state highway can be provided by way of another public road which abuts the property. These public roads shall be of sufficient width and strength to reasonably handle the traffic type and volumes that would be accessing that road. All new connections including alterations and improvements to existing connections to state highways shall require a connection permit. Such permits, if ~~((issued))~~ allowed, shall be issued only after ~~((issuance of))~~ written development approval where such approval is required, unless other interagency coordination procedures are in effect. However, the department can provide a letter of intent to issue a connection permit if that is a requirement of the agency that is responsible for development approval. The alteration or closure of any existing access connection caused by changes to the character, intensity of development, or use of the property served by the connection or the construction of any new access connection shall not ~~((be initiated prior to obtaining))~~ begin before a connection permit is obtained from the department. Use of a new connection at the location specified in the permit is not authorized until the ~~((permittee))~~ permit holder constructs or modifies the connection in accordance with the permit requirements. If a property owner or ~~((permittee holding))~~ permit holder who has a valid connection permit wishes to change the character, use, or intensity of the property or development served by the connection, the department must be contacted to determine whether a new connection permit would be required.

(2) Responsibility for other approvals. Connection permits authorize construction improvements to be built by the ~~((permittee))~~ permit holder on department right of way. It is the responsibility of the applicant or ~~((permittee))~~ permit holder to obtain any other local permits or other agency approvals that may be required, including satisfaction of all environmental regulations. It is also the responsibility of the applicant to acquire any property rights necessary to provide continuity from the applicant's property to the state highway right of way except where the connection replaces an existing access as a result of department relocation activity.

(3) Early consultation. In order to expedite the overall permit review process, the applicant is strongly encouraged to consult with the department prior to and during the local government subdivision, rezoning, site plan, or any other applicable predevelopment review process for which a connection permit will be required. The purpose of the consultation shall be to determine the permit category and to obtain a conceptual review of the development site plan and proposed access connections to the state highway system with respect to department connection location, quantity, spacing, and design standards. Such consultation will assist the developer in minimizing problems and delays during the permit application process and could eliminate the need for costly changes to site plans when unpermissible connection proposals are identified early in the planning phase. The conceptual review process is further detailed in WAC 468-51-050.

(4) Cost of construction.

(a) ~~((Permittee-))~~ Permit holder. The cost of construction or modification of a connection shall be the responsibility of the ~~((permittee))~~ permit holder, including the cost of modification of any connection required as a result of changes in

property site use in accordance with WAC 468-51-110. However, the permit holder is not responsible for alterations made at the request of the department that are not required by law or administrative rule.

(b) Department. Existing permitted connections impacted by the department's work program and which, in the consideration of the department, necessitate modification, relocation, or replacement in order to meet current department connection location, quantity, spacing, and design standards, shall be modified, relocated, or replaced in kind by the department at no cost to the ~~((permittee))~~ permit holder. The cost of further enhancements or modification to the altered, relocated, or replaced connections ~~((desired))~~ requested by the ~~((permittee))~~ permit holder shall be the responsibility of the ~~((permittee))~~ permit holder.

(5) Notification. The department shall notify affected property owners, permit holders, business owners and/or emergency services, in writing, where appropriate, whenever the department's work program requires the modification, relocation, or replacement of their access connections. In addition to written notification, the department shall facilitate, where appropriate, a public process which may include, but is not limited to, public notices, meetings or hearings, and/or individual meetings. The department shall provide the interested parties with the standards and principles of access management.

(6) Department responsibility. The department has the responsibility to issue permits and authority to approve, disapprove, and revoke such permits, and to close connections, with cause.

AMENDATORY SECTION (Amending WSR 92-14-044, filed 6/24/92, effective 7/25/92)

**WAC 468-51-040 Connection categories.** All connections, public or private shall be determined by the department to be in one of the following categories:

(1) "Category I - minimum connection" provides connection to the state highway system for up to ten single family residences, a duplex, or a small multi-family complex of up to ten dwelling units, which use a common connection. The category shall also apply to permanent connections to agricultural and forest lands, including field entrances; connections for the operation, maintenance, and repair of utilities; and connections serving other low volume traffic generators expected to have an average weekday vehicle trip ends (AWDVTE) of one hundred or less.

(2) "Category II - minor connection" provides connection to the state highway system for medium volume traffic generators expected to have an AWDVTE of one thousand five hundred or less, but not included in Category I.

(3) "Category III - major connection" provides connection to the state highway system for high volume traffic generators expected to have an AWDVTE exceeding one thousand five hundred.

(4) "Category IV - temporary connection" provides a temporary, time limited, connection to the state highway system for a specific property for a specific use with a specific traffic volume. Such uses include, but are not limited to, logging, forest land clearing, temporary agricultural uses, tem-

porary construction, and temporary emergency access. The department reserves the right to remove any temporary connection at its sole discretion and at the expense of the property owner after the expiration of the permit. Further, a temporary connection permit does not bind the department, in any way, to the future issuance of a permanent connection permit at the temporary connection location.

(5) "Nonconforming connection" designation may be issued for Category I through IV permits after an analysis and determination by the department that a conforming connection cannot be made and a finding that the denial of a connection would leave the property without a reasonable means of access to the public road system. In such instances, the permit shall be noted as nonconforming and contain specific restrictions and provisions, including limits on the maximum vehicular use of the connection, the future availability of alternate means of reasonable access for which a conforming connection permit could be obtained, the removal of the nonconforming connection at the time the conforming access is available, and other conditions as necessary to carry out the provisions of chapter 47.50 RCW.

(6) "Variance connection" means a special nonconforming or additional connection permit, issued for a location not normally permitted by current department standards, after an engineering study demonstrates that the connection will not adversely affect the safety, maintenance or operation of the highway in accordance with its assigned classification. This permit will remain valid until modified or revoked by the permitting authority.

(7) "Median opening" includes openings requested for both new connections and for existing connections. New median openings proposed as part of a new driveway connection shall be reviewed as part of the permit application review process. Request for the construction of new median openings to serve existing permitted connections shall require a reevaluation of the location, quantity, design of existing connection, and traffic at the existing connections. The property owner must file a new connection permit application, for the proper connection category, showing the new proposed median opening location and design and its relationship to the existing or modified driveway connections. Nothing contained herein shall be construed to prohibit the department from closing an existing median opening where operational or safety reasons require the action. The department shall notify affected property owners, permit holders and tenants, in writing, thirty days in advance of the closure of a median opening unless immediate closure is needed for safety or operational reasons.

**AMENDATORY SECTION** (Amending WSR 92-14-044, filed 6/24/92, effective 7/25/92)

**WAC 468-51-060 Application requirements and procedures.** This rule shall be used where the department is the permitting authority. Where the local governmental entity is the permitting authority, the applicable procedures of the local governmental entity must be followed. If the local governmental entity has no procedures then this rule may apply.

(1) Connection permit application and information. The appropriate application form and the application information

are available from the designated local department offices. An application shall consist of the above form; application fee, as specified in WAC 468-51-070; plans; traffic data; and connection information specified in this section.

All connection and roadway design documents for Category II and III permits shall bear the seal and signature of a professional engineer, registered in accordance with chapter 18.43 RCW.

(2) Information required - all permits. The following information is required of all applicants for all permit categories, unless the department determines that specific information will not be required on individual applications. Additional information required of Category II, III, and IV permit applications is specified in this chapter. In all cases it would be prudent, prior to submittal of the application, for the applicant to inquire of the department whether the application needs additional information. The department reserves the right to request clarification or additional information during the application review process. Failure to provide the requested information within the time limits specified in the request shall result in withdrawal of the permit application.

(a) Identification and signature of property owner and applicant. The current complete names, mailing addresses, and telephone numbers of the property owner(s), the developer(s), the applicant, the transportation and legal consultants representing the applicant (if any), and the local government representative(s) responsible for processing the development's approval shall be provided as part of the application. If the property owner desires to have a representative sign the application, a notarized letter of authorization from the applicant is to be provided with the application. When the owner or applicant is a company, corporation, or other public agency, the name, address, and telephone number of the responsible officer shall be furnished. The names of all individuals signing the application and their titles shall be typed or printed directly below the signature.

(b) Property uses and traffic information. The ultimate planned property uses shall be indicated in sufficient detail to determine the appropriate permit classification. Estimated average weekday vehicle trip ends to be generated by the development, based on the planned property use, consistent with the latest trip generation information published by the Institute of Transportation Engineers, Washington, D.C., (ITE) shall be included as appropriate. If local or special trip generation rates are used, instead of the ITE rates the latest and best information shall be used and all documentation for the rate development shall be submitted with the application. For residential developments with ten or fewer units, ten trips per day per unit may be assumed. The requirement for an average weekday vehicle trip ends estimate may be waived for agricultural uses where no retail marketing is proposed.

(c) Site plan. The application shall include a plan to scale, or a schematic drawing showing critical dimensions (allowable on Category I permits only), the location of the property, and existing conditions and the character and extent of work proposed. The location of existing and proposed on-site development with respect to the existing and proposed driveway location(s) and the highway shall be shown. Minimum information on the plan shall include:

(i) Road information.



- State route number.
- County or local road name.
- Highway pavement type.
- Cross section.
- Posted speed limit.

•The existence and location of any existing and/or future proposed public or private road abutting or entering the property; the horizontal and vertical curvature of the road(s) noting the location of existing and proposed connections and any other pertinent information.

(ii) Property information.

•Location of all existing and proposed buildings, and other structures, such as gasoline pumps, lights, trees, etc., with respect to the existing and proposed property and right of way lines.

•Any adjacent properties that are owned or controlled by the applicant, or in which the applicant has a financial interest, and indicate whether these properties will be accessed by means of the proposed connection(s).

•Proof of legal ownership or legal easement.

•The application shall include a boundary survey. The requirement for a boundary survey may be waived for Category I connections, at the discretion of the department.

•Any existing or proposed parcels segregated from the applicant's property for separate development also shall be clearly designated on the plan.

(iii) Connection location information.

•The proposed connection milepost and highway engineer's station, if available.

•Location of the highway centerline with respect to existing and proposed property lines.

•Distance of proposed public or private access connection to intersecting roads, streets, railroads.

•Existing or proposed median openings (crossovers) and connections on all sides of the state highway and other roads within six hundred sixty feet of the proposed connection location in urban areas and one thousand three hundred twenty feet in nonurban (rural) areas.

•Location of existing or proposed public or private retaining walls, fences, poles, sidewalks, bike paths, drainage structures and easements, traffic control devices, fire hydrants, utilities, or other physical features, such as trees, landscaping, green belts, and wetlands, that could affect driveway location.

•It shall be the responsibility of the applicant to physically identify the location of the proposed connection at the proposed site.

(iv) Connection design information.

•Proposed connection and approach improvements including its profile approaching the state highway, width, radii, angle to the highway, auxiliary pavement.

•Existing and proposed grading (or contouring that affects the natural drainage pattern or runoff impacting the state highway and the proposed connection).

•Drainage calculations and other pertinent data.

•Driveway, auxiliary lanes and crossover pavement design, including subgrade, base, surface materials, and thicknesses.

•Specific requirements for design information on individual Category I permit applications may be relaxed, or waived, at the discretion of the department.

(v) Joint driveway use.

•If the driveway is to serve more than one property, the plan shall detail information for all properties using the connection and the application shall include copies of legally enforceable agreements of concurrence for all property owners on joint driveway usage.

•Joint driveway use serving adjoining properties is encouraged on all highways and may be required on some highways, (~~pursuant to~~) in compliance with rules adopted by the department.

(3) Additional information required, Category II and Category III permits. The following is a list of additional information that may be required for each phase of the development from the applicant. Prior to the submittal of the application, the applicant shall coordinate with the appropriate designated local office of the department on the level of detail and the analysis techniques to be used.

(a) Circulation plans. All parking, interior drives, and internal traffic circulation plans.

(b) Connection users. All internal and external adjacent parcels which will use the requested connection. All existing and proposed connecting roadways and potential means of alternate access through the final buildout stage of development shall be shown on the plans submitted with the application.

(c) Traffic control devices and illumination. Proposed traffic control devices and lighting locations.

(d) Sight distance. Analysis of horizontal and vertical sight distance on the state highway with respect to the proposed connection.

(e) Traffic data and analysis. Traffic data submitted by the applicant shall be signed and sealed by a qualified professional engineer, registered in accordance with chapter 18.43 RCW. The following traffic study information may be required:

(i) Turning movements. Vehicle turning movements for present and future traffic conditions.

(ii) Volume and type. Amount and type of traffic that will be generated by the proposed development including a breakdown of anticipated peak hour traffic and an analysis of the impact on the level of service on the state highway.

(iii) Parking and circulation. Analysis of off-street parking and traffic circulation, including distances to secondary access points on the connection roadway and their impact on the operation of the state highway.

(iv) Traffic signal data. If a traffic signal is requested, the following studies may be required: Traffic signal warrants; phasing and timing analysis; signal progression analysis; signalization, signing, and lighting plans in (~~conformance~~) compliance with department standards. A separate department traffic signal permit is required.

(v) Off-site improvements. A traffic analysis to determine the need for off-site related roadway and geometric improvements and mitigation requirements.

(vi) Traffic control plan. A traffic control plan conforming to current department standards set forth in the "Manual on Uniform Traffic Control Devices," documenting how the

((~~permittee~~)) permit holder will provide for safe and efficient movement on the state highway system during the construction of the connection.

(4) Additional information required, Category IV permits. Permit applications must contain the specific dates that the connection is to be open and must contain assurances acceptable to the department that the shoulder, curbing, sidewalks, bikeways, ditch, right of way, and any other amenities will be restored to their original condition at the ((~~permittee's~~)) permit holder's expense upon closure of the temporary connection.

**AMENDATORY SECTION** (Amending WSR 92-14-044, filed 6/24/92, effective 7/25/92)

**WAC 468-51-070 Fees and surety bond.** (1) Fee structure. The following nonrefundable fee structure is established for department application processing, review, and inspection. Full payment of base fees must accompany the permit application. Due to the potential complexity of Category II and Category III connection proposals, and required mitigation measures that may involve construction on the state highway, the department may require a developer agreement in addition to the connection permit. The developer agreement may include, but is not limited to: Plans; specifications; maintenance requirements; bonding requirements; inspection requirements; division of costs by the parties, where applicable; and provisions for payment by the applicant of actual costs incurred by the department in the review and administration of the applicant's proposal that exceed the required base fees in the following schedule:

- (a) Category I base fees for one connection.
  - (i) Field (agricultural), forest lands, utility operation and maintenance . . . . . \$ 50
  - (ii) Residential dwelling units (up to 10) utilizing a single connection point . . . . . \$ 50  
per dwelling unit
  - (iii) Other, with 100 AWDVTE or less . . . . . \$ 500
  - (iv) Fee per additional connection point . . . . . \$ 50
- (b) Category II base fees for one connection.
  - (i) Less than 1,000 AWDVTE . . . . . \$ 1,000
  - (ii) 1,000 to 1,500 AWDVTE . . . . . \$ 1,500
  - (iii) Fee per additional connection point . . . . . \$ 250
- (c) Category III base fees for one connection.
  - (i) 1,500 to 2,500 AWDVTE . . . . . \$ 2,500
  - (ii) Over 2,500 AWDVTE . . . . . \$ 4,000
  - (iii) Fee per additional connection point . . . . . \$ 1,000

- (d) Category IV base fee per connection . . . . . \$ 100

(2) Surety bond. Prior to the beginning of construction of any ((~~Category II or Category III~~)) connection, the department may require the ((~~permittee~~)) permit holder to provide a surety bond as specified in WAC 468-34-020(3).

**AMENDATORY SECTION** (Amending WSR 92-14-044, filed 6/24/92, effective 7/25/92)

**WAC 468-51-080 Application submittal, review, conditions.** (1) Application submittal. The application shall be submitted to the designated local department office serving the area. The application shall be properly prepared, clearly completed, and signed. Information on the specific number of copies to be provided and other submittal information is available from the designated local department office.

(2) Application review, processing, and approval. Upon receipt of the application, the application shall be reviewed consistent with the provisions of this chapter. If the department identifies errors in the application or if additional information is required, the department will notify the applicant. Applicants must provide such information or correct errors within thirty days of the notification. If the applicant determines that the time to provide additional or corrected information is insufficient, the applicant shall contact the department in writing to request additional time be approved. If the additional or corrected information has not been received by the department within thirty days or the approved time period agreed to, the application will be withdrawn.

(a) Review. Upon timely receipt of all required information, or upon expiration of the time period for receipt of additional or corrected information, the location and design of the connection shall be examined for consistency with current department location, quantity, spacing, classifications, and department design standards. The review shall also include an analysis of the impact of the site's existing and projected traffic on the operation and safety of the state highway.

(b) Concurrence or denial, notice. If the department concurs in the location and design of the proposed connection, written notification of that concurrence will be sent to the applicant and to the local governmental land use planning authority having jurisdiction over the development. If the applicant has gone through the voluntary conceptual review process, the written notice of concurrence will indicate whether or not there have been any changes in the number, location, or design of the connection required by the department. No construction may commence on the department's right of way until all necessary department and local governmental permits are issued in accordance with (c) of this subsection. If the department does not concur in the connection location, quantity, or design, both the applicant and the local governmental land use planning authority having jurisdiction over the development approval shall be notified, in writing, indicating the department's intent to deny the connection as proposed in the application. The written notification shall state the specific reasons for the intent to deny the connection, the process for submitting an amended application, and the appeal rights of the applicant. The applicant may submit a

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revised application within thirty days based on department comments and concerns as stated in the notification. The submittal of a revised application within thirty days shall not require the payment of any additional application fees. Submittal of a revised permit is not a prerequisite for a request for an adjudicative proceeding (~~(pursuant to)~~) in compliance with WAC 468-51-150.

(c) Permit issuance. The department shall issue the connection permit after review and concurrence that the application and the location and design of the connection comply with the requirements of this chapter, and after either:

(i) The applicant has received development approval from the appropriate local governmental land use planning authority; or

(ii) Other interagency coordination procedures in effect are satisfied for development approval by the local governmental land use planning authority.

The department shall provide the applicant with the connection permit for signature, and the applicant shall sign and return the permit to the department within thirty days after the mailing date. If the department does not receive the signed permit back from the applicant within thirty days after the mailing date or within an agreed upon time, the permit will be void and the application fee will be forfeited. The permit is not valid and construction on the access cannot begin without a completed permit that is signed by both the department and the applicant.

Additionally, the applicant must be in compliance with the surety bond requirements specified in the permit prior to construction, in ((accordance)) compliance with WAC 468-51-070.

(d) Request for adjudicative proceedings. In the event of a denial of a connection permit as proposed in the application, the applicant may apply for an adjudicative proceeding (~~(pursuant to)~~) in compliance with WAC 468-51-150.

(3) Permit conditions. Any special requirements or provisions for the connection including off-site mitigation shall be clearly and specifically identified as part of the permit. Failure by the applicant or ((permittee)) permit holder to abide by the permit provisions shall be sufficient cause for the department to initiate action to alter the connection or to revoke the permit and close the connection at the expense of the ((permittee)) permit holder. The permit requirements shall be binding on the ((permittee)) permit holder, the ((permittee's)) permit holder's successors, heirs and assigns, the permit application ((signators)) signatories, and all future owners and occupants of the property. The applicant may challenge the permit conditions by applying for an adjudicative proceeding (~~(pursuant to)~~) in compliance with WAC 468-51-150.

AMENDATORY SECTION (Amending WSR 92-14-044, filed 6/24/92, effective 7/25/92)

**WAC 468-51-090 Construction requirements.** (1) Preconstruction conference. The department may require a preconstruction conference prior to any work being performed on the department's right of way. When required by provisions in the permit, the department will schedule a preconstruction conference. The preconstruction conference

should be attended by the necessary personnel to assure compliance with the terms and provisions of the permit.

(2) Time limit. Substantial construction of the connection shall begin within ninety days of the effective date of the permit, unless a longer time is approved by the department or a time extension is requested by the applicant and approved by the department. Construction shall be completed within one hundred twenty days of the date of issuance of the permit, unless a time extension is approved by the department. As a condition of the permit, the department may further limit construction time, if the department determines that such limitation is warranted. Failure to comply with the time limits specified in the permit shall result in an automatic expiration of the permit following written notification to the ((permittee)) permit holder. For any permit which expires for failure to begin construction or to complete construction within the specified time limits, the department may require a new application, including the payment of the required application fee prior to the initiation of any construction.

(3) Posting of permit. The approved connection permit shall be displayed in a prominent location, protected from the weather, within the vicinity of the connection construction.

(4) Disruption of traffic. All construction and/or maintenance within department right of way shall conform to the provisions of the connection permit, the "*Manual on Uniform Traffic Control Devices*" (MUTCD); the department's current "*Design Manual*," and the current "*Standard Specifications for Road, Bridge, and Municipal Construction*." The department may require or restrict hours of construction to minimize disruption of traffic on the state highway system. If construction activity within the department's right of way causes undue disruption of traffic or creates safety hazards on a state highway, or if the construction activity is not in compliance with the traffic control specifications in the permit, the department shall advise the ((permittee)) permit holder or the ((permittee's)) permit holder's contractor of the need for immediate corrective action, and may order immediate suspension of all or part of the work if deemed necessary. Failure to comply with this provision may result in permit modification or revocation.

(5) Traffic signals and other traffic control devices. Traffic signals and other traffic control devices installed by ((permittee)) the permit holder shall conform to MUTCD and department design and construction standards. The ((permittee)) permit holder is responsible for securing any state and local permits needed for traffic signalization and regulatory signing and marking.

(6) Connection construction inspection. For Category II and Category III connections, the department may require the ((permittee)) permit holder, the developer, or landowner to provide inspection of construction and certification that connection construction is in accordance with permit provisions and appropriate department standards by a professional engineer, registered in accordance with chapter 18.43 RCW, or the department may do the inspection at the applicant's expense, as provided in the developer agreement.

AMENDATORY SECTION (Amending 92-14-044, filed 6/24/92, effective 7/25/92)

**WAC 468-51-100 Nonconforming connection permits.** The department may issue a permit for a connection not meeting department location and spacing criteria standards if it finds that a conforming connection is not attainable at the time of the permit application submittal and that denial would leave the property without a reasonable (~~(means of connection)~~) access to the public road system. The department may issue a connection permit requiring a legally enforceable joint-use connection when determined to be in the best interest of the state for restoring or maintaining the operational efficiency and safety of the state highway. Nonconforming connection permits shall specify conditions or limits including:

- (1) Traffic volume. The maximum vehicular usage of the connection shall be specified in the permit.
- (2) Future alternate access. The permit shall specify that a conforming connection be constructed when future alternate means of access become available, and that the nonconforming connection be removed.
- (3) Users. The permit shall specify the properties to be served by the connection; and any other conditions as necessary to carry out the provisions of chapter 47.50 RCW.

NEW SECTION

**WAC 468-51-105 Variance connection permits.** Variance permits may be issued, at the discretion of the department, for certain connections not meeting the access classification location and spacing or that exceed the number of connections allowed by the standards adopted for a particular highway segment. These permits may be allowed if conditions warrant and are demonstrated to the satisfaction of the department by a traffic analysis, signed and sealed by a qualified professional engineer who is registered in accordance with chapter 18.43 RCW, which is included with the connection permit application. The variance permit will remain in effect unless a new permit is required due to changes in property site use in compliance with WAC 468-51-110 or unless permit modification, revocation, or closure of the variance permitted connection is required as provided for in WAC 468-51-120. The department may issue a connection permit requiring a legally enforceable joint-use connection when it is determined to be in the best interest of the state for restoring or maintaining the operational efficiency and safety of the state highway. Variance connection permits shall specify conditions or limits including, but not limited to:

- (1) **Traffic volume.** The maximum vehicular usage of the connection shall be specified in the permit.
- (2) **Users.** The permit shall specify the properties to be served by the connection, and any other conditions as necessary to carry out the provisions of chapter 47.50 RCW.

AMENDATORY SECTION (Amending WSR 92-14-044, filed 6/24/92, effective 7/25/92)

**WAC 468-51-110 Changes in property site use.** The connection permit is issued to the (~~(permittee)~~) permit holder

for a particular type of land use generating specific projected traffic volumes at the final stage of proposed development. Any changes made in the use, intensity of development, type of traffic, or traffic flow of the property requires the (~~(permittee)~~) permit holder, (~~(their)~~) his or her assignee, or property owner to contact the department to determine if further analysis is needed to determine if the change is significant and would require a new permit and modifications to the connection. An engineering study, signed and sealed by a professional engineer registered in accordance with chapter 18.43 RCW, may be required to document the extent of the change. If modification of the existing connection is required, based on a significant change as determined by the department, the (~~(permittee)~~) permit holder, his or her assignee, or the property owner shall (~~(acquire)~~) obtain a new permit prior to the initiation of any on-site construction to the connection or to the property.

(1) Significant change. A significant change is one that would cause a change in the category of the connection permit or one that causes an operational, safety, or maintenance problem on the state highway system based on objective engineering criteria or available accident data. Such data shall be provided to the property owner and/or permit holder and tenant upon written request.

(2) Notification. Failure to contact the department to determine the need for connection modifications or to apply for a new permit for such modifications prior to initiation of property improvements, land use changes or traffic flow alteration actions shall result in notification to the property owner and/or permit holder and tenant of intent to revoke the existing permit and closure of the connection to the property.

(3) Costs. The (~~(permittee)~~) permit holder is responsible for all costs associated with connection removal, relocation, or modification caused by increased or altered traffic flows necessitated by changes to facilities, use, or to the nature of the business on the property.

AMENDATORY SECTION (Amending WSR 92-14-044, filed 6/24/92, effective 7/25/92)

**WAC 468-51-120 Permit modification, revocation, closure of permitted connections.** (1) Revocation criteria. All connection permits issued by the department prior to the effective date of this chapter remain valid until revoked. The department may initiate an action to revoke any permit if significant changes have occurred in the use, design, or traffic flow of the property or of the state highway, requiring the relocation, alteration, or closure of the connection; if the connection was not constructed at the location or to the design specified in the permit; (~~(or)~~) if the permit provisions were not met; or if the connection causes a safety, maintenance, or operational problem on the state highway system. The process to be followed by the department in the revocation of permits shall be consistent with the requirements of chapter 34.05 RCW and WAC 468-51-150. The notification process is as follows:

(a) Notification, correction of deficiencies. The department shall serve notice, in accordance with rules adopted (~~(pursuant to)~~) in compliance with chapter 34.05 RCW, to the (~~(permittee)~~) permit holder, (~~(permittee's)~~) permit holder's

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successors or assigns, or property owner with a copy to the occupant, for any connection found to be in noncompliance with the conditions of the permit or this chapter. The notice will identify and request that the deficiencies be corrected within thirty days of service of the notice. The notice shall further advise that the department's determination of noncompliance or deficiencies shall become final and conclusive thirty calendar days following service of the notice unless the violations are corrected or an adjudicative proceeding (~~((pursuant to))~~) in compliance with chapter 34.05 RCW and WAC 468-51-150 is requested by the (~~((permittee))~~) permit holder, (~~((permittee's))~~) permit holder's successor or assigns, or the property owner.

(2) Costs. The (~~((permittee))~~) permit holder, permit holder's successor or assignee, or property owner shall be responsible for the costs of closure due to revocation of a connection permit (~~((pursuant to))~~) in compliance with WAC 468-51-120 except when the closure is required by changes to the state highway.

(3) Emergency action. This chapter shall not restrict the department's right to take immediate remedial action, including the closure of a connection if there is an immediate and serious danger to the public health, safety, and welfare, (~~((pursuant to))~~) in compliance with chapter 47.32 RCW. In such event, the department shall conform to the provisions for emergency adjudicative proceedings in RCW 34.05.479 and rules adopted thereunder.

**AMENDATORY SECTION** (Amending WSR 92-14-044, filed 6/24/92, effective 7/25/92)

**WAC 468-51-130 Closure of unpermitted connections.** Closure criteria, permit requirements. Any unpermitted connections to the state highway system which were in existence and in active use consistent with the type of connection on July 1, 1990, shall not require the issuance of a permit and may continue to provide connection to the state highway system, unless the property owner had received written notification initiating connection closure from the department prior to July 1, 1990, or unless the department determines that the unpermitted connection does not meet minimum acceptable standards of highway safety and mobility based on accident and/or traffic data or accepted traffic engineering criteria, a copy of which must be provided to the property owner and/or permit holder and tenant upon written request. The department may require that a permit be obtained if a significant change occurs in the use, design, or traffic flow of the connection or of the state highway (~~(to which it provides access)~~). If a permit is not obtained, the department may initiate action to close the unpermitted connection point (~~((pursuant to))~~) in compliance with RCW 47.50.040. Any unpermitted connection opened subsequent to July 1, 1990, is subject to closure by the department. The process to be followed by the department in the closure of an unpermitted connection shall be consistent with chapter 34.05 RCW and rules adopted thereunder. The notification process is as follows:

(1) Notification. The department shall serve notice, in accordance with rules adopted (~~((pursuant to))~~) in compliance with chapter 34.05 RCW, upon the property owner of a connection to a state highway which is found by the department

to be unpermitted. This notice shall clearly describe the highway connection violation and shall establish a thirty-day time limit for either applying for a connection permit or requesting an adjudicative proceeding (~~((pursuant to))~~) in compliance with chapter 34.05 RCW. (~~(The sole issue to be determined at the adjudicative proceeding is whether a permit should be required.)~~) The notice will further advise the property owner that failure to act in either of the prescribed ways within the time period will result in department closure of the unpermitted connection.

(2) Permit application. If a permit application is filed within the thirty days, and the application is denied, the department shall notify the property owner of the denial. The property owner may then proceed with the permit application revision process set forth in WAC 468-51-080 or request an adjudicative proceeding (~~((pursuant to))~~) in compliance with WAC 468-51-150 within thirty days. Failure to act in either of those prescribed ways within the time period set forth in the rules will result in department closure of the unpermitted connection. If the location and design of the connection in the permit application are acceptable to the department, the existing connection may continue to be used for a specified period of time or until the connection specified in the permit application is constructed.

(3) Approval conditions. Modifications, relocation, or closure of unpermitted connections may be required by the department as a requirement of permit approval, subject to the adjudicative proceedings provisions of WAC 468-51-150.

**AMENDATORY SECTION** (Amending WSR 92-14-044, filed 6/24/92, effective 7/25/92)

**WAC 468-51-140 Department construction projects.** During construction of department projects, connections will be provided as replacements for existing approved permitted connections, that are consistent with all current department spacing, location, and design standards, based on the following conditions:

(1) Nonconforming connections. All nonconforming connections will be examined to determine if the construction project will require relocation, alteration, or closure of the connection to make it conforming.

(2) Application of current standards. The number and location of connections shall be modified to the maximum extent possible to meet current department spacing, location, and design standards. Where current department standards cannot be met, the connection shall be classified as nonconforming.

(3) New connections, modifications. The department shall allow new or require modification of existing connections if a connection permit application is made and approved.

(4) Replacement of existing connections. When connections are made as part of a department construction project replacing existing connection points without material differences, no additional permit shall be required. Costs shall be borne by the department.

(5) New connections—Cost. The construction of new connection points, if approved by the department, shall be

done at the owner's expense by either the department's contractor as part of the roadway improvement or by the owner's contractor at the department's option.

(6) Modifications—Cost. If the modification of the connection point, that are based on the owner's request, is more extensive than the routine replacement of an existing connection, the owner shall also participate in the differential cost.

(7) Work by ~~((permittee's))~~ permit holder's contractor. The department shall require that work done by the owner's contractor be accomplished at the completion of the department's contract or be scheduled so as not to interfere with the department's contractor. The department may require a surety bond prior to construction of the connection in accordance with WAC 468-51-070. When the number, location or design of existing access connections to the state highway are being modified by a department construction project, the resulting modified access connections shall provide the same general functionality for the existing property use as they did before the modification, taking into consideration the existing site design, normal vehicle types, and traffic circulation requirements.

Notification. The department shall notify affected property owners, permit holders, business owners and/or emergency services, in writing, where appropriate, whenever the department's work program requires the modification, relocation, or replacement of their access connections. In addition to written notification, the department shall facilitate, where appropriate, a public process which may include, but is not limited to, public notices, meetings or hearings, and/or individual meetings. The department shall provide the interested parties with the standards and principles of access management.

AMENDATORY SECTION (Amending WSR 92-14-044, filed 6/24/92, effective 7/25/92)

**WAC 468-51-150 Adjudicative proceedings.** (1) Application. Any person who ~~((is the recipient or otherwise))~~ has standing to challenge the denial of a permit application ~~((pursuant to))~~ in compliance with WAC 468-51-080; a permit with conditions ~~((pursuant to))~~ in compliance with WAC 468-51-080; a notice of permit modification, revocation, or closure of permitted connection ~~((pursuant to))~~ in compliance with WAC 468-51-120; or notice of closure of an unpermitted connection ~~((pursuant to))~~ in compliance with WAC 468-51-130 may apply for an adjudicative proceeding on the matter ~~((pursuant to))~~ in compliance with chapter 34.05 RCW ~~((and)),~~ rules adopted thereunder, and department rules within thirty days of the date the initial determination of the department is ~~((mailed to the recipient))~~ sent by certified mail.

(2) Conduct. Thereafter, and within the times set forth by chapter 34.05 RCW, rules adopted thereunder, and department rules, the department shall convene an adjudicative proceeding ~~((or a brief adjudicative proceeding as is deemed appropriate by the department)).~~ The proceeding shall be conducted ~~((pursuant to))~~ in compliance with chapter 34.05 RCW ~~((and)),~~ rules adopted thereunder, and department rules.

~~(3) ((Brief adjudicative hearings. The department hereby adopts RCW 34.05.482 through 34.05.494 pertaining to brief adjudicative proceedings for purposes of hearing challenges under the provisions listed in subsection (1) of this section.~~

~~(4))~~ Failure to apply. Failure to apply for an adjudicative proceeding within the times set forth in subsection (1) of this section shall result in the adoption of the department's initial determination as its final determination.

~~((5))~~ (4) Failure to participate. Failure to attend or otherwise participate in an adjudicative proceeding ~~((or brief adjudicative proceeding))~~ may result in a finding of default.

(5) Reasonableness of access. The department in its regulation of connections in compliance with chapter 47.50 RCW and these regulations shall allow reasonable access. If the department's final order denies reasonable access, the appellant shall be entitled to just compensation in compliance with RCW 47.50.010(5). Access which is not reasonable is not compensable.

**WSR 99-06-035**

**PERMANENT RULES**

**DEPARTMENT OF TRANSPORTATION**

[Order 188—Filed February 25, 1999, 4:01 p.m.]

Date of Adoption: February 24, 1999.

Purpose: This rule details department procedures for regulating access to state highway not covered by chapter 47.52 RCW, Limited access highways.

Citation of Existing Rules Affected by this Order: Amending chapter 468-52 WAC.

Statutory Authority for Adoption: Chapter 47.50 RCW.

Adopted under notice filed as WSR 98-22-060 on November 2, 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 1, 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 6, 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.

February 24, 1999

Gerald E. Smith

Deputy Secretary, Operations

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**AMENDATORY SECTION** (Amending Order 135, filed 1/13/93, effective 2/13/93)

**WAC 468-52-020 Definitions.** For the purposes of this chapter, the following definitions of the terms shall apply unless the context clearly indicates otherwise:

(1) "Average daily traffic (ADT)" means the volume of traffic passing a point or segment of a highway, in both directions, during a period of time, divided by the number of days in the period and factored to represent an estimate of traffic volume for an average day of the year.

(2) "Conforming connection" means a connection that meets current department location, spacing, and design criteria.

(3) "Connection" means approaches, driveways, turnouts, or other means of providing for the right of access to or from controlled access facilities on the state highway system.

(4) "Connection permit" means a written authorization given by the department for a specifically designed connection to the state highway system at a specific location for a specific type and intensity of property use and specific volume of traffic for the proposed connection, based on the final stage of proposed development of the applicant's property. The actual form used for this authorization will be determined by the department.

(5) "Contiguous parcels" means two or more pieces of real property under the same ownership with one or more boundaries that touch and have similarity of use.

(6) "Controlled access facility" means a transportation facility (excluding limited access facilities as defined in chapter 47.52 RCW) to which access is regulated by the governmental entity having jurisdiction over the facility. Owners or occupants of abutting lands and other persons have a right of access to and from such facility at such points only and in such manner as may be determined by the governmental entity.

(7) "Corner clearance" means the distance from an intersection of a public or private road to the nearest connection along a controlled access facility. This distance is measured from the closest edge of the traveled way of the intersecting road to the closest edge of the traveled way of the connection measured along the traveled way (through lanes).

(8) "Department" means the Washington state department of transportation.

(9) "Governmental entity" means, for the purpose of this chapter, a unit of local government or officially designated transportation authority that has the responsibility for planning, construction, operation, maintenance, or jurisdiction over transportation facilities.

(10) "Intersection" means an at grade connection on a state highway with a road or street duly established as a public road or public street by the local governmental entity.

(11) "Joint use connection" means a single connection point that serves as a connection to more than one property or development, including those in different ownerships or in which access rights are provided in the legal descriptions.

(12) "Limited access facility" means a highway or street especially designed or designated for through traffic, and over, from, or to which owners or occupants of abutting land, or other persons have no right or easement, or only a limited

right or easement of access, light, view, or air by reason of the fact that their property abuts upon such limited access facility, or for any other reason to accomplish the purpose of a limited access facility.

(13) "Nonconforming connection" means a connection not meeting current department location, spacing, or design criteria.

(14) "Permit" means written approval issued by the department, subject to conditions stated therein, authorizing construction, reconstruction, maintenance, or reclassification of a state highway connection and associated traffic control devices on or to the department's right of way.

(15) "Permitting authority" means the department or any county, municipality, or transportation authority authorized to regulate access to their respective transportation systems.

(16) "State highway system" means all roads, streets, and highways designated as state routes (~~(pursuant to)~~) in compliance with chapter 47.17 RCW.

(17) "Reasonable access" means an access connection that is suitable for the existing and/or proposed property use and does not adversely affect the safety, operations or maintenance of the state highway system.

(18) "Variance permit" means a special nonconforming or additional connection permit, issued for a location not normally permitted by current department standards, after an engineering study demonstrates, to the satisfaction of the department, that the connection will not adversely affect the safety, maintenance or operation of the highway in accordance with its assigned classification. This permit will remain valid until modified or revoked by the permitting authority.

**AMENDATORY SECTION** (Amending Order 135, filed 1/13/93, effective 2/13/93)

**WAC 468-52-030 General.** The connection and intersection spacing distances specified in this chapter are minimums. Greater distances may be required by the department on individual permits issued in accordance with chapter 468-51 WAC to provide desirable traffic operational and safety characteristics. If greater distances are required, the department will document, as part of the response to a connection permit application (~~(pursuant to)~~) in compliance with chapter 468-51 WAC, the reasons, based on traffic engineering principles, that such greater distances are required. Nonconforming permits may be issued in accordance with chapter 468-51 WAC allowing for less than minimum spacing where no other reasonable access exists, or a variance connection permit may be issued where it can be substantiated by a traffic analysis (~~(if)~~), to the satisfaction of the department, through the permit application process that allowing less than the minimum spacing or more than the maximum number of connections, would not adversely affect the desired function of the state highway in accordance with the assigned access classification, and would not adversely affect the safety, maintenance or operation of the state highway.

**AMENDATORY SECTION** (Amending Order 135, filed 1/13/93, effective 2/13/93)

**WAC 468-52-040 Access control classification system and standards.** This section provides an access control classification system consisting of five classes. The functional characteristics and the access control design standards for each class are described. The classes are arranged from the most restrictive, class one, to the least restrictive, class five. This access control classification system does not include highways or portions thereof that have been established as limited access highways (~~(pursuant to)~~ in compliance with chapter 47.52 RCW. For state highways that are planned for the establishment of limited access control in accordance with the *Master Plan for Limited Access Highways*, an access control classification will be assigned to each highway segment to remain in effect until such time that the facility is established as a limited access facility.

On all access classes, property access shall be located and designed to minimize interference with transit facilities and/or high occupancy vehicle (HOV) facilities on state highways where such facilities exist or where such facilities are proposed in a state, regional, metropolitan, or local transportation plan. In such cases, if reasonable access is available from the general street system, primary property access shall be provided from the general street system rather than from the state highway.

(1) Class one.

(a) Functional characteristics:

These highways have the capacity for safe and efficient high speed and/or high volume traffic movements, providing for interstate, interregional, and intercity travel needs and some intracity travel needs. Service to abutting land is subordinate to providing service to major traffic movements. Highways in this class are typically distinguished by a highly controlled, limited number of public and private connections, restrictive medians with limited median openings on multi-lane facilities, and infrequent traffic signals.

(b) Access control design standards:

(i) It is the intent that the design of class one highways be generally capable of achieving a posted speed limit of fifty to ~~((fifty-five))~~ sixty-five mph. Spacing of intersecting streets, roads, and highways shall be planned with a minimum spacing of one mile. One-half mile spacing may be permitted, but only when no reasonable alternative access exists.

(ii) Private direct access to the state highway shall not be permitted except when the property has no other reasonable access to the general street system. The following standards will be applied when direct access must be provided:

(A) The access connection shall continue until such time that other reasonable access to a highway with a less restrictive access control classification or access to the general street system becomes available and is permitted.

(B) The minimum distance to another public or private access connection shall be one thousand three hundred twenty feet. Nonconforming connection permits may be issued to provide access to parcels whose highway frontage, topography, or location would otherwise preclude issuance of a conforming connection permit; however, variance permits are not allowed. No more than one connection shall be pro-

vided to an individual parcel or to contiguous parcels under the same ownership.

(C) All private direct access shall be for right turns only on multilane facilities, unless special conditions warrant and are documented by a traffic analysis in the connection permit application, signed and sealed by a qualified professional engineer, registered in accordance with chapter 18.43 RCW.

(D) No additional access connections to the state highway shall be provided for newly created parcels resulting from property divisions. All access for such parcels shall be provided by internal road networks. Access to the state highway will be at existing permitted connection locations or at revised connection locations, as conditions warrant.

(iii) A restrictive median shall be provided on multilane facilities to separate opposing traffic movements and to prevent unauthorized turning movements.

(2) Class two.

(a) Functional characteristics:

These highways have the capacity for medium to high speeds and medium to high volume traffic movements over medium and long distances in a safe and efficient manner, providing for interregional, intercity, and intracity travel needs. Direct access service to abutting land is subordinate to providing service to traffic movement. Highways in this class are typically distinguished by existing or planned restrictive medians, where multilane facilities are warranted, and minimum distances between public and private connections.

(b) Access control design standards:

(i) It is the intent that the design of class two highways be generally capable of achieving a posted speed limit of thirty-five to fifty mph in urbanized areas and forty-five to fifty-five mph in rural areas. Spacing of intersecting streets, roads, and highways shall be planned with a minimum spacing of one-half mile. Less than one-half mile intersection spacing may be permitted, but only when no reasonable alternative access exists. In urban areas and developing areas where higher volumes are present or growth that will require signalization is expected in the foreseeable future, it is imperative that the location of any public access be planned carefully to ensure adequate signal progression. Addition of all new connections, public or private, that may require signalization will require an engineering analysis signed and sealed by a qualified professional engineer, registered in accordance with chapter 18.43 RCW.

(ii) Private direct access to the state highway system shall be permitted only when the property has no other reasonable access to the general street system or if access to the general street system would cause traffic operational conditions or safety concerns unacceptable to the local governmental entity. When direct access must be provided, the following conditions shall apply:

(A) The access connection shall continue until such time that other reasonable access to a highway with a less restrictive access control classification or acceptable access to the general street system becomes available and is permitted.

(B) The minimum distance to another public or private access connection shall be six hundred sixty feet. Nonconforming connection permits may be issued to provide access to parcels whose highway frontage, topography, or location would otherwise preclude issuance of a conforming connec-



tion permit. No more than one connection shall be provided to an individual parcel or to contiguous parcels under the same ownership unless the highway frontage exceeds one thousand three hundred twenty feet and it can be shown that the additional access would not adversely affect the desired function of the state highway in accordance with the assigned access classification, and would not adversely affect the safety or operation of the state highway.

(C) Variance permits may be allowed if conditions warrant and are demonstrated to the satisfaction of the department by a traffic analysis, signed and sealed by a qualified professional engineer, who is registered in accordance with chapter 18.43 RCW, which is included with the connection permit application.

(D) All private direct access shall be for right turns only on multilane facilities, unless special conditions warrant and are ((documented by a traffic analysis in the connection permit application)) demonstrated, to the satisfaction of the department, by a traffic analysis, signed and sealed by a qualified professional engineer, who is registered in accordance with chapter 18.43 RCW, included with the connection permit application and only if left turn channelization is provided.

((D)) (E) No additional access connections to the state highway shall be provided for newly created parcels resulting from property divisions. All access for such parcels shall be provided by internal road networks. Access to the state highway will be at existing permitted connection locations or at revised connection locations, as conditions warrant.

(iii) On multilane facilities a restrictive median shall be provided to separate opposing traffic movements and to prevent unauthorized turning movements; however, a nonrestrictive median or a two way left turn lane may be used when special conditions exist and mainline volumes are below 20,000 ADT.

(3) Class three.

(a) Functional characteristics:

These highways have the capacity for moderate travel speeds and moderate traffic volumes for medium and short travel distances providing for intercity, intracity, and intercommunity travel needs. There is a reasonable balance between direct access and mobility needs for highways in this class. This class is to be used primarily where the existing level of development of the adjoining land is less intensive than maximum buildout and where the probability of significant land use change and increased traffic demand is high. Highways in this class are typically distinguished by planned restrictive medians, where multilane facilities are warranted, and minimum distances between public and private connections. Two-way left-turn-lanes may be utilized where special conditions warrant and mainline traffic volumes are below 25,000 ADT. Development of properties with internal road networks and joint access connections are encouraged.

(b) Access control design standards:

(i) It is the intent that the design of class three highways be generally capable of achieving a posted speed limit of thirty to forty mph in urbanized areas and forty-five to fifty-five mph in rural areas. In rural areas, spacing of intersecting streets, roads, and highways shall be planned with a minimum spacing of one-half mile. Less than one-half mile inter-

section spacing may be permitted, but only when no reasonable alternative access exists. In urban areas and developing areas where higher volumes are present or growth that will require signalization is expected in the foreseeable future, it is imperative that the location of any public access be planned carefully to ensure adequate signal progression. Where feasible, major intersecting roadways that may ultimately require signalization shall be planned with a minimum of one-half mile spacing. Addition of all new connections, public or private, that may require signalization will require an engineering analysis signed and sealed by a qualified professional engineer, registered in accordance with chapter 18.43 RCW.

(ii) Private direct access:

(A) No more than one access shall be provided to an individual parcel or to contiguous parcels under the same ownership unless it can be shown that additional access points would not adversely affect the desired function of the state highway in accordance with the assigned access classification, and would not adversely affect the safety or operation, of the state highway.

(B) The minimum distance to another public or private access connection shall be three hundred thirty feet. Nonconforming connection permits may be issued to provide access to parcels whose highway frontage, topography, or location would otherwise preclude issuance of a conforming connection permit.

(C) Variance permits may be allowed if conditions warrant and are demonstrated to the satisfaction of the department by a traffic analysis, signed and sealed by a qualified professional engineer, who is registered in accordance with chapter 18.43 RCW, which is included with the connection permit application.

(4) Class four.

(a) Functional characteristics:

These highways have the capacity for moderate travel speeds and moderate traffic volumes for medium and short travel distances providing for intercity, intracity, and intercommunity travel needs. There is a reasonable balance between direct access and mobility needs for highways in this class. This class is to be used primarily where the existing level of development of the adjoining land is more intensive and where the probability of major land use changes is less probable than on class three highway segments. Highways in this class are typically distinguished by existing or planned nonrestrictive medians. Restrictive medians may be used as operational conditions warrant to mitigate turning, weaving, and crossing conflicts. Minimum connection spacing standards should be applied if adjoining properties are redeveloped.

(b) Access control design standards:

(i) It is the intent that the design of class four highways be generally capable of achieving a posted speed limit of thirty to thirty-five mph in urbanized areas and thirty-five to forty-five mph in rural areas. In rural areas, spacing of intersecting streets, roads, and highways shall be planned with a minimum spacing of one-half mile. Less than one-half mile intersection spacing may be permitted, but only when no reasonable alternative access exists. In urban areas and developing areas where higher volumes are present or growth that will require signalization is expected in the foreseeable

future, it is imperative that the location of any public access be planned carefully to ensure adequate signal progression. Where feasible, major intersecting roadways that may ultimately require signalization shall be planned with a minimum of one-half mile spacing. Addition of all new connections, public or private, that may require signalization will require an engineering analysis signed and sealed by a qualified professional engineer, registered in accordance with chapter 18.43 RCW.

(ii) Private direct access:

(A) No more than one access shall be provided to an individual parcel or to contiguous parcels under the same ownership unless it can be shown that additional access points would not adversely affect the desired function of the state highway in accordance with the assigned access classification, and would not adversely affect the safety or operation of the state highway.

(B) The minimum distance to another public or private access connection shall be two hundred fifty feet. Nonconforming connection permits may be issued to provide access to parcels whose highway frontage, topography, or location would otherwise preclude issuance of a conforming connection permit.

(C) Variance permits may be allowed if conditions warrant and are demonstrated to the satisfaction of the department by a traffic analysis, signed and sealed by a qualified professional engineer, who is registered in accordance with chapter 18.43 RCW, which is included with the connection permit application.

(5) Class five.

(a) Functional characteristics:

These highways have the capacity for moderate travel speeds and moderate traffic volumes for primarily short travel distances providing for intracity and intracommunity trips primarily for access to state highways of higher classification. Access needs may generally be higher than the need for through traffic mobility without compromising the public health, welfare, or safety. These highways will generally have nonrestrictive medians.

(b) Access control design standards:

(i) It is the intent that the design of class five highways be capable of achieving a posted speed limit of twenty-five to thirty-five mph. In rural areas, spacing of intersecting streets, roads, and highways shall be planned with a minimum spacing of one-quarter mile. Less than one-quarter mile spacing may be permitted where no reasonable alternative exists. In urban areas and developing areas where higher volumes are present or growth that will require signalization is expected in the foreseeable future, it is imperative that the location of any public access be planned carefully to ensure adequate signal progression. Where feasible, major intersecting roadways that may ultimately require signalization shall be planned with a minimum of one-quarter mile spacing. Addition of all new connections, public or private, that may require signalization will require an engineering analysis signed and sealed by a qualified professional engineer, registered in accordance with chapter 18.43 RCW.

(ii) Private direct access:

(A) No more than one access shall be provided to an individual parcel or to contiguous parcels under the same

ownership unless it can be shown that additional access points would not adversely affect the desired function of the state highway in accordance with the assigned access classification, and would not adversely affect the safety or operation of the state highway.

(B) The minimum distance to another public or private access connection shall be one hundred twenty-five feet. Nonconforming connection permits may be issued to provide access to parcels whose highway frontage, topography, or location would otherwise preclude issuance of a conforming connection permit.

(C) Variance permits may be allowed if conditions warrant and are demonstrated to the satisfaction of the department by a traffic analysis, signed and sealed by a qualified professional engineer, who is registered in accordance with chapter 18.43 RCW, which is included with the connection permit application.

~~(6) (Interim standards. The interim standards set forth in this section shall be effective for all segments of the state highway system, except where access rights have been previously acquired pursuant to chapter 47.52 RCW, until superseded by an adopted access control classification as defined in this chapter. These interim standards are mandatory for all state highways where the department is the permitting authority, and are advisory for city streets designated as state highways pursuant to chapter 47.24 RCW where incorporated cities or towns are the permitting authority. Permit applications received after adoption of this chapter, but before the classification of a highway segment is adopted, shall be reviewed for consistency with the interim standards. After a highway segment has been classified pursuant to this chapter, the standards described for that particular class shall supersede the interim standards for the classified highway segment.~~

INTERIM STANDARDS		
Posted Speed	Minimum Private Connection Spacing	Minimum Public Intersection Spacing
MPH	Feet	Miles
35 or less	Rural: 250 Urban: 125	0.5
36-45	Rural: 330 Urban: 250	0.5
Over 45	Rural: 660 Urban: 330	1.0

~~(7)) Corner clearance. Corner clearances for connections shall meet or exceed the minimum connection spacing requirements ((of the interim standards, or)) of the applicable access class where the highway segment has been assigned a classification. A single connection may be placed closer to the intersection, ((pursuant to)) in compliance with the permit application process specified in chapter 468-51 WAC, and in accordance with the following criteria:~~

(a) If, due to property size, corner clearance standards of this chapter cannot be met, and where joint access meeting or exceeding the minimum corner clearance standards cannot be

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obtained, or is determined by the department to be not feasible because of conflicting land use or conflicting traffic volumes or operational characteristics, then the following minimum corner clearance criteria may be used:

CORNER CLEARANCE AT INTERSECTIONS		
With Restrictive Median		
Position	Access Allowed	Minimum (feet)
Approaching intersection	Right In/Right Out	115
Approaching intersection	Right In Only	75
Departing intersection	Right In/Right Out	230*
Departing intersection	Right Out Only	100

Without Restrictive Median		
Position	Access Allowed	Minimum (feet)
Approaching intersection	Full Access	230*
Approaching intersection	Right In Only	100
Departing intersection	Full Access	230*
Departing intersection	Right Out Only	100

\*For Access Class 5 and for speeds less than thirty-five mph, one hundred twenty-five feet may be used.

(b) In cases where connections are permitted under the above criteria, the permit issued ~~((pursuant to))~~ in compliance with chapter 468-51 WAC shall contain the following additional conditions:

- (i) There shall be no more than one connection per property frontage on the state highway.
- (ii) When joint or alternate access meeting or exceeding the minimum corner clearance standards becomes available, the ~~((permittee with))~~ permit holder shall close the permitted connection, unless the ~~((permittee))~~ permit holder shows to the department's satisfaction that such closure is not feasible.
- (iii) Variance permits are not allowed.

AMENDATORY SECTION (Amending Order 135, filed 1/13/93, effective 2/13/93)

**WAC 468-52-050 Application of access control classification system standards.** (1) Review of permits on classified highway segments. Connection permit applications on controlled access facilities of the state highway system received on a particular segment that has been classified in accordance with this chapter shall be reviewed subject to the requirements of this chapter ~~((pursuant to))~~ in compliance

with the permit application process specified in chapter 468-51 WAC.

(2) Prior approvals. Connections permitted prior to the adoption of this chapter and unpermitted connections that do not require closure in accordance with WAC 468-51-030 are not required to meet the interim standards or the standards of assigned access classifications adopted ~~((pursuant to))~~ in compliance with this chapter.

(3) New permits required by chapter 468-51 WAC. All new connection permits required due to significant changes in property site use ~~((pursuant to))~~ in compliance with WAC 468-51-110, or permit modification ~~((pursuant to))~~ in compliance with WAC 468-51-120 shall be reviewed subject to the requirements of this chapter.

(4) Permits approved under interim standards. Connection permits that were issued in accordance with the interim standards in WAC 468-52-040 on a highway segment where an access classification ~~((has))~~ had not been adopted shall remain in effect after adoption of an access classification on that highway segment unless a new permit is required due to changes in property site use ~~((pursuant to))~~ in compliance with WAC 468-51-110 or unless permit modification, revocation, or closure of the permitted connection is required ~~((pursuant to))~~ in compliance with WAC 468-51-120.

(5) Nonconforming permits. Nonconforming permits may be issued in accordance with WAC 468-51-100 for certain connections not meeting the interim standards in WAC 468-52-040 or the access classification location and spacing standards adopted for a particular highway segment.

(6) Variance permits. Variance permits may be issued in accordance with WAC 468-51-105 for certain connections not meeting the access classification standards for location, spacing or exceed the number of connections allowed by the standards adopted for a particular highway segment. These permits may be allowed if conditions warrant and are demonstrated to the satisfaction of the department by a traffic analysis, signed and sealed by a qualified professional engineer who is registered in accordance with chapter 18.43 RCW, and included in the connection permit application, and will remain in effect unless a new permit is required due to changes in property site use in compliance with WAC 468-51-110 or unless permit modification, revocation, or closure of the permitted connection is required in compliance with WAC 468-51-120.

AMENDATORY SECTION (Amending Order 135, filed 1/13/93, effective 2/13/93)

**WAC 468-52-060 Assignment of access control classifications to highway segments.** The assignment of an access control classification to all controlled access segments of the state highway system shall be the responsibility of the department. The process to be followed in assigning the classifications is as follows:

(1) Defining segments. The determination of the length and termini of segments shall be the responsibility of the department working in cooperation with the Regional Transportation Planning Organizations, Metropolitan Planning Organizations, and the appropriate local governmental entities.

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(a) Segments of highways to be assigned to a particular access control classification shall be defined by the department in cooperation with local governments. The length and termini of segments shall take into consideration the mobility and access needs of the traveling public, the access needs of the existing and proposed land use abutting the highway segment, and the existing and desired mobility characteristics of the roadway. The number of classification changes occurring along a particular highway shall be minimized to provide highway system continuity, uniformity, and integrity to the maximum extent feasible. The segments shall not necessarily be confined by local jurisdictional boundaries. Points of transition between classifications along a particular route should be located on boundaries, or coincident with identifiable physical features.

(2) Assignment of classifications. All segments of all controlled access facilities on the state highway system shall be assigned to one of the access control classes one through five. The assignment of a classification to a specific segment of highway shall be the responsibility of the department. The classification shall be made in cooperation with the Regional Transportation Planning Organization, Metropolitan Planning Organization, and the appropriate local governmental entities. For city streets that are designated as state highways (~~(pursuant to)~~) in compliance with chapter 47.24 RCW, the department will obtain concurrence in the final class assignment from the city or town for those state highways where the city or town is the permitting authority. The assignment of a classification shall take into consideration the following factors:

- (a) Local land use plans, zoning, and land development regulations as set forth in adopted comprehensive plans;
- (b) The current and potential functional classification of the highway;
- (c) Existing and projected future traffic volumes;
- (d) Existing and projected state, local, and metropolitan planning organization transportation plans and needs including consideration of new or improved parallel facilities;
- (e) Drainage requirements;
- (f) The character of the lands adjoining the highway;
- (g) The type and volume of traffic requiring access;
- (h) Other operational aspects of access, including corridor accident history;
- (i) The availability of reasonable access to the state highway by way of county roads or city streets as an alternative to a connection to the state highway;
- (j) The cumulative effect of existing and projected connections on the state highway system's ability to provide for the safe and efficient movement of people and goods within the state.

(3) Changes in jurisdiction. When the boundaries of an incorporated city or town are revised to include a portion of a controlled access state highway resulting in a change in the permitting authority from the department to the city or town in accordance with chapter 47.24 RCW, the access classification of that portion of the state highway shall remain unchanged unless modified in accordance with WAC 468-52-070.

**AMENDATORY SECTION** (Amending Order 135, filed 1/13/93, effective 2/13/93)

**WAC 468-52-070 Review and modification of classifications.** (1) Department initiated action. The department may, at any time, initiate a review of the access control classification of any segment of any state highway. When a major change occurs in any of the factors noted in WAC 468-52-060(2), the department shall review the access classification for the specific segments of any state highway affected by the change. Prior to the initiation of any change in classification of a highway segment, the department shall notify in writing the appropriate Regional Transportation Planning Organization, Metropolitan Planning Organization, and local governmental entities. The department will consult with the RTPO, MPO, and local governmental entities and shall take into consideration, any comments or concerns received during the review process. For city streets that are designated as state highways (~~(pursuant to)~~) in compliance with chapter 47.24 RCW, the department will obtain concurrence in the final class assignment from the city or town for those state highways where the city or town is the permitting authority. The department shall notify the RTPO, MPO, and local governmental entities in writing of the final determination of the reclassification action.

(2) Requests for departmental review. A Regional Transportation Planning Organization, Metropolitan Planning Organization, or local governmental entity may request, in writing, at any time that the secretary of transportation initiate a review of the access control classification of a specific segment or segments of a state highway(s). Such written request shall identify the segment(s) of state highway for which the review is requested and shall include a specific recommendation for the reclassification of the highway segment(s) involved. Justification for the requested change shall be provided in the request taking into account the standards and criteria in WAC 468-52-040 and 468-52-060. The department will consult with the RTPO, MPO, and local governmental entities involved and shall take into consideration, any comments or concerns received during the review process. The department shall notify the RTPO, MPO, and local governmental entities in writing of the final determination of the reclassification action.

Other interested persons or organizations who wish to initiate a review of the access control classification of a specific highway segment shall do so through the local governmental entity, MPO, or RTPO.

**WSR 99-06-037**

**PERMANENT RULES**

**DEPARTMENT OF LICENSING**

[Filed February 26, 1999, 9:17 a.m.]

Date of Adoption: February 20, 1999.

Purpose: Meet criteria supporting Governor Locke's Executive Order 97-02.

Citation of Existing Rules Affected by this Order: Repealing 5 [WAC 308-56A-340, 308-56A-345, 308-56A-

350, 308-56A-360 and 308-56A-365]; and amending 2 [WAC 308-56A-335 and 308-56A-355].

Statutory Authority for Adoption: RCW 46.01.110.

Adopted under notice filed as WSR 99-01-140 on December 22, 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 2, Repealed 5.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 2, Repealed 7 [5]; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

February 22, 1999

Fred Stephens

Director

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

**WAC 308-56A-335 Owner deceased—**~~((Signature of))~~ **Release of interest by personal representative.** ~~((On any application for certificate of title where a vehicle has been acquired from the estate of a deceased person, the interest of the deceased's estate in the vehicle shall be released by the signature of the personal representative. A copy of the court order approving or confirming the personal representative shall be attached to the application. Any unreleased legal owners shall remain as such on the new certificate of title issued by the department.))~~ **(1) What is a personal representative?**

A personal representative is an individual named in the last will and testament or appointed and confirmed by the court to manage the estate of a deceased person.

**(2) How is the interest of the owner of record released on a vehicle ownership document if an owner is deceased?**

Interest is released by the signature of the personal representative on vehicle ownership documents. Any unreleased registered or legal owners shall remain as such on the new certificate of ownership issued by the department.

**(3) What do I need as proof of legal authority to release interest in a vehicle acquired from an estate of a deceased person?**

If the estate is:

**(a) Administered:**

(i) Certified letters of testamentary; or

(ii) Letter of administration; or

(iii) Certificate of county clerk.

**(b) Joint tenants with rights of survivorship:**

Certified copy of death certificate.

(c) Community property:

(i) Certified copy of the death certificate; and

(ii) A copy of the community property agreement; or

(iii) Affidavit of inheritance.

(d) Estate not administered:

(i) Certified copy of death certificate; and

(ii) Affidavit of inheritance; or

(iii) Affidavit of succession.

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

**WAC 308-56A-355 Owner deceased—In name of estate.** ~~((If the owner of record of a vehicle is deceased, the vehicle may be titled and licensed in the name of the estate of the deceased pending final settlement of the estate. A certified copy of the court order appointing or confirming the personal representative shall be attached to the application for certificate of title.))~~ **Can the vehicle be titled in the name of the estate of the deceased?**

Yes, the vehicle may be titled and licensed in the name of the estate of the deceased pending final settlement of the estate. A certified copy of the court order appointing or confirming the personal representative shall be attached to the application for certificate of ownership.

#### **REPEALER**

The following sections of the Washington Administrative Code are repealed:

WAC 308-56A-340	Owner deceased—Will left.
WAC 308-56A-345	Owner deceased—No will left.
WAC 308-56A-350	Owner deceased—To spouse "in lieu of homestead."
WAC 308-56A-360	Owner deceased—Estate not administered.
WAC 308-56A-365	Owner deceased—Community property agreement.

**WSR 99-06-044**

**PERMANENT RULES**

**DEPARTMENT OF**

**SOCIAL AND HEALTH SERVICES**

(Management Services Administration)

[Filed February 26, 1999, 3:20 p.m.]

Date of Adoption: February 26, 1999.

Purpose: Management Services Administration (MSA) is repealing WAC 388-320-350 through 388-320-370, dealing with requests to DSHS for declaratory petitions and orders. Agencies issue declaratory orders in response to a petition for a declaratory order, a request to an agency to determine questions of rights. These DSHS WACs duplicate WAC 10-08-250 through 10-08-252. These rules are the

"model rules," which agencies follow if and when they do not adopt their own. MSA is adopting a new rule, WAC 388-320-375, which references the model rules and provides an address for filing petitions with DSHS.

Citation of Existing Rules Affected by this Order: Repealing WAC 388-320-350, 388-320-360, and 388-320-370.

Statutory Authority for Adoption: RCW 74.08.090, 34.05.220, 34.05.240, 34.05.250.

Adopted under notice filed as WSR 99-03-076 on January 19, 1999.

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 3.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 0, Repealed 3.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 0, Repealed 3.

Effective Date of Rule: Thirty-one days after filing.

February 26, 1999

Marie Myerchin-Redifer, Manager  
Rules and Policies Assistance Unit

**NEW SECTION**

**WAC 388-320-375 How do I file petitions for declaratory orders?** (1) First, read the information on declaratory orders in RCW 34.05.240 and WAC 10-08-250, 10-08-251, and 10-08-252.

(2) Next, file your petition with the Rules and Policies Assistance Unit; DSHS; P.O. Box 45850; Olympia, WA 98504-5850.

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

- WAC 388-320-350 Declaratory orders—Forms, content, and filing.
- WAC 388-320-360 Declaratory orders—Procedural rights of persons in relation to petition.
- WAC 388-320-370 Declaratory orders—Disposition of petition.

**WSR 99-06-045**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Medical Assistance Administration)  
[Filed February 26, 1999, 3:25 p.m.]

Date of Adoption: February 26, 1999.

Purpose: A housekeeping action to correct outdated Washington Administrative Code (WAC) references. The recent major rewrite of financial and medical assistance eligibility rules, in which the rules were renumbered, rendered the WAC citations in chapters 388-513 and 388-515 WAC incorrect. These citations are updated with the correct new WAC numbers.

Citation of Existing Rules Affected by this Order: Amending WAC 388-513-1305, 388-513-1315, 388-513-1320, 388-513-1330, 388-513-1350, 388-513-1360, 388-513-1365, 388-513-1395, 388-515-1510, and 388-515-1530.

Statutory Authority for Adoption: RCW 74.08.090 and 74.09.500.

Adopted under notice filed as WSR 98-24-126 on December 2, 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 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 10, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

February 26, 1999

Marie Myerchin-Redifer, Manager  
Rules and Policies Assistance Unit

**Reviser's note:** The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 99-07 issue of the Register.

**WSR 99-06-046**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Medical Assistance Administration)  
[Filed February 26, 1999, 3:29 p.m.]

Date of Adoption: February 26, 1999.

Purpose: To rewrite these rules per the Governor's Executive Order 97-02 which mandates readability, clarity, foundation in law, etc.; and to describe new methods of paying hospital providers. One new method is to change the high

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and low outlier thresholds for DRG claims. The other new methods is to cap dual Medicare/Medicaid hospital payments at Medicaid's maximum.

Citation of Existing Rules Affected by this Order: Amending WAC 388-550-1050, 388-550-1200, 388-550-2800, 388-550-2900, 388-550-3000, 388-550-3100, 388-550-3500, 388-550-3700, 388-550-4500, 388-550-4700, 388-550-4800, and 388-550-6000.

Statutory Authority for Adoption: RCW 74.08.090, 42 USC 1395 x(v), 42 CFR 447.271, 447.11303, and 447.2652.

Adopted under notice filed as WSR 99-01-170 on December 23, 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 12, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, 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 12, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

February 26, 1999

Marie Myerchin-Redifer, Manager  
Rules and Policies Assistance Unit

**Reviser's note:** The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 99-08 issue of the Register.

**WSR 99-06-047**  
**PERMANENT RULES**  
**STATE TOXICOLOGIST**  
[Filed March 1, 1999, 8:50 a.m.]

Date of Adoption: February 28, 1999.

Purpose: Adoption of administrative rules for certification and use of portable breath test devices, and implementation of a program to accomplish this.

Statutory Authority for Adoption: RCW 46.61.506.

Adopted under notice filed as WSR 99-01-011 on December 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 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 10, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 10, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

February 28, 1999

Barry K. Logan, Ph.D.  
State Toxicologist

**Chapter 448-15 WAC**

**ADMINISTRATION OF BREATH ALCOHOL  
SCREENING TEST**

NEW SECTION

**WAC 448-15-010 Approval of devices.** The following preliminary breath test (PBT) instruments are approved for use in the state of Washington as breath alcohol screening devices, subject to the requirements outlined in the following sections:

Alcosensor III (Intoximeters, St. Louis, MO).

Any other instruments on the National Highway Traffic Safety Administration (NHTSA) approved products list will be considered for approval in Washington state on application to the state toxicologist, providing that a suitable program for maintenance, certification and operator training is also established and approved.

NEW SECTION

**WAC 448-15-020 Use of test results.** The devices described in WAC 448-15-010 are approved for use in aiding police officers to form probable cause that a subject has committed an offense involving the consumption of alcohol. The test results, when obtained by a trained operator using an approved device which has been maintained and certified according to the rules described below, and carried out according to the approved test protocol, will show to a reasonable degree of scientific certainty, the test subject's breath alcohol concentration. The results are therefore suitable to show whether an officer has probable cause to place a person under arrest for alcohol related offenses. These results may not be used on their own for determining, beyond a reasonable doubt, that a person's breath alcohol concentration exceeds a proscribed level such as anticipated under the 'per se' statutes for intoxication.

This preliminary breath test is voluntary, and participation in it does not constitute compliance with the implied consent statute (RCW 46.20.308).

NEW SECTION

**WAC 448-15-030 Test protocol.** After advising the subject that this is a voluntary test, and that it is not an alternative to an evidential breath alcohol test as described in chapter 448-13 WAC, the operator shall determine by obser-

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vation or inquiry, that the subject has not consumed any alcohol in the fifteen minutes prior to administering the test. If the subject has consumed alcohol during that period, the officer should not administer the screening test for probable cause purposes until fifteen minutes have passed. If the subject responds that they have not consumed any alcohol in the last fifteen minutes, the officer may offer the subject the opportunity to provide a breath sample into the PBT. If the subject consents, the operator will check the temperature of the device to ensure that it is within the normal operating range. The operator will then press the "read" button to obtain a sample of ambient air, and ensure that this results in a reading of 0.003 or less. The subject will be asked to exhale into the device. The device will be activated towards the end of the subject's exhalation, to capture a portion of end expiratory breath for analysis.

#### NEW SECTION

**WAC 448-15-040 Certification.** Any PBT used as described in the preceding sections, must be certified at least every six months. In order to certify a PBT as accurate, the testing shall include at a minimum, a blank test of room air which must give a result of less than 0.005g/210L, and a test of a certified dry gas alcohol standard. The instrument must accurately measure the reference value within  $\pm 0.010\text{g}/210\text{L}$ . A record of certification must be kept by the person responsible for calibration. Certification of PBTs can be performed by persons certified by the state toxicologist as PBT technicians, or by factory authorized representatives, provided that the protocol for certification approved by the state toxicologist is followed.

#### NEW SECTION

**WAC 448-15-050 PBT operators.** Persons certified as DataMaster operators as described in WAC 448-13-150, who received their certification or recertification after September 1, 1998, shall be trained and authorized to perform the tests described herein on the PBT, for the purposes outlined in this section.

#### NEW SECTION

**WAC 448-15-060 PBT technicians.** Persons trained according to approved outlines prepared by the state toxicologist, in the proper procedures for certifying PBTs shall be certified as PBT technicians. Their responsibilities will include performing periodic certification and maintaining records on such certification. Wallet sized permits shall be issued to persons so qualified. The certification received on successful completion of the training must be renewed every three years. Persons certified as DataMaster technicians as described in WAC 448-13-170 are also certified to perform all the duties of PBT technicians.

**WSR 99-06-048**  
**PERMANENT RULES**  
**STATE TOXICOLOGIST**  
[Filed March 1, 1999, 8:53 a.m.]

Date of Adoption: February 28, 1999.

Purpose: Clarification of issues regarding administration of the breath alcohol test, and implementing some technical program changes.

Citation of Existing Rules Affected by this Order: Amending WAC 448-13-030, 448-13-040, 448-13-050, 448-13-065, 448-13-070, 448-13-080, 448-13-140, 448-13-170, 448-13-180, and 448-13-210.

Statutory Authority for Adoption: RCW 46.61.506.

Adopted under notice filed as WSR 99-01-012 on December 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 6, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 6, 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.

February 28, 1999

Barry K. Logan, Ph.D.

State Toxicologist

AMENDATORY SECTION (Amending WSR 95-20-025, filed 9/27/95, effective 10/28/95)

**WAC 448-13-030 Definitions.** (1) "Accuracy" means the proximity of a measured value to a reference value.

(2) "Alcohol" means the unique chemical compound ethyl alcohol.

(3) "Blank test" means the testing of a DataMaster instrument to ensure that no alcohol from a previous test can interfere with a person's breath test.

(4) "Breath alcohol analysis" means analysis of a sample of a person's expired breath, using a breath testing instrument designed for this purpose, which instrument is approved by the state toxicologist, in order to determine the alcohol concentration in that breath sample.

(5) "Breath test document" means the form which is printed by the DataMaster on the completion of a breath alcohol test.

(6) "Calibration" means the process of standardizing the DataMaster using a certified simulator solution to allow by proportion, the measurement of the alcohol concentration of a person's breath. Calibration will be performed periodically as required and at least once a year during quality assurance.



(7) "Certified" when used in conjunction with breath test personnel means an operator, instructor, solution changer or technician possessing a valid permit.

(8) "Certified simulator solution" means an alcohol/water solution prepared and tested by an approved protocol, and meeting the criteria specified therein.

(9) "Certified test" means a test conducted in accordance with WAC 448-13-040 and 448-13-050. A test which meets these requirements as determined from the breath test document is a certified test.

(10) "Concentration" means the weight amount of alcohol, expressed in grams, contained in two hundred ten liters of breath or alcohol/water vapor.

(11) "DataMaster" means BAC Verifier DataMaster, instruments including those carrying the designation BAC Verifier DataMaster II, and the BAC DataMaster. These are the only approved breath test instruments in the state of Washington.

(12) "Data base" means information collected primarily for the purposes of statistical analysis of patterns of drinking and driving in the state of Washington.

(13) "Data entry" means the process of providing information through a keyboard to the DataMaster for the purposes of (a) identifying a breath test document to an individual, and (b) statistical analysis.

(14) "Interference" means a test result whose infrared absorbance properties are not consistent with ethanol.

(15) "End expiratory breath" means the last portion of breath to be delivered to the DataMaster once the appropriate sample acceptance criteria have been met.

(16) "External standard test" means the use of a simulator containing a certified simulator solution, to provide a known alcohol vapor concentration to test the accuracy and proper working order of the DataMaster and confirm its calibration at the time of a person's breath test. This test of the function of the DataMaster is performed with every breath test. The external standard test does not calibrate the DataMaster.

((16)) (17) "Internal standard test" means the use of a quartz filter to provide a check that the instrument has maintained calibration since the last time calibration was performed and is in proper working order at the time of the test.

((17)) (18) "Precision" means the ability of a technique to perform a measurement in a reproducible manner.

((18)) (19) "Procedure" and "method" are used interchangeably to indicate a series of steps which, when carried out as directed, constitute the means by which a given task is performed in a reproducible manner.

((19)) (20) "Protocol" means the written record of any method or procedure.

((20)) (21) "Quality assurance program" means an ongoing program designed to perform preventative maintenance and identify potential defects before they affect the operation of the instrument.

((21)) (22) "Simulator" means a device which when filled with a certified simulator solution, maintained at a known temperature, provides a vapor sample of known alcohol concentration.

((22)) (23) "Software" means the computer program stored in the DataMaster which allows it to operate.

((23)) (24) "Valid breath sample" means a sample of a person's breath provided in such a manner to be accepted for analysis by the DataMaster.

AMENDATORY SECTION (Amending WSR 91-21-040, filed 10/11/91, effective 11/11/91)

**WAC 448-13-040 Administration of breath test on the ((BAC Verifier)) DataMaster.** The following method for performing a breath test is approved by the state toxicologist pursuant to WAC 448-13-130 and includes the following safeguards to be observed by the operator prior to the test being performed. It must be determined that: (1) The person does not vomit or have anything to eat, drink, or smoke for at least fifteen minutes prior to administration of the test; and (2) the subject does not have any foreign substances, not to include dental work, fixed or removable, in his or her mouth at the beginning of the fifteen minute observation period. Such determination shall be made by either an examination of the mouth or a denial by the person that he or she has any foreign substances in mouth. A test mouthpiece is not to be considered a foreign substance for purposes of this section. If a subject is wearing jewelry or ornamentation pierced through their tongue, lips, cheek, or other soft tissues in the oral cavity, they will be required to remove this prior to conducting the breath test. If the subject declines, they will be deemed to have a physical limitation rendering them incapable of providing a valid breath sample and will be required to provide a blood sample under the implied consent statute, RCW 46.20.308.

The temperature of the solution in the simulator prior to the start of the test must be thirty-four degrees centigrade plus or minus 0.2 degrees centigrade. During the test the person will be required to provide at least two valid breath samples. A refusal to provide a valid breath sample at any point during the test will constitute a refusal. The results of the test will be provided in the form of a printout on a breath test document. These results will indicate the grams of alcohol per two hundred ten liters of breath.

AMENDATORY SECTION (Amending WSR 95-20-025, filed 9/27/95, effective 10/28/95)

**WAC 448-13-050 Test defined.** The test of a person's breath for alcohol concentration using the DataMaster shall consist of the person insufflating end-expiratory air samples at least twice into the instrument, sufficient to allow two separate measurements. There will be sufficient time between the provision of each sample to permit the instrument to measure each sample individually. Two valid breath samples, provided consecutively, will constitute one test.

The DataMaster will perform this test according to the following protocol when being employed to measure an individual's breath alcohol concentration. Any test not performed according to the following protocol is not a valid test. Successful compliance with each step of this protocol is determined from an inspection of the breath test document. These steps are necessary to ensure accuracy, precision, and confidence in each test.

- Step 1. Data entry.
- Step 2. Blank test with a result of .000.
- Step 3. Internal standard verified.
- Step 4. First breath sample provided by subject.
- Step 5. Blank test with a result of .000.
- Step 6. External standard simulator solution test. The result of this test must be between ~~((-.090))~~ .072 and ~~((-.110))~~ .088 inclusive.
- Step 7. Blank test with a result of .000.
- Step 8. Second breath sample provided by subject.
- Step 9. Blank test with a result of .000.
- Step 10. Printout of results on a breath test document.

AMENDATORY SECTION (Amending WSR 95-20-025, filed 9/27/95, effective 10/28/95)

**WAC 448-13-065 Interpretation of breath test results for purposes of sentencing.** ~~((Once it is determined that a breath test has met all the above criteria and is valid;))~~ The ~~((person's))~~ subject's presumed breath alcohol content for the purposes of ~~((the interpretation of civil and criminal statutes))~~ sentencing shall be determined by taking the lower of the two subject sample breath test results, and truncating this to two decimal places. (E.g., if a person's two breath test results were 0.106 and 0.121, the person's presumed breath alcohol content would be 0.10 g/210L.)

The trier of fact must however inspect and consider the results of the tests of both breath samples as they appear on the breath test document, to ensure that the requirements of WAC 448-13-060 are met.

AMENDATORY SECTION (Amending WSR 95-20-025, filed 9/27/95, effective 10/28/95)

**WAC 448-13-070 External standard simulator solution.** In order to validate and certify the proper working order of the DataMaster at the time of a person's breath test, the vapor from a certified external standard simulator solution will be tested, separated by blank tests, between the two valid breath samples provided by the subject per WAC 448-13-050. This test of the vapor from the certified external standard simulator solution concentration, by the infrared technique employed by the DataMaster, will confirm the certification of the person's test results as they appear on the breath test document, provided that the results of such analysis also meet the criteria of WAC 448-13-060. ~~((At such time as the concentration of the vapor from the external standard simulator solution measured by the DataMaster approaches the lower acceptable limit of .090, the solution will be discarded and replaced with a new solution which meets the criteria of WAC 448-13-080. In any event;))~~ The solution will be replaced no more than sixty days from the date of its installation. As there is no meaningful way to interpret data resulting from reanalysis of the simulator solution following its removal after use on a DataMaster instrument, collection and reanalysis of such solutions is neither recommended nor approved by the state toxicologist. The internal standard test conducted with every breath test provides a check that the instrument has remained in calibration while in use in the field.

AMENDATORY SECTION (Amending WSR 95-20-025, filed 9/27/95, effective 10/28/95)

**WAC 448-13-080 Preparation and certification of external standard simulator solution.** The external standard simulator solutions shall be prepared by the forensic toxicology staff or by persons certified as technicians in the state toxicology laboratory, using standard laboratory procedures, in such a manner that when heated to  $34^{\circ}\text{C} \pm 0.2^{\circ}\text{C}$  it will produce a vapor with an ethanol concentration of between ~~((-.090))~~ .072 and ~~((-.110))~~ .088 inclusive, at the time of the test. The principle used for the preparation of the simulator solutions is that a ~~((0-123))~~ 0.0984g/100mL solution will give a vapor ethanol concentration at  $34^{\circ}\text{C}$  of ~~((0-100))~~ 0.080g/210L. The protocol which shall be followed for the preparation and certification of the external standard simulator solution will be that protocol currently approved and authorized by the state toxicologist according to WAC 448-13-130 and conforming to WAC 448-14-010. Details of the currently approved and authorized protocols are available upon request from the office of the state toxicologist. Sworn statements regarding the preparation, testing, and certification of the simulator solution are available under the provisions of CrRLJ 6.13. The simulator solution shall have an expiration date of one calendar year following the date of its preparation. Alternatively, simulator solutions may be purchased from a vendor approved by the state toxicologist.

AMENDATORY SECTION (Amending WSR 95-20-025, filed 9/27/95, effective 10/28/95)

**WAC 448-13-140 Instructors.** The state toxicologist shall certify persons found by him to be competent and qualified, as "instructors." Instructors are authorized to administer breath tests for alcohol concentration using the DataMaster and are further authorized to train and certify as operators, according to outlines approved by the state toxicologist, those persons the instructor finds qualified to administer the breath test utilizing the DataMaster breath test instrument. Instructors who are also certified as PBT technicians may instruct other individuals as PBT technicians according to the approved outlines. Details of persons certified as instructors shall be maintained by the state toxicologist and available upon request.

If an instructor fails or refuses to demonstrate to the state toxicologist or to his representative, that they have the ability to adequately perform their responsibilities as an instructor, then the state toxicologist will suspend their permit.

AMENDATORY SECTION (Amending WSR 95-20-025, filed 9/27/95, effective 10/28/95)

**WAC 448-13-170 Technicians.** The state toxicologist shall certify as "technicians" such persons found by him to be competent and qualified to maintain the proper working order of the DataMaster infrared breath testing instrument, through adjustment, repair, and regular service. Further, technicians are authorized by the state toxicologist to prepare simulator external standard solutions and to perform the procedures approved for periodic quality assurance of the DataMaster

## WSR 99-06-072

## PERMANENT RULES

## DEPARTMENT OF AGRICULTURE

[Filed March 2, 1999, 11:25 a.m.]

Date of Adoption: February 26, 1999.

Purpose: This rule will specify standard weights and tare weights for hop bales.

Statutory Authority for Adoption: RCW 19.94.190 [(1)](a).

Adopted under notice filed as WSR 99-02-066 on January 6, 1999.

Changes Other than Editing from Proposed to Adopted Version: WAC 16-645-005, change to read, "The weight for a bale of hops is fixed at from one hundred seventy-five to two hundred thirty pounds." Proposed language set the upper weight limit at two hundred ten pounds industry requested two hundred thirty pounds.

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 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.

February 26, 1999

James M. Jesernig

Director

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instruments as required pursuant to WAC 448-13-110. Details of persons so certified shall be maintained by the state toxicologist and available upon request.

Technicians are authorized to perform maintenance, calibration and instruction in the use of the portable breath test devices.

Technicians are also authorized to instruct persons otherwise qualified as "instructors," "operators," and "solution changers" according to training outlines approved by the state toxicologist. Certified technicians are themselves authorized to perform the duties of "instructors," "operators," and "solution changers."

Electronics technicians who repair component parts of the DataMaster, and who are not certified as technicians under this section, are not authorized to conduct quality assurance, conduct training, or perform duties in the above categories.

If a technician fails or refuses to demonstrate to the state toxicologist or his representative, that he or she has the ability to adequately perform his or her responsibilities as a technician, then the state toxicologist will suspend their permit.

AMENDATORY SECTION (Amending WSR 91-06-022, filed 2/26/91, effective 3/29/91)

**WAC 448-13-180 Permit cards.** The state toxicologist shall authorize the issuance to persons deemed qualified as "instructors," "operators," "solution changers" or "technicians," a wallet-sized card bearing his or her name and designation. Permit cards shall bear the signature or facsimile signature of the state toxicologist. Such permit cards shall expire three years after the date on the card, unless renewed for a like three-year period. Operators whose authorization expires may take recertification training within ninety days following expiration of their prior certification, but are not certified to perform any evidential breath tests during that period. Once ninety days have elapsed after the expiration of authorization, the operator must repeat the basic certification training.

AMENDATORY SECTION (Amending WSR 95-20-025, filed 9/27/95, effective 10/28/95)

**WAC 448-13-210 Address for correspondence.** Information regarding instrument records, or the certification of operators, instructors, solution changers, and technicians should be obtained from the Washington State Patrol, Breath Test Section, 811 E. Roanoke, Seattle, WA 98102.

Persons seeking information regarding ~~(currently approved protocols and procedures, or information regarding those persons currently authorized as operators, instructors, solution changers, or technicians for the DataMaster,)~~ other aspects of the breath alcohol testing program shall direct their request initially to the State Toxicologist, State Toxicology Laboratory, University of Washington, Department of Laboratory Medicine, 2203 Airport Way S., Seattle, WA 98134.

NEW SECTION

**WAC 16-645-005 Hops—Bale.** The standard weight for a bale of hops is fixed at from one hundred seventy-five to two hundred thirty pounds.

NEW SECTION

**WAC 16-645-010 Hops—Tare.** (1) The amount of tare to be deducted from the gross weight of each bale of hops grown and sold is fixed at five pounds per bale for bales wrapped in burlap cloth. The tare for bales wrapped in plastic baling cloth is fixed at zero.

(2) Any vendor of hops using heavier sacking than specified above or using any extraneous material in the baling thereof shall have the additional sacking or extraneous material deducted as additional tare.

**WSR 99-06-073**  
**PERMANENT RULES**  
**EXECUTIVE ETHICS BOARD**

[Filed March 2, 1999, 11:30 a.m.]

Date of Adoption: February 12, 1999.

Purpose: To add new sections and amend the existing rules in chapter 292-100 WAC.

Citation of Existing Rules Affected by this Order: Amending chapter 292-100 WAC.

Statutory Authority for Adoption: RCW 42.52.360 (2)(b).

Adopted under notice filed as WSR 98-22-071 on November 3, 1998.

Changes Other than Editing from Proposed to Adopted Version: WAC 292-100-007(4) clarifies that the only parties to an ethics complaint and subsequent ethics proceedings are the board staff and the respondent. Expands representation for the respondent to include an attorney or an exclusive bargaining representative. An exclusive bargaining representative is made subject to the standards of ethical conduct required of attorneys before the courts of the state of Washington. Change was made to accommodate representational concerns by the Washington Federation of State Employees with the express understanding that the Executive Ethics Board is neither an employer nor the agent of an employer and that there is no collective bargaining agreement with the board that obligates the board to allow an exclusive bargaining representative in ethics proceedings.

Adding subsection (iii) to WAC 292-100-090 (1)(c) to provide that settlement negotiations may be concluded by a stipulated order agreed to by the parties on recommendation by the attorney general.

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 5, Amended 20, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 5, Amended 20, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 5, Amended 20, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

March 2, 1999

Margaret A. Grimaldi  
Executive Secretary

**NEW SECTION**

**WAC 292-100-005 Purpose.** The purpose of this chapter is to promulgate Executive Ethics Board rules concerning complaints, investigations, and hearings pursuant to RCW 42.52.410, 42.52.420, 42.52.430, 42.52.470 and 42.52.500.

**NEW SECTION**

**WAC 292-100-006 Adoption of model rules of procedure.** The model rules of procedure, chapter 10-08 WAC, adopted by the chief administrative law judge pursuant to RCW 34.05.250, as now or hereafter amended, are hereby adopted for use by the board. In the case of a conflict between the model rules of procedure and procedural rules adopted in this chapter, the procedural rules adopted by the board shall take precedence.

**NEW SECTION**

**WAC 292-100-007 Definitions.** Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Board staff" shall include the executive secretary, the investigator, attorneys who bring cases before the board, and the board clerk.

(2) "Complainant" means a person who has filed a complaint with the board.

(3) "Employing agency" means the former or current state agency of the respondent during the time the alleged violation occurred.

(4) "Party" includes the board staff and the respondent. The respondent may be represented in any matter filed under chapter 42.52 RCW by an attorney or an exclusive bargaining representative. If the respondent is represented by a person who is not an attorney, the representation shall conform to the standards of ethical conduct required of attorneys before the courts of the state of Washington.

(5) "Preliminary investigation" refers to the confidential fact-finding investigation that occurs before the board's determination of reasonable cause.

(6) "Presiding officer" refers to the board chair, vice chair, a board member designated as presiding officer by the chair or vice chair, or an administrative law judge.

(7) "Respondent" means a current or former state officer or state employee alleged to have violated chapter 42.52 RCW by a complainant.

**AMENDATORY SECTION** (Amending WSR 96-22-028, filed 10/30/96, effective 11/30/96)

**WAC 292-100-010 Initiation of complaint.** (1) A complaint alleging a violation of chapter 42.52 RCW may be filed by:

- (a) Any person;
- (b) The board;

(2) If a member of the board or the board's staff files a complaint in his or her individual capacity, the board member or staff member shall be disqualified from acting in his or her official capacity with regard to the disposition of that complaint.

(3) Other agencies may refer information about possible violations of chapter 42.52 RCW to the board for consideration. The board ~~((with))~~ may file a complaint if appropriate.

(4) Complaints initiated by the board will be signed on behalf of the board by the executive secretary.

**AMENDATORY SECTION** (Amending WSR 96-22-028, filed 10/30/96, effective 11/30/96)

**WAC 292-100-020 Complaint procedures—Status of complainant and others.** (1) When a complaint has been filed with the board, neither the complainant, if other than board (~~staff~~), nor any other person shall have special standing to participate or intervene in the investigation or consideration of the complaint by the board. The complainant is not a party to an ethics case for any purpose; however, the board staff (~~shall~~) will give notice to the complainant and the employing agency of any open board hearings on the matter.

(2) The person or persons alleged in a complaint to have violated chapter 42.52 RCW, are respondents as to that complaint.

**AMENDATORY SECTION** (Amending WSR 96-22-028, filed 10/30/96, effective 11/30/96)

**WAC 292-100-030 Procedures for filing complaints.**

(1) A complaint filed with the board shall be in writing on a form provided by the board, or in an appropriate written form that includes the information in subsection (2) of this section, and signed by the complainant. A complaint signed by the complainant may also be filed by the complainant's (~~representative~~) attorney.

(2) A complaint shall include:

(a) The complainant's name; except that the board may choose to issue a complaint based upon information provided by a person who refuses to be identified;

(b) A statement of the nature of the alleged violation or violations, date, time and place of each occurrence and name of person or persons responsible; and

(c) All available documentation and other evidence including any witnesses to the violation which the complainant is able to supply to demonstrate a reason for believing that a violation of chapter 42.52 RCW, or the rules adopted under it has occurred.

(3) A complaint which is incomplete, or does not contain enough information to allege a violation of chapter 42.52 RCW, will not be accepted for filing.

(4) The board will not consider allegations in a properly filed complaint that fall outside the jurisdiction of the board. The board or its staff may refer such allegations to an appropriate agency with jurisdiction.

**AMENDATORY SECTION** (Amending WSR 96-22-028, filed 10/30/96, effective 11/30/96)

**WAC 292-100-040 Investigation of complaints.** (1)

Upon acceptance of a complaint the board staff shall conduct an investigation.

(2) If board staff determine that a complaint alleges conduct which may violate a criminal statute, the staff (~~shall~~) may refer the complaint to the appropriate prosecuting attorney or the Washington State Patrol and (~~shall~~) if referred, will suspend their investigation until the prosecuting attorney or the Washington State Patrol responds as to whether criminal charges will be filed. If the prosecuting attorney elects to file criminal charges, no further action will be taken while the

criminal case is pending. If the prosecuting attorney elects not to file criminal charges, board staff shall complete their investigation and follow the procedures set forth in these rules.

(3) During the course of the preliminary investigation, the board staff (~~shall contact~~) will give the respondent(s) (~~and provide the respondent(s) with~~) a copy of the complaint and an opportunity to present such information as the respondent may desire, provided that if a complainant has requested confidentiality under chapter 42.17 RCW, the complainant's name and identifying information will be deleted from the complaint.

(4) It is the intent of the board that board staff who are investigating a complaint will work with the (~~agency that employs the~~) respondent's employing agency, unless in the judgment of the investigator it will impede the investigation. During the course of the investigation, the board staff (~~shall~~) will provide the (~~agency that employs respondent~~) employing agency with a copy of the complaint. If a complainant has requested confidentiality under chapter 42.17 RCW, the complainant's name and identifying information will be deleted from the complaint.

(5) The board staff may refer a complaint to the employing agency (~~that employs the respondent~~) for investigation and recommendation of resolution. The referral will include a copy of the complaint and all supporting documentation and shall include a date for submission of the report and recommendation allowing at least 30 days. The agency receiving the referral may request additional time, if needed. During the course of the agency's investigation, the agency shall contact the respondent and provide the respondent with a copy of the complaint. If a complainant has requested confidentiality under chapter 42.17 RCW, the complainant's name and identifying information will be deleted from the complaint. The agency will provide the respondent with an opportunity to present such information as the respondent may desire.

**AMENDATORY SECTION** (Amending WSR 96-22-028, filed 10/30/96, effective 11/30/96)

**WAC 292-100-050 Determination on reasonable cause.** (1) Following the preliminary investigation, the board staff shall prepare a written investigation report and make a recommendation to the board on whether to find reasonable cause, including a recommendation as to whether the penalty may be greater than \$500.

(2) Upon receipt of the board staff's investigation report and recommendation, the board shall determine whether or not there is reasonable cause to believe that a violation of chapter 42.52 RCW has occurred.

(3) The board's reasonable cause determination shall be done in closed session.

(4) If the board finds reasonable cause, the board shall consider whether the penalty for the alleged violation may be greater than \$500. If the board (~~may wish to impose a penalty~~) concludes that the potential penalty and costs may be greater than \$500, the respondent (~~may~~) shall be given the option to have an administrative law judge conduct the hearing and rule on procedural and evidentiary matters. If the respondent is not given that option, the board may not impose

a penalty or costs greater than \$500. The board may, on its own initiative, choose to retain an administrative law judge to conduct any hearing.

(5) Upon receipt of an investigation report and recommendation on a complaint referred to the employing agency (~~((that employs the respondent))~~) for investigation, the board shall either:

(a) Reject the report and recommendation and initiate its own investigation; or

(b) Concur with the report and recommendation and either initiate a hearing if the recommended penalty is a monetary fine or refer the matter (~~((back))~~) to the (~~((referral agency for implementation of the recommendation, if the recommended penalty involves disciplinary action))~~) employing agency for implementation of the recommendation if the recommendation is within the agency's authority to implement. The agency shall report implementation to the board and the board shall dismiss the complaint; or

(c) Concur with the report and recommendation, enter a finding of no reasonable cause and dismiss the complaint; or

(d) Concur with the report and recommendation, consider the report an investigative report, enter a finding of reasonable cause, and proceed under this section.

AMENDATORY SECTION (Amending WSR 96-22-028, filed 10/30/96, effective 11/30/96)

**WAC 292-100-060** (~~((Notice of hearing—))~~) Filing of answer—Notice of hearing. (1) Following the board's determination on reasonable cause, the board shall provide the complainant, the respondent and the employing agency (~~((that employs the respondent))~~) with a copy of the written determination on reasonable cause (~~((and with))~~), a copy of the board staff's written investigation report, and a copy of the complaint. If a complainant has requested confidentiality under chapter 42.17 RCW, the complainant's name and identifying information will be deleted. If reasonable cause is found, the determination of reasonable cause shall include a statement of the alleged violations. Prior to scheduling a public hearing, the board shall provide the respondent with an explanation of the option to request that the hearing be conducted by an administrative law judge if the penalty and costs for the alleged violation may be greater than \$500.

(2) Within 30 days of (~~((the issuance))~~) service of the written determination on reasonable cause, the respondent shall file an answer to the written determination on reasonable cause which shall state his/her response to the alleged violations. ((The answer shall include either a request for or a waiver of the right to request an administrative law judge if the penalty for the alleged violation may be greater than \$500.))

(3) (~~((The respondent shall be notified of the date of the hearing no later than 30 days before the hearing date.))~~) Failure to file an answer to the written determination on reasonable cause within 30 days of service constitutes a default, and the board may proceed to resolve the case without further notice to, or hearing for the benefit of, the respondent.

(4) Within 10 days after service of a default order under subsection (3) of this section, the respondent may file a written motion requesting that the order be vacated, and stating

the grounds relied upon. During the time within which a party may file a written motion under this subsection, the board chair or a designated board member may adjourn further proceedings or conduct them without the participation of the respondent.

(5) Within 30 days of service of the written determination on reasonable cause, the respondent shall file a request for hearing. The request shall include either a request for or a waiver of the right to request an administrative law judge if the penalty and costs for the alleged violation may be greater than \$500.

(6) The respondent shall be notified of the date of the hearing no later than 30 days before the hearing date.

AMENDATORY SECTION (Amending WSR 96-22-028, filed 10/30/96, effective 11/30/96)

**WAC 292-100-070** Investigation materials not disclosable during investigation. (1) It is the policy of the board during the course of any investigation that all records generated or collected as a result of that investigation are exempt from public inspection and copying under RCW 42.17.310 (1)(d). The investigation is not considered complete until (~~((the board has made its reasonable cause determination as to whether there is reasonable cause to believe a violation has occurred))~~) a case is resolved either by a stipulation and settlement that is signed by all parties; or, when the board enters a final order after a public hearing. If a public records request is made following (~~((the reasonable cause determination))~~) a signed stipulation and settlement or a final order for any such record which implicates the privacy of an individual, written notice of the records request will be provided to the individual in order that such individual may request a protective order from a court under RCW 42.17-330.

AMENDATORY SECTION (Amending WSR 96-22-028, filed 10/30/96, effective 11/30/96)

**WAC 292-100-080** Investigation procedures—Subpoenas. (1) During the course of an investigation, the board, or any board member, may issue a subpoena directed to any person who is likely to possess information which is relevant and material to the investigation. The subpoena shall:

(a) Specifically describe the information which is sought, and

(b) (~~((Set forth a reasonable time and place for the production of the information))~~) Require the production of information at a reasonable place and time, but no later than ten days from the date it is served, and

(c) Notify the person that if the information is not produced, the board will apply to the superior court for an appropriate order or other remedy. The subpoena may be personally delivered or sent by certified mail, return receipt requested.

(2) The board may issue a subpoena under RCW 42.52.390 to compel persons to appear and give testimony and may require the production of any books, papers, correspondence, memorandums or other documents which the board deems relevant and material.

**AMENDATORY SECTION** (Amending WSR 96-22-028, filed 10/30/96, effective 11/30/96)

**WAC 292-100-090 Informal settlement—Cases resolvable by stipulation.** (1) RCW 34.05.060 authorizes agencies to establish by rule specific procedures for attempting and executing informal settlement of matters. The following procedures are available for informal dispute resolution that may make more elaborate proceedings under the Administrative Procedure Act unnecessary.

(a) Any respondent may request settlement by notifying ~~((the staff of the))~~ board staff in writing.

(b) If settlement may be accomplished by negotiation, negotiations shall be commenced at the earliest possible time. ~~((Settlement may))~~ When board staff and the respondent agree that some or all of the facts are uncontested and a stipulation of the facts is reached, board staff is responsible for providing a written description of the recommended resolution or stipulation to the person(s) involved.

(c) If settlement of a hearing may be accomplished by informal negotiation, negotiations may be concluded by:

- (i) Stipulation of facts by the parties; or
- (ii) Stipulation of facts, conclusions and penalty by the parties.
- (iii) A stipulated order agreed to by the parties.

(d) Board staff shall only present proposed stipulations and settlements to the board which it recommends the board adopt.

(2) Any proposed stipulation shall be in writing and signed by each party to the stipulation ~~((or))~~ and his or her ~~((representative))~~ attorney, if represented. The stipulation ~~((shall))~~ may be recited on the record at the hearing. The board has the option of accepting, rejecting, or modifying the proposed stipulation or asking for additional facts to be presented. If the board accepts the stipulation or modifies the stipulation with the agreement of the respondent, the board shall enter an order in conformity with the terms of the stipulation. If the board rejects the stipulation or the respondent does not agree to the board's proposed modifications to the stipulation, the normal process will continue. The proposed stipulation and information obtained during formal settlement discussions shall not be admitted into evidence at a subsequent public hearing. If the board requests additional facts be presented, the matter shall be referred to the board staff for further investigation.

**AMENDATORY SECTION** (Amending WSR 96-22-028, filed 10/30/96, effective 11/30/96)

**WAC 292-100-100 ~~((Conduct of hearings))~~ Prehearing conference—Rule.** (1) ~~((A hearing shall be conducted pursuant to the Administrative Procedure Act (chapter 34.05 RCW) and its supporting regulations (chapter 10-08 WAC); shall be followed unless modified by chapter 292-100 WAC.~~

(2) ~~A hearing shall be conducted either by the board or by an administrative law judge. If an administrative law judge participates, either by request of a respondent or by request of the board, the board may choose to sit with the administrative law judge to hear the matter and to enter a final order at the conclusions of the proceedings; or to have~~

~~the administrative law judge hear the matter alone and prepare an initial order for review by the board. If an administrative law judge sits with the board, he or she shall rule on procedural and evidentiary matters.~~

(3) ~~After the hearing the board or administrative law judge may find that:~~

~~(a) Respondent(s) did not violate the act, as alleged, and dismiss the case; or~~

~~(b) Respondent(s) is (are) in apparent violation of chapter 42.52 RCW, the board's remedy would be inadequate and the matter should be referred to the appropriate law enforcement agency as provided in RCW 42.52.470.~~

(4) ~~Following a hearing in which the board participates, the board-~~

~~(a) Shall set forth in writing its findings of fact, conclusions of law and decision on the merits of the case; and~~

~~(b) Shall deliver, either in person or by mail, to each respondent, complainant and the agency that employs the respondent, a copy of the findings of fact, conclusions of law and decision.~~

(5) ~~Following a hearing in which the board does not participate, the administrative law judge shall-~~

~~(a) Set forth written findings of fact, conclusions of law and decision on the merits of the case in an initial order;~~

~~(b) Shall deliver, either in person or by mail to each respondent and board staff a copy of the findings of fact, conclusions of law and decision, including a statement of the right to request review of the initial order by the board.~~

~~(c) If neither the board staff nor the respondent files exceptions to the initial order within 20 days, the board may adopt the initial order as the final order of the board.~~

~~(d) Within 20 days of entry of the initial order, either the board staff or the respondent may file written exceptions to the initial order. Such exceptions shall be filed with the secretary to the board and served on all other parties. The board shall set a date for submission of written argument on the exceptions and shall notify the board staff and the respondent in writing.~~

~~(e) The board shall review the initial order, any exceptions and argument filed and shall issue a final order which shall be delivered, either in person or by mail, to the board staff and the respondent, complainant and the agency that employs the respondent.)~~ In any proceeding, the presiding officer upon his/her own motion or upon request by board staff or the respondent or their counsel, may direct the board staff or respondent to appear at a specified time and place for a conference to consider:

(a) Simplification of issues;

(b) The necessity of amendments to the hearing notice;

(c) The possibility of obtaining stipulations, admissions of facts and of documents;

(d) Limitation on the number of witnesses;

(e) Authorizing discovery by any party; and

(f) Procedural and such other matters as may aid in the disposition of the proceeding.

(2) Prehearing conferences may be held by telephone conference call or at a time and place specified by the presiding officer.

(3) Following the prehearing conference, the presiding officer shall issue an order reciting the action taken and deci-

sions made at the conference. If no objection to the order is filed with the presiding officer within seven days after the date the order is mailed, the order shall control the subsequent course of the proceeding unless modified for good cause by subsequent order.

#### NEW SECTION

**WAC 292-100-105 Discovery—Authority of presiding officer.** After a finding of reasonable cause, no discovery is permitted by a party pursuant to WAC 292-100-110 through 292-100-150 unless authorized by the presiding officer. In deciding whether to authorize discovery and the extent of discovery to be allowed, the presiding officer shall consider the party's need for discovery while ensuring that discovery does not unduly delay the hearing. If the determination of reasonable cause includes an allegation that the respondent has violated RCW 42.52.180, the presiding officer shall permit discovery by the parties. Prior to the appointment of a presiding officer, the chair or other member designated by the board may authorize discovery if the party can demonstrate a compelling reason why discovery must be conducted prior to the appointment of a presiding officer.

**AMENDATORY SECTION** (Amending WSR 96-22-028, filed 10/30/96, effective 11/30/96)

**WAC 292-100-110 ((Prehearing conference—Rule.))  
Hearings—Discovery—Subpoenas.** (1) ((In any proceeding, the board chair or an administrative law judge upon his/her own motion or upon request by staff or the respondent or their qualified representative, may direct the staff or respondent to appear at a specified time and place for a conference to consider:

- (a) Simplification of issues;
- (b) The necessity of amendments to the hearing notice;
- (c) The possibility of obtaining stipulations, admissions of facts and of documents;
- (d) Limitation on the number of witnesses; and
- (e) Procedural and such other matters as may aid in the disposition of the proceeding.

(2) Prehearing conferences may be presided over by the chair or an administrative law judge.

(3) Prehearing conferences may be held by telephone conference call or at a time and place specified by the presiding officer.

(4) Following the prehearing conference, the presiding officer shall issue an order reciting the action taken and decisions made at the conference. If no objection to the order is filed with the presiding officer within seven days after the date the order is mailed, the order shall control the subsequent course of the proceeding unless modified for good cause by subsequent order.) The board, a board member, or the executive secretary may issue subpoenas for discovery, subpoenas to persons to appear and give testimony, and may require the production of any books, papers, correspondence, memoranda, or other records deemed relevant or material and the board or presiding officer may issue protective orders as appropriate. Any party may issue subpoenas. All subpoenas for hearings must be filed with the board, together with proof

of proper service, at least five days prior to the date of the hearing for which they are issued. All subpoenas will be issued and may be enforced in the form and manner set forth in RCW 34.05.446 and WAC 10-08-120.

(2) The board, upon motion and before the time specified in the subpoena for compliance therewith, may:

(a) Quash or modify the subpoena if it is unreasonable and oppressive; or

(b) Condition denial of the motion upon the advancement by the person in whose behalf the subpoena is issued of the reasonable cost of producing the books, papers, documents, or tangible things.

(3) The attendance of witnesses and such production of evidence may be required from any place within the state of Washington to any location where a hearing is being conducted.

**AMENDATORY SECTION** (Amending WSR 96-22-028, filed 10/30/96, effective 11/30/96)

**WAC 292-100-120 Hearings—Discovery—((Subpoenas)) Methods authorized.** ~~((1) The board or a board member may issue subpoenas for discovery, subpoenas to persons to appear and give testimony, and may require the production of any books, papers, correspondence, memoranda, or other records deemed relevant or material and the board or presiding officer may issue protective orders as appropriate. Any party may issue subpoenas. All subpoenas must be filed with the board, together with proof of proper service, at least five days prior to the date of the hearing for which they are issued. Such subpoenas will issue and may be enforced in the form and manner set forth in RCW 34.05.446 and WAC 10-08-120.~~

~~(2) The board, upon motion and before the time specified in the subpoena for compliance therewith, may:~~

~~(a) Quash or modify the subpoena if it is unreasonable and oppressive; or~~

~~(b) Condition denial of the motion upon the advancement by the person in whose behalf the subpoena is issued of the reasonable cost of producing the books, papers, documents, or tangible things.~~

~~(3) The attendance of witnesses and such production of evidence may be required from any place within the state of Washington to any location where a hearing is being conducted.)~~ The following discovery methods are authorized: Deposition upon oral examination, written interrogatories, requests for production, and requests for admission. Deposition upon oral examination, written interrogatories, and requests for admission may be used as evidence in the hearing. The attendance of witnesses to a deposition may be compelled by use of a subpoena. Depositions shall be taken only in accordance with this rule and the rules on subpoenas, except that board staff and the respondent may stipulate to other arrangements.

**AMENDATORY SECTION** (Amending WSR 96-22-028, filed 10/30/96, effective 11/30/96)

**WAC 292-100-130 Hearings—Discovery—Depositions and interrogatories—((Right to take)) Notice.**



~~((Unless otherwise provided, any party may take the testimony of any person, including a party, by deposition upon oral examination or written interrogatories for use as evidence in the hearing. The attendance of witnesses to a deposition may be compelled by use of a subpoena. Depositions shall be taken only in accordance with this rule and the rules on subpoenas, except that staff and the respondent may stipulate to other arrangements.)) A party desiring to take the deposition of any person upon oral examination shall give reasonable notice of not less than five business days in writing to all parties. The notice shall state the time and place for taking the deposition and the name and address of each person to be examined. On motion of a party to whom the notice is served, the presiding officer may for cause shown, enlarge or shorten the time. If the parties so stipulate in writing, depositions may be taken at any time or place, upon any notice, and in any manner and when so taken may be used as other depositions.~~

AMENDATORY SECTION (Amending WSR 96-22-028, filed 10/30/96, effective 11/30/96)

WAC 292-100-140 ((~~Hearings—Discovery—~~) Depositions and interrogatories ~~in hearings—~~~~(Notice)~~ ~~Protection of parties and deponents.~~ ((A party desiring to take the deposition of any person upon oral examination shall give reasonable notice of not less than seven days in writing to the board and all parties. The notice shall state the time and place for taking the deposition and the name and address of each person to be examined. On motion of a party to whom the notice is served, the board or its hearing officer may for cause shown, enlarge or shorten the time. If the parties so stipulate in writing, depositions may be taken at any time or place, upon any notice, and in any manner and when so taken may be used as other depositions.)) After notice is served for taking a deposition, upon its own motion or upon motion reasonably made by any party or by the person to be examined and upon notice and for good cause shown, the presiding officer may order that the deposition shall not be taken, or that it may be taken only at some designated place other than that stated in the notice, or that it may be taken only on written interrogatories, or that certain matters shall not be inquired into, or that the scope of the examination shall be limited to certain matters, or that the examination shall be held with no one present except the parties to the action and their officers or counsel, or the board may make any other order which justice requires to protect the party or witness from annoyance, embarrassment, or oppression.

At any time during the taking of the deposition, on motion of any party or the deponent and upon a showing that the examination is being conducted in bad faith or in such manner as unreasonably to annoy, embarrass, or oppress the deponent or party, the presiding officer may order the party conducting the examination to cease forthwith from taking the deposition or may limit the scope and manner of the taking of the deposition as above provided. If the order made terminates the examination, it shall be resumed only upon the order of the board. Upon demand of the objecting party or deponent, the taking of the deposition shall be suspended for the time necessary to make a motion for an order.

AMENDATORY SECTION (Amending WSR 96-22-028, filed 10/30/96, effective 11/30/96)

WAC 292-100-150 ((~~Depositions and interrogatories in hearings—Protection of parties and deponents.~~) ~~Discovery—Production of documents and use at hearing.~~ ((After notice is served for taking a deposition, upon its own motion or upon motion reasonably made by any party or by the person to be examined and upon notice and for good cause shown, the board or its designated hearing officer may order that the deposition shall not be taken, or that it may be taken only at some designated place other than that stated in the notice, or that it may be taken only on written interrogatories, or that certain matters shall not be inquired into, or that the scope of the examination shall be limited to certain matters, or that the examination shall be held with no one present except the parties to the action and their officers or counsel, or the board may make any other order which justice requires to protect the party or witness from annoyance, embarrassment, or oppression. At any time during the taking of the deposition, on motion of any party or the deponent and upon a showing that the examination is being conducted in bad faith or in such manner as unreasonably to annoy, embarrass, or oppress the deponent or party, the board or its designated hearing officer may order the officer conducting the examination to cease forthwith from taking the deposition or may limit the scope and manner of the taking of the deposition as above provided. If the order made terminates the examination, it shall be resumed only upon the order of the board. Upon demand of the objecting party or deponent, the taking of the deposition shall be suspended for the time necessary to make a motion for an order.)) (1) Upon request by either party, copies of all materials to be presented at the hearing shall be provided to the requester within seven days of the request but, for good cause shown, not less than three business days prior to the date of the hearing.

(2) When documents are to be offered into evidence at the hearing, the one offering the exhibit shall provide a minimum of ten copies, for the opposing party, members of the board, the board's legal counsel, and board staff.

(3) If documentary evidence has not been exchanged prior to the hearing, the parties shall arrive at the hearing location in sufficient time before the time scheduled for the hearing for the purpose of exchanging copies of exhibits to be introduced.

AMENDATORY SECTION (Amending WSR 96-22-028, filed 10/30/96, effective 11/30/96)

WAC 292-100-160 ((~~Discovery—Production of documents and use at~~) ~~Conduct of hearings.~~ (1) ((Upon request by either the board or the staff or the respondent copies of all materials to be presented at the hearing shall be provided to the requester within seven days of the request but, for good cause shown, not less than three business days prior to the date of the hearing.

(2) When documents are to be offered into evidence at the hearing, the one offering the exhibit shall provide a minimum of seven copies, one for opposing party, one for each member of the board, and one for the board's legal advisor.

~~(3) If documentary evidence has not been exchanged prior to the hearing, the parties shall arrive at the hearing location in sufficient time before the time scheduled for the hearing for the purpose of exchanging copies of exhibits to be introduced.))~~ A hearing shall be conducted pursuant to the Administrative Procedure Act (chapter 34.05 RCW) and its supporting regulations (chapter 10-08 WAC), shall be followed unless modified by chapter 292-100 WAC.

(2) A hearing shall be conducted either by the board or by an administrative law judge. If an administrative law judge participates, either by request of a respondent or by request of the board, the board may choose to sit with the administrative law judge to hear the matter and to enter a final order at the conclusions of the proceedings; or to have the administrative law judge hear the matter alone and prepare an initial order for review by the board. If an administrative law judge sits with the board, he or she shall rule on procedural and evidentiary matters.

(3) After the hearing the board may find that:

(a) The respondent(s) did not violate the act, as alleged, and dismiss the case; or

(b) The respondent(s) has (have) violated chapter 42.52 RCW; or

(c) The respondent(s) is(are) in violation of chapter 42.52 RCW, the board's remedy would be inadequate and the matter should be referred to the appropriate law enforcement agency as provided in RCW 42.52.470.

(4) Following a hearing in which the board participates, the board:

(a) Shall set forth in writing its findings of fact, conclusions of law and decision on the merits of the case; and

(b) Shall serve each party, the complainant and the employing agency, a copy of the findings of fact, conclusions of law and decision.

(5) Following a hearing in which the board does not participate, the administrative law judge shall:

(a) Set forth written findings of fact, conclusions of law and decision on the merits of the case in an initial order;

(b) Shall serve each party and board staff a copy of the findings of fact, conclusions of law and decision, including a statement of the right to request review of the initial order by the board.

AMENDATORY SECTION (Amending WSR 96-22-028, filed 10/30/96, effective 11/30/96)

WAC 292-100-170 ((~~Brief enforcement hearings—~~ Authority.)) **Review of initial orders by an administrative law judge.** (1) ((~~The board may provide a brief enforcement hearing for violations of provisions in chapter 42.52 RCW in which the facts are undisputed, the violations appear to be relatively minor in nature, and a penalty no greater than \$500 will be assessed for the violations.))~~ An initial order by an administrative law judge shall become the final order of the board within twenty days of the initial order unless:

(a) The board, upon its own motion, determines that the initial order should be reviewed;

(b) A party files a petition for review of the initial order within twenty days of the entry of the initial order.

(2) The petition for review will specify the portions of the initial order to which exception is taken and will refer to the evidence of record relied upon to support the petition.

(3) Petitions for review shall be filed with the executive secretary and served on all other parties. The party not filing the petition for review shall have twenty days to reply to the petition for review. The reply shall be filed with the executive secretary and copies of the reply shall be served on all other parties or their counsel at the time the reply is filed, and may cross-petition for review. If the reply contains a cross-petition, it shall specify portions of the initial order to which exception is taken by the replying party, and shall refer to the evidence of the record relied upon to support the reply.

(4) The board shall personally consider the whole record or such portions of it as may be cited by the parties.

(a) The board shall afford each party an opportunity to present written argument and may afford each party an opportunity to present oral argument.

(b) The board shall enter a final order disposing of the proceeding.

(c) The board shall serve copies of the final order on all parties, the complainant, and the employing agency.

AMENDATORY SECTION (Amending WSR 96-22-028, filed 10/30/96, effective 11/30/96)

WAC 292-100-180 **Brief enforcement hearing—** ((~~Procedure~~)) **Authority.** ((~~1) A brief enforcement hearing may be presided over by the chair, or a member of the board designated by the chair.~~

(2) When a violation is alleged, before taking action, the secretary of the board shall send the alleged violator notice, which shall include:

(a) Alleged violation;

(b) The maximum amount of the penalty which can be imposed at the hearing and the amount of any proposed fine; and

(c) Person's right to respond, within ten days, either in writing or in person to explain his/her view of the matter.

(3) At the time of the hearing if the presiding officer believes alleged violations are of such magnitude as to merit penalties greater than \$500, the presiding officer shall immediately adjourn the hearing and direct the matter be scheduled for an enforcement hearing by the full board or an administrative law judge.

(4) At the time any unfavorable action is taken, the presiding officer shall serve upon each party a written statement describing the violation, the reasons for the decision, the penalty imposed and their right to request review by the board at the next scheduled board meeting.

(5) The written decision of the presiding officer is an initial order. If no review is taken of the initial order, the initial order shall be the final order.)) The board may provide a brief enforcement hearing for violations of provisions in chapter 42.52 RCW in which the facts are undisputed, the violations appear to be relatively minor in nature, and a penalty no greater than \$500 will be assessed for the violations.

AMENDATORY SECTION (Amending WSR 96-22-028, filed 10/30/96, effective 11/30/96)

**WAC 292-100-190 Brief enforcement hearing—**~~((Administrative review)) Procedure(s).~~ (1) ~~((The board shall conduct a review of the initial order upon the written or oral request of a party if the board receives the request within twenty-one days after the service of the initial order.~~

~~(2) If the parties have not requested review, the board may conduct a review of the initial order upon its own motion and without notice to the parties, but it may not take any action on review less favorable to any party than the original order without giving that party notice and an opportunity to explain that party's view of the matter.~~

~~(3) The order on review shall be in writing stating the findings made, and the reasons for the decision, and notice that judicial review is available. The order on review shall be entered within twenty-one days after the date of the initial order or of the request for review, whichever is later.)~~ A brief enforcement hearing may be presided over by the chair, or a member of the board designated by the chair.

(2) When a violation is alleged, before taking action, the executive secretary shall send the alleged violator notice, which shall include:

(a) Alleged violation;

(b) The maximum amount of the penalty and costs which can be imposed at the hearing and the amount of any proposed fine; and

(c) Person's right to respond, within ten days, either in writing or in person to explain his/her view of the matter.

(3) At the time of the hearing if the presiding officer believes alleged violations are of such magnitude as to merit penalties and costs greater than \$500, the presiding officer shall immediately adjourn the hearing and direct the matter to be scheduled for an enforcement hearing by the full board or an administrative law judge.

(4) At the time any unfavorable action is taken, the presiding officer shall serve upon each party a written statement describing the violation, the reasons for the decision, the penalty and costs imposed and their right to request review by the board at the next scheduled board meeting.

(5) The written decision of the presiding officer is an initial order. If no review is taken of the initial order, the initial order shall be the final order.

AMENDATORY SECTION (Amending WSR 96-22-028, filed 10/30/96, effective 11/30/96)

**WAC 292-100-200 ((Reconsideration and review of decisions)) Brief enforcement hearing—Administrative review procedures.** (1) ~~((For purposes of this rule, "decision" means any findings, conclusions, order, or other action by the board which is reviewable by a court.~~

~~(2) A decision may be reconsidered only upon (a) the written request of a party or (b) the motion or written request of a board member who voted on the prevailing side when that decision was made.~~

~~(3) Such a request for reconsideration shall be served at the office of the board, or motion made, no later than ten days~~

~~after service of the decision of which reconsideration is sought.~~

~~(4) A request or motion for reconsideration shall specify the grounds therefor.~~

~~(5) Upon being served with a decision, the respondent may treat that decision as final for the purpose of petitioning for judicial review. The board may not reconsider any decision after being served with a petition for judicial review.~~

~~(6) When a request for reconsideration is served, or motion made, enforcement of the decision of which reconsideration is sought shall be stayed and the decision shall not be final until the board has acted on the reconsideration.~~

(7) The board shall act on the reconsideration, at the next meeting at which it practicably may do so by: (a) Deciding whether to reconsider its decision, and (b) if it decides to do so, either affirming or amending its decision: Provided, That before a decision may be amended other than by lowering a penalty, the respondent shall be given notice and an opportunity to be heard if, and in the same manner, as required for the original decision.) The board will conduct a review of the initial order upon the written or oral request of a party if the board receives the request within twenty-one days after the service of the initial order.

(2) If the parties have not requested review, the board may conduct a review of the initial order upon its own motion and without notice to the parties, but it may not take any action on review less favorable to any party than the original order without giving that party notice and an opportunity to explain that party's view of the matter.

(3) The order on review shall be in writing stating the findings made, and the reasons for the decision, and notice that judicial review is available. The order on review shall be entered within twenty-one days after the date of the initial order or of the request for review, whichever is later.

#### NEW SECTION

**WAC 292-100-210 Reconsideration and review of decisions.** (1) For purposes of this rule, "decision" means any findings, conclusions, order, or other action by the board which is reviewable by a court.

(2) A decision may be reconsidered only upon:

(a) The written request of a party; or

(b) The motion or written request of a board member who voted on the prevailing side when that decision was made.

(3) Such a request for reconsideration shall be served at the office of the board and on all parties, or motion made, no later than ten days after service of the decision of which reconsideration is sought.

(4) A request or motion for reconsideration shall specify the grounds therefor.

(5) When a request for reconsideration is served, or motion made, enforcement of the decision of which reconsideration is sought shall be stayed and the decision shall not be final until the board has acted on the reconsideration. Any party may respond to a request or motion for reconsideration. The response is due no later than ten days after the party is served with the request of motion.

(6) The board shall act on the reconsideration, at the next meeting at which it practicably may do so by:

(a) Deciding whether to reconsider its decision; and

(b) If it decides to do so, either affirming or amending its decision. A copy of the board's decision on reconsideration shall be served on all parties, the complainant, and the employing agency.

(7) Upon being served with a decision, the respondent may treat that decision as final for the purpose of petitioning for judicial review. The board may not reconsider any decision after being served with a petition for judicial review.

**WSR 99-06-007**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 99-09—Filed February 18, 1999, 2:37 p.m.]

Date of Adoption: February 16, 1999.

Purpose: Personal use rules.

Citation of Existing Rules Affected by this Order:  
Amending WAC 220-55-055.

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: Present wording of WAC 220-55-055 causes the three consecutive day license to expire at midnight on the day following the validation date, meaning the license is valid for a period of only two days. This oversight probably happened when the previous short-term license, valid for a period of two days, was extended to a three-day permit, but the expiration date was not amended in the WAC. As written above, it will correct this oversight until a permanent change in the regulation can be made. 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.

February 16, 1999

J. P. Koenings  
Director

NEW SECTION

**WAC 220-55-05500A Personal use license and catch record card expiration.** Notwithstanding the provisions of WAC 220-55-055, effective immediately the expiration date for a three consecutive day license shall occur at midnight on the second day following the validation date.

**WSR 99-06-020**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 99-11—Filed February 22, 1999, 3:53 p.m., effective March 1, 1999, 12:01 a.m.]

Date of Adoption: February 18, 1999.

Purpose: Personal use rules.

Citation of Existing Rules Affected by this Order:  
Amending WAC 232-28-619.

Statutory Authority for Adoption: RCW 77.12.040.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This rule is consistent with the Humptulips River steelhead management 1998-1999 plan as agreed to with the Quinault Indian Nation (QIN). The management plan/intent included provisions to minimize wild steelhead impacts because the expected numbers of wild winter steelhead returning to the Humptulips are below spawning escapement needs with no wild fish available for harvest. 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: March 1, 1999, 12:01 a.m.

February 18, 1999

J. P. Koenings  
Director

NEW SECTION

**WAC 232-28-61900C Exceptions to statewide rules.** Notwithstanding the provisions of WAC 232-28-619, effective 12:01 a.m. March 1, 1999, until further notice those waters of the Humptulips River, East Fork, West Fork and tributaries are closed to fishing.

**EMERGENCY**

**WSR 99-06-031  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 99-12—Filed February 24, 1999, 4:01 p.m.]

Date of Adoption: February 24, 1999.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order:  
Repealing WAC 220-33-01000P; and amending WAC 220-33-010.

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: Provides opportunity for commercial industry to access a portion of the sturgeon allocation in the Columbia River while minimizing impacts to spring chinook. Season is consistent with compact action of February 23, 1999, and will conform Oregon and Washington regulations. 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 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Immediately.

February 24, 1999

J. P. Koenings

Director

ALLOWABLE SALE: Salmon and sturgeon  
SANCTUARIES: Grays, Elokomín, Cowlitz, Kalama, Lewis, Washougal, and Sandy rivers.

REPEALER

The following section of the Washington Administrative Code is repealed effective 6:01 p.m. February 26, 1999:

WAC 220-33-01000P Columbia River season below Bonneville.

EMERGENCY

NEW SECTION

**WAC 220-33-01000P Columbia River season below Bonneville** Notwithstanding the provisions of WAC 220-33-010, and 220-33-020, it is unlawful for a person to take or possess salmon or sturgeon taken for commercial purposes from Columbia River Salmon Management and Catch Reporting Areas 1A, 1B, 1C, 1D, and 1E, except as provided in the following subsections.

AREA: SMCRA 1A, 1B, 1C, 1D, and 1E

SEASON: Noon Thursday February 25 to 6:00 p.m. Friday February 26, 1999.

GEAR: 9 inch minimum mesh and 9-3/4 inch maximum mesh

**WSR 99-06-002**  
**DEPARTMENT OF ECOLOGY**

[Filed February 17, 1999, 4:48 p.m.]

**REQUEST FOR PUBLIC COMMENT**

The Department of Ecology's spill prevention, preparedness, and response program is accepting comments on the 1998-1999 Accepted Industry Standards for Cargo and Passenger Vessel Inspections (AIS) published in the Washington State Register on February 17, 1999, page 115, (WSR 99-04-115).

Comments will be accepted until April 16, 1999, and may be submitted in writing to: Mr. Stan Norman, Prevention Section Manager, Spill Prevention, Preparedness, and Response Program, Department of Ecology, P.O. Box 47600, Olympia, WA 98504-7600, phone (360) 407-7465, e-mail snor461@ecy.wa.gov, fax (360) 407-6042, (360) 407-7288.

**WSR 99-06-008**

**NOTICE OF PUBLIC MEETINGS**

**DEPARTMENT OF CORRECTIONS**

[Memorandum—February 18, 1999]

**DEPARTMENT OF CORRECTIONS**

**OFFICE OF CORRECTIONAL OPERATIONS**

**CORRECTIONAL INDUSTRIES**

**BOARD OF DIRECTORS**

March 12, 1999	Department of Corrections, Olympia	1:00 p.m. to 5:00 p.m.
March 13, 1999	Ramada Inn, Olympia	8:00 a.m. to 1:00 p.m.
June 18, 1999	Airway Heights Corrections Center, Spokane	1:00 p.m. to 5:00 p.m.
June 19, 1999	Ridpath Hotel, Spokane	8:00 a.m. to 1:00 p.m.
September 17, 1999	Nordic Inn, Aberdeen	3:00 p.m. to 5:00 p.m.
September 18, 1999	Nordic Inn, Aberdeen	8:00 a.m. to 1:00 p.m.
December 10, 1999	Department of Corrections, Olympia	1:00 p.m. to 5:00 p.m.
December 11, 1999	Ramada Inn, Olympia	8:00 a.m. to 1:00 p.m.

Contact: Sheila Pearson, (360) 753-5861.

**WSR 99-06-009**

**NOTICE OF PUBLIC MEETINGS**

**DEPARTMENT OF AGRICULTURE**

(Wheat Commission)

[Memorandum—February 16, 1999]

The Washington Wheat Commission hereby complies with regulations as stated in RCW 42.30.075 and provides pertinent scheduled meeting changes, per the board of directors, for publication in the Washington State Register. This

meeting date, location, and time change is submitted at least twenty days prior to the rescheduled meeting date.

**MARCH MEETING WAS PREVIOUSLY LISTED AS:**

Regular - March 10 (10:00 a.m.) and 11 (8:30 a.m.)  
 West 907 Riverside Avenue  
 Spokane, WA

**PLEASE CHANGE TO:**

Regular - March 22 (10:00 a.m.) and 23 (8:30 a.m.)  
 West 907 Riverside Avenue  
 Spokane, WA

If you have any questions, please do not hesitate to contact our office at (509) 456-2481.

**WSR 99-06-010**

**NOTICE OF PUBLIC MEETINGS  
 CONVENTION AND TRADE  
 CENTER**

[Memorandum—February 17, 1999]

A regular meeting of the Washington State Convention and Trade Center board of directors will be held on Wednesday, February 24, 1999, at 1:30 p.m. in Room 307/308 of the Convention Center, 800 Convention Place, Seattle.

If you have any questions regarding this meeting, please call (206) 694-5000.

**WSR 99-06-012**

**ATTORNEY GENERAL OPINION**

Cite as: AGO 1999 No. 1  
 [January 13, 1999]

**OFFICES AND OFFICERS - CITIES AND TOWNS - COMPENSATION - ELECTIONS** Application of prohibition on midterm increases in compensation to city councilmember elected to unexpired term.

1. A person who is elected to an unexpired term on a city council may not constitutionally receive, during the unexpired term, any changes in compensation previously enacted by the council during that term.

The Honorable Mary Margaret Haugen  
 State Senator, 10th District  
 Chair, Municipal Research Council  
 1200 5th Avenue, Suite 1300  
 Seattle, Washington 98101-1159

**WSR 99-06-013**

**ATTORNEY GENERAL OPINION**

Cite as: AGO 1999 No. 2  
 [February 3, 1999]

**MILITARY - PUBLIC EMPLOYEES** - Proper calculation of military leave.

**MISC.**

Whenever a public employee is required to perform active military service and misses his or her work on a particular calendar day due to such military service, the employee is excused from work on that day and uses one of the 15 days of military leave granted per year by RCW 38.40.060.

The Honorable Hans Dunshee  
State Representative, 39th District  
P.O. Box 40600  
Olympia, Washington 98504-0600

**WSR 99-06-014**  
**POLICY STATEMENT**  
**WASHINGTON STATE LOTTERY**

[Filed February 22, 1999, 11:17 a.m.]

The Washington State Lottery has recently adopted or revised the following policies:

**POL 110.553 and 110.557 – Headquarters Drawing Official (HDO) Activities** (revision)

The HDO performs duties related to the on-line drawings, such as ensuring sales are closed, winning numbers are certified, and pay out values are in the on-line games system. This revision adds the new on-line game, Lucky for Life, and reflects changes due to broadcasting the drawings on North-West Cable News (all games are now broadcast live and are performed in a different order).

Signed November 13, 1998.

**POL 250.005 - Walk-In Prize Claim Validation and Payment** (revision)

Lottery offices that sell lottery tickets now pay walk-in claims with a cumulative total of approximately \$100 or less in cash. Added information on paying Lucky for Life prizes. Clarified that what was previously termed a "random audit" is actually a "quality check." Replaced outdated information: (a) Check registers are no longer used; [(b)] check copies are yellow (not pink); and (c) deleted information regarding bar-codes for games under #162.

Signed November 12, 1998.

**POL 320.045 - Lucky for Life Retailer Sales Contest and Clerk Promotion** (new)

This contest/promotion awarded lottery on-line retailers for having the highest percentage sales increase for Lucky for Life in their region, randomly awarding one on-line retailer who had at least a 6.5% increase in Lucky for Life sales over the week ending October 17, and randomly awarding lottery on-line retailer clerks with Lucky for Life merchandise. The contest/promotion ran from October 18 through 31, 1998.

Signed October 19, 1998.

**POL 320.046 – "Scratch Your Way to Miami" Second Chance Drawing** (new)

Players who submitted two valid nonwinning Football Fever Scratch tickets by November 30, 1998, were entered into a drawing to receive one of two trips for two to Super Bowl XXXIII in Miami. The prize package included round

trip air fare for two from either the SeaTac or Spokane Airport, ground transfers between the Miami airport and hotel, two nights hotel accommodations for two people, and two tickets to the Super Bowl.

A preliminary drawing was held to select 50 finalists. The two winning entries were drawn on December 20, at a Seahawks game.

Signed December 2, 1998.

To receive a copy of any of these policies, contact Becky Zopolis, Washington State Lottery, P.O. Box 43000, Olympia, WA 98504-3000, phone (360) 586-1051, fax (360) 586-6586.

February 11, 1999

Merritt D. Long

Director

**WSR 99-06-015**

**NOTICE OF PUBLIC MEETINGS**

**EASTERN WASHINGTON UNIVERSITY**

[Memorandum—February 22, 1999]

**EASTERN WASHINGTON UNIVERSITY**

**BOARD OF TRUSTEES**

February 26, 1999, 10:00 a.m.

Cheney Campus

Pence Union Building

Room 263-65

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 the president's office, (509) 359-2371.

**WSR 99-06-016**

**NOTICE OF PUBLIC MEETINGS**

**WALLA WALLA**

**COMMUNITY COLLEGE**

[Memorandum—February 18, 1999]

This is to advise you of the following change made to Walla Walla Community College's board of trustees meeting schedule:

**Changed from:** February 17, 1999, 9:30 a.m., WWCC Main Campus.

**Changed to:** February 24, 1999, 8:30 a.m., WWCC Main Campus.

If you have any questions on this information, please call (509) 527-4274.



**WSR 99-06-018**  
**NOTICE OF PUBLIC MEETINGS**  
**PUBLIC WORKS BOARD**  
[Memorandum—February 17, 1999]

The Public Works Board will conduct a regular meeting at 8:30 a.m. on Wednesday, May 5, 1999. The meeting will be held in the Hudson's Bay Room of the Homewood Suites Hotel at 701 S.E. Columbia Shores Boulevard, Vancouver, WA 98661.

**WSR 99-06-019**  
**NOTICE OF PUBLIC MEETINGS**  
**PUBLIC WORKS BOARD**  
[Memorandum—February 17, 1999]

**NOTICE OF MEETING TIME CHANGE**

The time for the Public Works Board policy retreat scheduled for May 4, 1999, at the city of Vancouver Water Resources Education Center in Vancouver, Washington, has been changed to 10:00 a.m.

**WSR 99-06-041**  
**PROCLAMATION**  
**OFFICE OF THE GOVERNOR**  
[February 26, 1999]

**WHEREAS**, extensive winter floods, winds, and slides occurred between January 27, 1999, and February 10, 1999, threatening citizens and property of Washington State;

**WHEREAS**, flooding, winds and slides caused loss of roadway, filling roadway ditches and culverts with eroded soils and debris, sign damage, bridge damage, and other damage in Benton, Clallam, Franklin, Grays Harbor, Jefferson, Kitsap, Mason, and Lewis counties;

**WHEREAS**, the Washington State Military Department activated the state Emergency Operations Center, implemented response procedures, and is coordinating resources to support local officials in alleviating the immediate social and economic impacts to people, property, and infrastructure at an estimated cost of \$1,850,000 for the event;

**NOW, THEREFORE**, I, Gary Locke, Governor of the state of Washington, as a result of the aforementioned situation and under Chapters 38.08, 38.52, and 43.06 RCW, do hereby proclaim that a State of Emergency exists in Benton, Clallam, Franklin, Grays Harbor, Jefferson, Kitsap, Mason and Lewis counties, and direct the supporting plans and procedures to the *Washington State Comprehensive Emergency Management Plan* be implemented. State agencies and departments are directed to utilize state resources and to do everything possible to assist affected political subdivisions in an effort to respond to and recover from the events. Additionally, the Washington State Department of Transportation is instructed to coordinate all event-related assistance to the affected areas.

**IN WITNESS WHEREOF**, I have hereunto set my hand and caused the seal of the state of Washington to be affixed at Olympia, this 26th day of February, A.D., Nineteen Hundred and Ninety-Nine.

Gary Locke  
Governor of Washington

**BY THE GOVERNOR:**  
Ralph Munro  
Secretary of State

**WSR 99-06-094**  
**NOTICE OF PUBLIC MEETINGS**  
**EDMONDS COMMUNITY COLLEGE**

[Memorandum—March 1, 1999]

**EDMONDS COMMUNITY COLLEGE**  
**BOARD OF TRUSTEES**  
**NOTICE OF SPECIAL MEETINGS**  
**TO MEDIA/OTHER**

- March 18, 1999 Edmonds Community College board of trustees regular board meeting. EdCC, Snohomish Hall, Cascade Conference Room 304A, 20226 68th Avenue West, Lynnwood, WA, 4:00 p.m.
- March 22, 1999\* Edmonds Community College VIP Social. EdCC, Brier Hall Cafeteria, 20122 68th Avenue West, Lynnwood, WA, 12:30 - 1:30 p.m. Business Luncheon to welcome international students.

\*This event is being scheduled as a special meeting, which is a study session where no action will be taken.

**WSR 99-06-095**  
**NOTICE OF PUBLIC MEETINGS**  
**WORKFORCE TRAINING AND**  
**EDUCATIONAL COORDINATING BOARD**

[Memorandum—March 3, 1999]

**MEETING NOTICE**

**WASHINGTON STATE WORKFORCE TRAINING**  
**AND EDUCATION COORDINATING BOARD**  
**MEETING NO. 66**  
**MARCH 18, 1999**

**STATE BOARD OF INDUSTRIAL INSURANCE APPEALS**  
**2430 CHANDLER COURT S.W.**

**MISC.**

OLYMPIA, WA 98504  
(360) 753-6824

March 18, 1999, 8:30 a.m. - 4:00 p.m., the Workforce Training and Education Coordinating Board will hold its meeting on March 18, 1999, at the State Board of Industrial Insurance Appeals in Olympia, Washington.

The board will discuss issues for decisions in April on Carl Perkins Vocational Technical Act of 1998 and Workforce Development Councils: Functions and membership criteria. They will discuss and act on advice to the State Board of Education on new graduation requirements; and discuss and act on the process for Unified Plan Performance Management: State Core Indicators.

The board will review the SBCTC adult basic education plan changes from the January 22, 1999, meeting and act on the endorsement.

The board will be informed about progress of Southwest Washington Regional Workforce Alliance goals; hear the perspectives of several leaders on the Workforce Development Councils; and learn of the "Job Gap Study" in the Pacific Northwest.

PLEASE NOTE: WE ARE MOVING TOWARD TRANSMITTING THE WTECB MEETING ANNOUNCEMENTS VIA E-MAIL. IF YOU WANT TO CONTINUE RECEIVING THEM, PLEASE SEND US YOUR E-MAIL ADDRESS BY APRIL 1, 1999.

The meeting site is barrier free. People needing special accommodations, please call Caroline Haggard at least ten days in advance at (360) 753-5577.

**WSR 99-06-096**  
**PROCLAMATION**  
**OFFICE OF THE GOVERNOR**  
[March 2, 1999]

WHEREAS, the cumulative effect of a series of winter storms that began in November of 1998, resulting in record rainfalls in western Washington, has caused and continues to cause extensive floods and slides beginning January 29, 1999, and is threatening citizens and property of Washington State;

WHEREAS, flooding and slides are causing extensive damage to homes, businesses, infrastructure, and public utilities in Thurston, Jefferson, Kitsap, Mason, and Pacific counties;

WHEREAS, the Washington State Military Department, following the state's Comprehensive Emergency Management Plan, has activated the state Emergency Operations Center, implemented response procedures, and is coordinating resources to support local officials in alleviating the immediate social and economic impacts to people, property, and infrastructure, and is assessing the magnitude of the disaster. The severity and magnitude of the destruction from the severe weather, flooding, and slides are beyond the response and recovery capabilities of the affected political subdivisions;

NOW, THEREFORE, I, Gary Locke, Governor of the state of Washington, as a result of the aforementioned situation and under Chapters 38.08, 38.52, and 43.06 RCW, do hereby proclaim that a State of Emergency exists in Thurston, Jefferson, Kitsap, Mason, and Pacific counties, and direct the supporting plans and procedures to the *Washington State Comprehensive Emergency Management Plan* be implemented. State agencies and departments are directed to use state resources and do everything possible to assist affected political subdivisions in an effort to respond to and recover from the events. Additionally, the Washington State Military Department, Emergency Management Division, is instructed to coordinate all event-related assistance to the affected areas.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the state of Washington to be affixed at Olympia, this 2nd day of March, A.D., Nineteen Hundred and Ninety-Nine.

Gary Locke  
Governor of Washington

BY THE GOVERNOR:  
Ralph Munro  
Secretary of State

**WSR 99-06-101**  
**AGENDA**  
**HEALTH CARE AUTHORITY**  
[Filed March 3, 1999, 11:22 a.m.]

January 31, 1999 Significant Rule-Making Semi-Annual Agenda

Approximate Preproposal 1. Date 2. Subject Area 3. Contact/Telephone Number	Purpose of the Rule Why is this Significant?	Rule(s) Mandate	Other Agencies who may have interest in the Subject of Rule(s)
1. First Quarter, 1999 2. WAC 182-25-040 and 090 and adopt new section 085. 3. Rosanne Reynolds, (360) 923-2948	As provided in statute, adopt rules for recoupment of subsidy overpayment or to assess penalties.	Addresses 1998 provision of RCW 70.47.060(9)	Department of Social and Health Services, Medical Assistance Administration

MISC.

<ol style="list-style-type: none"> <li>1. April, 1999</li> <li>2. WAC 182-25-020 and 030</li> <li>3. Rosanne Reynolds, (360) 923-2948</li> </ol>	<p>Benefits need to be amended to ensure consistency with legislation and "Medicare Eligibility" definition must be amended to be consistent with Administrative Law Judge decision.</p>	<p>Consistency with Legislative Mandate and Administrative Law Judge Decision</p>	<p>Department of Social and Health Services, Medical Assistance Administration</p>
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Contact/telephone: Elin Meyer, 923-2801.

MISC.



**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
- OBJECT = 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 of existing section
- REVIEW = Review of previously adopted rule
- SUSP = Suspending an existing section

**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
- No suffix means permanent action

**WAC #** Shows the section number under which an agency rule is or will be codified in the Washington Administrative Code.

**WSR #** Shows the issue of the Washington State Register where the document may be found; the last three digits identify the document within the issue.

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
4- 25-530	PREP	99-05-025	16- 86-093	REP-P	99-03-087	16-470-915	PREP	99-03-096
4- 25-750	PREP	99-05-026	16- 86-095	AMD-P	99-03-087	16-470-920	PREP	99-03-096
4- 25-780	PREP	99-05-027	16- 86-100	REP-P	99-03-087	16-481	PREP	99-03-090
16- 05-005	REP-P	99-05-022	16- 89-005	NEW-P	99-03-086	16-483	PREP	99-03-091
16- 05-010	AMD-P	99-05-022	16- 89-010	NEW-P	99-03-086	16-532-020	AMD-P	99-02-063
16- 05-015	REP-P	99-05-022	16- 89-015	NEW-P	99-03-086	16-545-010	NEW	99-02-064
16- 05-020	REP-P	99-05-022	16- 89-020	NEW-P	99-03-086	16-545-015	NEW	99-02-064
16- 05-025	REP-P	99-05-022	16- 89-030	NEW-P	99-03-086	16-545-020	NEW	99-02-064
16- 05-030	REP-P	99-05-022	16- 89-040	NEW-P	99-03-086	16-545-030	NEW	99-02-064
16- 05-035	REP-P	99-05-022	16- 89-050	NEW-P	99-03-086	16-545-040	NEW	99-02-064
16- 05-040	AMD-P	99-05-022	16- 89-060	NEW-P	99-03-086	16-545-041	NEW	99-02-064
16- 05-045	REP-P	99-05-022	16- 89-070	NEW-P	99-03-086	16-545-050	NEW	99-02-064
16- 54-010	AMD-P	99-03-084	16- 89-080	NEW-P	99-03-086	16-545-080	NEW	99-02-064
16- 54-016	AMD-P	99-03-084	16- 89-090	NEW-P	99-03-086	16-575-015	NEW-P	99-06-070
16- 54-020	AMD-P	99-03-084	16- 89-100	NEW-P	99-03-086	16-604-010	REP	99-04-069
16- 54-030	AMD-P	99-03-084	16- 89-110	NEW-P	99-03-086	16-645-005	NEW-P	99-02-066
16- 54-040	AMD-P	99-03-084	16- 89-120	NEW-P	99-03-086	16-645-005	NEW	99-06-072
16- 54-071	AMD-P	99-03-084	16-108	PREP	99-03-045	16-645-010	NEW-P	99-02-066
16- 54-082	AMD-P	99-03-084	16-125	PREP	99-04-066	16-645-010	NEW	99-06-072
16- 54-101	AMD-P	99-03-084	16-142	PREP	99-04-067	16-662-105	AMD-P	99-04-111
16- 54-120	AMD-P	99-03-084	16-200-695	AMD-P	99-04-093	16-662-110	AMD-P	99-04-111
16- 54-135	AMD-P	99-03-084	16-200-705	AMD-P	99-04-093	25- 12-010	REP-P	99-03-098
16- 54-150	REP-P	99-03-084	16-200-7061	AMD-P	99-04-093	25- 12-020	REP-P	99-03-098
16- 59	AMD-P	99-03-085	16-228-320	REP-XR	99-04-006	25- 12-030	REP-P	99-03-098
16- 59-001	AMD-P	99-03-085	16-228-330	REP-XR	99-04-006	25- 12-040	REP-P	99-03-098
16- 59-010	AMD-P	99-03-085	16-228-340	REP-XR	99-04-007	25- 12-050	REP-P	99-03-098
16- 59-020	AMD-P	99-03-085	16-316-474	PREP	99-04-096	25- 12-060	REP-P	99-03-098
16- 59-030	AMD-P	99-03-085	16-316-717	PREP	99-04-096	25- 12-070	REP-P	99-03-098
16- 59-060	AMD-P	99-03-085	16-316-727	PREP	99-04-096	25- 12-110	NEW-P	99-03-098
16- 59-070	REP-P	99-03-085	16-319-041	PREP	99-04-095	25- 12-120	NEW-P	99-03-098
16- 86	AMD-P	99-03-087	16-322	PREP	99-03-093	25- 12-130	NEW-P	99-03-098
16- 86-005	AMD-P	99-03-087	16-401	PREP	99-03-095	25- 12-140	NEW-P	99-03-098
16- 86-015	AMD-P	99-03-087	16-403	PREP	99-03-108	25- 12-150	NEW-P	99-03-098
16- 86-017	AMD-P	99-03-087	16-406-001	PREP	99-04-094	25- 12-160	NEW-P	99-03-098
16- 86-020	AMD-P	99-03-087	16-406-020	PREP	99-04-094	25- 12-170	NEW-P	99-03-098
16- 86-030	AMD-P	99-03-087	16-406-030	PREP	99-04-094	25- 12-180	NEW-P	99-03-098
16- 86-040	AMD-P	99-03-087	16-406-050	PREP	99-04-094	50- 16-020	REP-XR	99-04-073
16- 86-055	AMD-P	99-03-087	16-461	PREP	99-03-108	50- 16-025	REP-XR	99-04-073
16- 86-060	AMD-P	99-03-087	16-462	PREP	99-03-094	50- 16-030	REP-XR	99-04-073
16- 86-070	AMD-P	99-03-087	16-470	PREP	99-03-092	50- 16-035	REP-XR	99-04-073
16- 86-080	AMD-P	99-03-087	16-470-900	PREP	99-03-096	50- 16-040	REP-XR	99-04-073
16- 86-090	AMD-P	99-03-087	16-470-905	PREP	99-03-096	50- 16-045	REP-XR	99-04-073
16- 86-092	AMD-P	99-03-087	16-470-910	PREP	99-03-096	50- 16-050	REP-XR	99-04-073

**TABLE**

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
50- 16-055	REP-XR	99-04-073	162- 16-110	REP-P	99-04-108	180- 16-222	REP-XR	99-03-001
50- 16-060	REP-XR	99-04-073	162- 16-120	REP-P	99-04-108	180- 16-226	REP-XR	99-03-001
50- 16-065	REP-XR	99-04-073	162- 16-130	REP-P	99-04-108	180- 16-231	REP-XR	99-03-001
50- 16-070	REP-XR	99-04-073	162- 16-140	REP-P	99-04-108	180- 16-236	REP-XR	99-03-001
50- 16-075	REP-XR	99-04-073	162- 16-150	REP-P	99-04-108	180- 16-238	REP-XR	99-03-001
50- 16-080	REP-XR	99-04-073	162- 16-160	REP-P	99-04-108	180- 16-240	REP-P	99-04-080
50- 16-085	REP-XR	99-04-073	162- 16-170	REP-P	99-04-108	180- 18-055	NEW-P	99-04-082
50- 16-090	REP-XR	99-04-073	162- 16-200	NEW-P	99-04-108	180- 18-055	NEW-P	99-06-089
50- 16-095	REP-XR	99-04-073	162- 16-210	NEW-P	99-04-108	180- 22-150	PREP	99-04-083
50- 16-100	REP-XR	99-04-073	162- 16-220	NEW-P	99-04-108	180- 25	PREP	99-06-074
50- 16-105	REP-XR	99-04-073	162- 16-230	NEW-P	99-04-108	180- 26	PREP	99-06-080
51- 40-23110	REP-E	99-05-030	162- 16-240	NEW-P	99-04-108	180- 27	PREP	99-06-079
67- 55-040	AMD	99-05-005	162- 16-250	NEW-P	99-04-108	180- 27-082	NEW-W	99-03-026
67- 55-060	AMD	99-05-005	162- 16-260	NEW-P	99-04-108	180- 27-083	NEW-W	99-03-026
67- 75-010	AMD	99-05-005	162- 16-270	NEW-P	99-04-108	180- 29	PREP	99-06-078
67- 75-020	AMD	99-05-005	162- 16-280	NEW-P	99-04-108	180- 29-095	PREP	99-04-086
67- 75-030	AMD	99-05-005	162- 16-290	NEW-P	99-04-108	180- 31	PREP	99-06-077
67- 75-040	AMD	99-05-005	162- 22-010	AMD-P	99-04-108	180- 32	PREP	99-06-076
67- 75-042	AMD	99-05-005	162- 22-020	AMD-P	99-04-108	180- 33	PREP	99-06-075
67- 75-044	AMD	99-05-005	162- 22-025	NEW-P	99-04-108	180- 40-215	PREP	99-04-084
67- 75-050	AMD	99-05-005	162- 22-030	REP-P	99-04-108	180- 41-035	PREP	99-04-090
131- 16-450	PREP	99-04-029	162- 22-035	NEW-P	99-04-108	180- 51-050	AMD-P	99-04-081
132H-168-010	REP-P	99-05-018	162- 22-040	REP-P	99-04-108	180- 51-107	NEW-P	99-04-082
132H-168-020	REP-P	99-05-018	162- 22-045	NEW-P	99-04-108	180- 51-107	NEW-P	99-06-089
132H-168-030	REP-P	99-05-018	162- 22-050	REP-P	99-04-108	180- 51-110	PREP	99-04-091
132H-168-040	REP-P	99-05-018	162- 22-060	REP-P	99-04-108	180- 55-085	PREP	99-04-089
132H-168-050	REP-P	99-05-018	162- 22-065	NEW-P	99-04-108	180- 56-245	PREP	99-04-092
132H-168-060	REP-P	99-05-018	162- 22-070	REP-P	99-04-108	180- 77A	PREP	99-04-046
132H-168-070	REP-P	99-05-018	162- 22-075	NEW-P	99-04-108	180- 78-155	PREP	99-04-087
132H-168-080	REP-P	99-05-018	162- 22-080	REP-P	99-04-108	180- 78-207	PREP	99-04-087
132H-168-090	REP-P	99-05-018	162- 22-090	AMD-P	99-04-108	180- 78-210	PREP	99-04-087
132H-168-990	REP-P	99-05-018	162- 22-100	AMD-P	99-04-108	180- 79A-223	PREP	99-06-038
132H-168-9901	REP-P	99-05-018	162- 26-010	AMD-P	99-04-108	180- 79A-300	AMD	99-06-006
132H-168-9902	REP-P	99-05-018	162- 26-020	REP-P	99-04-108	180- 79A-380	PREP	99-04-085
132H-168-9903	REP-P	99-05-018	162- 26-030	REP-P	99-04-108	180- 82	PREP	99-04-109
132H-169-010	NEW-P	99-05-018	162- 26-035	REP-P	99-04-108	180- 82-002	NEW	99-04-008
132H-169-020	NEW-P	99-05-018	162- 26-040	AMD-P	99-04-108	180- 82-004	NEW	99-04-008
132H-169-030	NEW-P	99-05-018	162- 26-050	REP-P	99-04-108	180- 82-105	NEW	99-04-008
132H-169-040	NEW-P	99-05-018	162- 26-060	AMD-P	99-04-108	180- 82-110	NEW	99-04-008
132H-169-050	NEW-P	99-05-018	162- 26-070	AMD-P	99-04-108	180- 82-115	NEW	99-04-008
132H-169-060	NEW-P	99-05-018	162- 26-080	AMD-P	99-04-108	180- 82-120	NEW	99-04-008
132H-169-070	NEW-P	99-05-018	162- 26-090	REP-P	99-04-108	180- 82-125	NEW	99-04-008
132H-169-080	NEW-P	99-05-018	162- 26-100	AMD-P	99-04-108	180- 82-130	NEW	99-04-008
132H-169-090	NEW-P	99-05-018	162- 26-110	AMD-P	99-04-108	180- 82-200	NEW	99-04-008
132H-169-100	NEW-P	99-05-018	162- 26-120	AMD-P	99-04-108	180- 82-201	NEW	99-04-008
132H-169-110	NEW-P	99-05-018	162- 26-135	NEW-P	99-04-108	180- 82-202	NEW	99-04-008
132H-169-120	NEW-P	99-05-018	162- 26-140	AMD-P	99-04-108	180- 82-204	NEW	99-04-008
132H-169-130	NEW-P	99-05-018	162- 30-010	AMD-P	99-04-108	180- 82-210	NEW	99-04-008
132K- 16	PREP	99-04-028	162- 30-020	AMD-P	99-04-108	180- 82-215	NEW	99-04-008
132N-160	PREP	99-06-011	162- 38-040	AMD-P	99-04-108	180- 82-300	NEW	99-04-008
132P-276	PREP	99-05-041	162- 38-100	AMD-P	99-04-108	180- 82-304	NEW	99-04-008
132Q- 12-010	REP-C	99-05-040	162- 38-105	NEW-P	99-04-108	180- 82-308	NEW	99-04-008
132X- 10	PREP	99-06-032	162- 38-110	AMD-P	99-04-108	180- 82-310	NEW	99-04-008
132X- 20	PREP	99-06-032	162- 38-130	REP-P	99-04-108	180- 82-312	NEW	99-04-008
132X- 30	PREP	99-06-032	173-201A	PREP	99-05-060	180- 82-314	NEW	99-04-008
132X- 40	PREP	99-06-032	173-400-030	AMD-XA	99-04-097	180- 82-315	NEW-P	99-04-110
132X- 50	PREP	99-06-032	173-400-040	AMD-XA	99-04-097	180- 82-316	NEW	99-04-008
132X- 60	PREP	99-06-032	173-400-060	AMD-XA	99-04-097	180- 82-317	NEW-P	99-04-110
162- 16-020	REP-P	99-04-108	173-400-070	AMD-XA	99-04-097	180- 82-318	NEW	99-04-008
162- 16-030	REP-P	99-04-108	173-400-075	AMD-XA	99-04-097	180- 82-319	NEW-P	99-04-110
162- 16-040	REP-P	99-04-108	173-400-104	AMD-XA	99-04-097	180- 82-320	NEW	99-04-008
162- 16-050	REP-P	99-04-108	173-400-115	AMD-XA	99-04-097	180- 82-321	NEW-P	99-04-110
162- 16-060	REP-P	99-04-108	180- 08-015	NEW-P	99-04-079	180- 82-322	NEW	99-04-008
162- 16-070	REP-P	99-04-108	180- 16-195	AMD-P	99-04-080	180- 82-324	NEW	99-04-008
162- 16-080	REP-P	99-04-108	180- 16-215	PREP	99-04-088	180- 82-326	NEW	99-04-008
162- 16-090	REP-P	99-04-108	180- 16-220	AMD-P	99-04-080	180- 82-328	NEW	99-04-008
162- 16-100	REP-P	99-04-108	180- 16-221	REP-XR	99-03-001	180- 82-330	NEW	99-04-008

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Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
180-82-331	NEW	99-06-005	220-52-07300J	REP-E	99-03-054	232-32-010	REP-P	99-05-076
180-82-332	NEW	99-04-008	220-52-07300K	NEW-E	99-03-054	232-32-020	REP-P	99-05-076
180-82-334	NEW	99-04-008	220-55-001	NEW	99-03-029	232-32-030	REP-P	99-05-076
180-82-336	NEW	99-04-008	220-55-005	AMD	99-03-029	232-32-040	REP-P	99-05-076
180-82-339	NEW	99-04-008	220-55-010	AMD	99-03-029	232-32-050	REP-P	99-05-076
180-82-342	NEW	99-04-008	220-55-015	AMD	99-03-029	232-32-060	REP-P	99-05-076
180-82-343	NEW	99-04-008	220-55-040	AMD	99-03-029	232-32-070	REP-P	99-05-076
180-82-344	NEW	99-04-008	220-55-050	AMD	99-03-029	236-47-001	REP	99-06-001
180-82-346	NEW	99-04-008	220-55-055	AMD	99-03-029	236-47-002	REP	99-06-001
180-82-348	NEW	99-04-008	220-55-05500A	NEW-E	99-06-007	236-47-003	REP	99-06-001
180-82-349	NEW-P	99-04-110	220-55-060	AMD	99-03-029	236-47-004	REP	99-06-001
180-82-350	NEW	99-04-008	220-55-065	AMD	99-03-029	236-47-005	REP	99-06-001
180-82-352	NEW	99-04-008	220-55-070	AMD	99-03-029	236-47-006	REP	99-06-001
180-82-354	NEW	99-04-008	220-55-075	REP	99-03-029	236-47-007	REP	99-06-001
180-82-355	NEW	99-04-008	220-55-100	AMD	99-03-029	236-47-008	REP	99-06-001
180-82-356	NEW	99-04-008	220-55-105	AMD	99-03-029	236-47-009	REP	99-06-001
180-82-360	NEW	99-04-008	220-55-110	AMD	99-03-029	236-47-010	REP	99-06-001
180-85-075	AMD-E	99-05-002	220-55-115	AMD	99-03-029	236-47-011	REP	99-06-001
180-85-075	PREP	99-06-039	220-55-120	AMD	99-03-029	236-47-012	REP	99-06-001
182-25-040	PREP	99-05-077	220-55-125	AMD	99-03-029	236-47-013	REP	99-06-001
182-25-085	PREP	99-05-077	220-55-155	REP	99-03-029	236-47-014	REP	99-06-001
182-25-090	PREP	99-05-077	220-56-19100G	NEW-E	99-05-061	236-47-015	REP	99-06-001
192-12-072	REP-P	99-05-068	220-56-19100G	REP-E	99-05-061	236-47-016	REP	99-06-001
192-16-051	REP-E	99-05-003	220-88B-010	REP-E	99-04-053	236-47-017	REP	99-06-001
192-16-052	REP-E	99-05-003	220-88B-020	REP-E	99-04-053	245-02-010	DECOD	99-04-049
192-16-057	REP-E	99-05-003	220-88B-030	REP-E	99-04-053	245-02-020	DECOD	99-04-049
192-210-005	NEW-E	99-05-003	220-88B-040	REP-E	99-04-053	245-02-025	DECOD	99-04-049
192-210-010	NEW-E	99-05-003	220-88B-050	REP-E	99-04-053	245-02-030	DECOD	99-04-049
192-210-015	NEW-E	99-05-003	220-110-204	AMD-XA	99-05-023	245-02-035	DECOD	99-04-049
192-300-050	NEW-P	99-05-068	220-110-205	AMD-XA	99-05-023	245-02-040	DECOD	99-04-049
192-320-050	NEW-P	99-05-068	220-130	AMD-P	99-05-075	245-02-045	DECOD	99-04-049
196-24-060	PREP	99-02-073	220-130-010	AMD-P	99-05-075	245-02-050	DECOD	99-04-049
196-24-085	PREP	99-02-071	220-130-020	AMD-P	99-05-075	245-02-100	DECOD	99-04-049
196-24-090	PREP	99-02-075	220-130-030	AMD-P	99-05-075	245-02-110	DECOD	99-04-049
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196-24-095	PREP	99-02-077	220-130-050	AMD-P	99-05-075	245-02-120	DECOD	99-04-049
196-24-097	PREP	99-02-078	220-130-060	AMD-P	99-05-075	245-02-125	DECOD	99-04-049
196-24-098	PREP	99-02-079	220-130-070	AMD-P	99-05-075	245-02-130	DECOD	99-04-049
196-24-100	PREP	99-02-072	220-130-080	NEW-P	99-05-075	245-02-131	DECOD	99-04-049
196-25-040	PREP	99-02-074	230-20-058	NEW	99-03-103	245-02-135	DECOD	99-04-049
196-26-020	PREP	99-02-070	232-12-001	AMD	99-03-029	245-02-140	DECOD	99-04-049
204-24-050	AMD	99-06-023	232-12-047	AMD-P	99-05-064	245-02-145	DECOD	99-04-049
204-80-020	AMD	99-02-045	232-12-054	AMD-P	99-05-064	245-02-150	DECOD	99-04-049
208-464-010	REP	99-03-009	232-12-069	REP	99-03-029	245-02-155	DECOD	99-04-049
208-464-020	REP	99-03-009	232-12-072	NEW	99-03-029	245-02-160	DECOD	99-04-049
208-464-030	REP	99-03-009	232-12-157	AMD	99-03-029	245-02-165	DECOD	99-04-049
208-464-040	REP	99-03-009	232-12-166	AMD	99-03-029	245-02-170	DECOD	99-04-049
208-464-050	REP	99-03-009	232-12-189	AMD	99-03-029	245-02-175	DECOD	99-04-049
208-464-060	REP	99-03-009	232-12-241	REP	99-03-029	245-02-180	DECOD	99-04-049
208-464-070	REP	99-03-009	232-12-619	AMD	99-03-029	246-05-001	REP	99-03-062
208-464-080	REP	99-03-009	232-12-830	NEW	99-03-029	246-05-010	REP	99-03-062
208-464-090	REP	99-03-009	232-16-810	AMD-P	99-05-063	246-05-020	REP	99-03-063
208-480-010	REP	99-03-009	232-21-101	REP	99-05-024	246-05-030	REP	99-03-062
208-480-020	REP	99-03-009	232-28-02201	AMD-P	99-05-063	246-25	PREP	99-04-050
208-480-030	REP	99-03-009	232-28-02203	AMD-P	99-05-063	246-25-010	RECOD	99-04-049
208-480-040	REP	99-03-009	232-28-02204	AMD-P	99-05-063	246-25-020	RECOD	99-04-049
208-480-050	REP	99-03-009	232-28-02205	AMD-P	99-05-063	246-25-025	RECOD	99-04-049
208-480-060	REP	99-03-009	232-28-02240	AMD-P	99-05-063	246-25-030	RECOD	99-04-049
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220-32-05100J	NEW-E	99-04-059	232-28-271	AMD-P	99-05-063	246-25-045	RECOD	99-04-049
220-33-01000N	REP-E	99-05-055	232-28-273	AMD-P	99-05-063	246-25-050	RECOD	99-04-049
220-33-01000N	NEW-E	99-05-055	232-28-280	AMD-P	99-05-063	246-25-100	RECOD	99-04-049
220-33-01000P	NEW-E	99-06-031	232-28-281	AMD-P	99-05-063	246-25-110	RECOD	99-04-049
220-33-01000P	REP-E	99-06-031	232-28-61900B	REP-E	99-04-060	246-25-115	RECOD	99-04-049
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246-359-575	NEW	99-03-065	246-930-990	AMD-P	99-02-057	275- 27-200	NEW	99-04-071
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246-359-750	NEW	99-03-065	251- 01-040	AMD	99-05-042	275- 30-050	REP	99-03-077
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246-560-011	NEW	99-03-043	251- 01-420	REP-P	99-02-054	284- 43-130	AMD-P	99-03-007
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246-560-045	NEW	99-03-043	251- 17-090	AMD-P	99-02-054	292-100-006	NEW	99-06-073
246-560-050	AMD	99-03-043	251- 17-090	AMD	99-05-042	292-100-007	NEW	99-06-073
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246-808-320	REP-XR	99-03-061	251- 23-060	AMD	99-05-042	292-100-100	AMD	99-06-073
246-808-330	REP-XR	99-03-061	251- 24-030	AMD-P	99-02-054	292-100-105	NEW	99-06-073
246-808-340	REP-XR	99-03-061	251- 24-030	AMD	99-05-042	292-100-110	AMD	99-06-073
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246-817-990	AMD-P	99-02-057	260- 48-620	AMD-P	99-02-081	292-100-200	AMD	99-06-073
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308-124-001	REP	99-03-042	352-12-005	AMD	99-04-117	388-15-19660	AMD	99-03-041
308-124-005	REP	99-03-042	352-12-010	AMD	99-04-117	388-15-19670	AMD	99-03-041
308-124-007	AMD	99-03-042	352-12-020	AMD	99-04-117	388-15-19680	AMD	99-03-041
308-124-021	AMD	99-03-042	352-12-030	AMD	99-04-117	388-86-0022	PREP	99-05-044
308-124A-200	AMD	99-03-042	352-12-040	AMD	99-04-117	388-86-047	REP-P	99-05-073
308-124A-460	AMD	99-03-042	352-12-050	AMD	99-04-117	388-86-059	PREP	99-06-043
308-124B-140	AMD	99-03-042	352-32	PREP	99-06-042	388-86-073	PREP	99-03-075
308-124B-145	NEW	99-03-042	352-32-070	PREP	99-06-042	388-86-200	PREP	99-06-043
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308-124C-010	AMD	99-03-042	352-32-25001	AMD-P	99-04-118	388-87-0007	PREP	99-05-044
308-124D-061	AMD	99-03-042	352-32-25002	REP-P	99-04-118	388-87-0008	PREP	99-05-044
308-124D-070	NEW	99-03-042	356-05-012	NEW-P	99-02-053	388-87-0010	PREP	99-05-044
308-124D-080	NEW	99-03-042	356-05-012	NEW	99-05-043	388-87-0011	PREP	99-05-044
308-124F-010	REP	99-03-042	356-05-013	AMD-P	99-02-053	388-87-0020	PREP	99-05-044
308-124F-020	REP	99-03-042	356-05-013	AMD	99-05-043	388-87-0025	PREP	99-05-044
308-124F-030	REP	99-03-042	356-05-207	AMD-P	99-02-053	388-87-0105	PREP	99-05-044
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308-125-200	AMD	99-04-074	356-05-327	REP-P	99-02-053	388-87-079	PREP	99-06-043
308-330-300	AMD	99-04-070	356-05-327	REP	99-05-043	388-310-0100	AMD-P	99-05-072
308-330-307	AMD	99-04-070	356-05-447	AMD-P	99-02-053	388-310-0200	AMD-P	99-05-072
308-330-425	AMD	99-04-070	356-05-447	AMD	99-05-043	388-310-0300	AMD-P	99-05-071
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308-400-050	REP	99-06-003	356-09-010	AMD	99-05-043	388-310-0500	AMD-P	99-05-071
308-400-053	AMD	99-06-003	356-09-030	AMD-P	99-02-053	388-310-0600	AMD-P	99-05-071
308-400-054	REP	99-06-003	356-09-030	AMD	99-05-043	388-310-0700	AMD-P	99-05-071
308-400-058	AMD	99-06-003	356-09-040	AMD-P	99-02-053	388-310-0800	AMD-P	99-05-071
308-400-059	AMD	99-06-003	356-09-040	AMD	99-05-043	388-310-0900	AMD-P	99-05-071
308-400-062	AMD	99-06-003	356-09-050	AMD-P	99-02-053	388-310-1000	AMD-P	99-05-071
308-400-070	REP	99-06-003	356-09-050	AMD	99-05-043	388-310-1050	AMD-P	99-05-071
308-400-095	AMD	99-06-003	356-22-010	AMD-P	99-02-053	388-310-1100	AMD-P	99-05-071
308-400-120	AMD	99-06-003	356-22-010	AMD	99-05-043	388-310-1200	AMD-P	99-05-071
308-410-050	REP	99-06-003	356-22-040	AMD-P	99-02-053	388-310-1300	AMD-P	99-05-072
308-410-070	AMD	99-06-003	356-22-040	AMD	99-05-043	388-310-1400	AMD-P	99-05-071
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314-12-170	AMD	99-03-032	356-22-090	AMD	99-05-043	388-310-1600	AMD-P	99-05-071
314-12-210	NEW-S	99-06-097	356-22-180	AMD-P	99-02-053	388-310-1700	AMD-P	99-05-071
314-12-215	NEW-S	99-06-097	356-22-180	AMD	99-05-043	388-310-1800	AMD-P	99-05-071
314-12-220	NEW-S	99-06-097	356-26-010	AMD-P	99-02-053	388-310-1900	AMD-P	99-05-071
314-12-225	NEW-S	99-06-097	356-26-010	AMD	99-05-043	388-320-350	REP-P	99-03-076
314-12-300	NEW	99-03-032	356-26-060	AMD-P	99-02-053	388-320-350	REP	99-06-044
314-12-310	NEW	99-03-032	356-26-060	AMD	99-05-043	388-320-360	REP-P	99-03-076
314-12-320	NEW	99-03-032	356-26-070	AMD-P	99-02-053	388-320-360	REP	99-06-044
314-12-330	NEW	99-03-032	356-26-070	AMD	99-05-043	388-320-370	REP-P	99-03-076
314-12-340	NEW	99-03-032	356-26-110	AMD	99-03-044	388-320-370	REP	99-06-044
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314-14-165	NEW	99-03-033	356-30-010	AMD	99-05-043	388-320-375	NEW	99-06-044
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314-16-180	PREP	99-04-113	365-18-030	NEW-S	99-04-072	388-448-0001	PREP	99-04-055
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388-450-0195	AMD-P	99-06-088	388-550-5200	PREP	99-06-083	434-334-075	AMD-P	99-05-034
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388-470-0012	NEW-P	99-06-099	388-550-5350	PREP	99-06-083	434-334-082	NEW-P	99-05-034
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388-470-0025	PREP	99-03-040	388-550-6000	AMD	99-06-046	434-334-095	AMD-P	99-05-034
388-470-0050	PREP	99-03-040	388-550-6000	PREP	99-06-086	434-334-100	AMD-P	99-05-034
388-470-0070	PREP	99-03-040	388-551-1000	NEW-P	99-05-073	434-334-105	AMD-P	99-05-034
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388-478-0055	PREP	99-05-045	388-551-1210	NEW-P	99-05-073	434-334-120	RECOD-P	99-05-034
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388-484-0005	AMD-P	99-04-102	388-551-1310	NEW-P	99-05-073	434-334-130	NEW-P	99-05-034
388-501-0130	PREP	99-05-044	388-551-1315	NEW-P	99-05-073	434-334-135	NEW-P	99-05-034
388-501-0175	PREP	99-05-044	388-551-1320	NEW-P	99-05-073	434-334-140	NEW-P	99-05-034
388-502-0220	PREP	99-06-085	388-551-1330	NEW-P	99-05-073	434-334-145	NEW-P	99-05-034
388-502-0250	PREP	99-05-044	388-551-1340	NEW-P	99-05-073	434-334-150	NEW-P	99-05-034
388-505-0540	PREP	99-05-044	388-551-1350	NEW-P	99-05-073	434-334-155	NEW-P	99-05-034
388-505-0595	PREP	99-05-044	388-551-1360	NEW-P	99-05-073	434-334-160	NEW-P	99-05-034
388-511-1130	PREP	99-05-044	388-551-1400	NEW-P	99-05-073	434-334-165	NEW-P	99-05-034
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388-513-1315	AMD	99-06-045	388-551-1500	NEW-P	99-05-073	434-334-175	NEW-P	99-05-034
388-513-1320	AMD	99-06-045	388-551-1510	NEW-P	99-05-073	440-25	PREP	99-06-082
388-513-1330	AMD	99-06-045	388-551-1520	NEW-P	99-05-073	446-16-070	AMD-P	99-03-080
388-513-1350	AMD	99-06-045	388-551-1530	NEW-P	99-05-073	446-16-080	AMD-P	99-03-080
388-513-1360	AMD	99-06-045	390-12-255	PREP	99-06-050	446-16-100	AMD-P	99-03-080
388-513-1365	AMD	99-06-045	390-14-015	PREP	99-06-051	446-16-110	AMD-P	99-03-080
388-513-1380	AMD-P	99-06-100	390-14-020	PREP	99-06-052	446-20-600	AMD-P	99-03-081
388-513-1395	AMD	99-06-045	390-14-025	PREP	99-06-053	448-13-030	AMD	99-06-048
388-515-1510	AMD	99-06-045	390-14-030	PREP	99-06-054	448-13-040	AMD	99-06-048
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388-530-2050	PREP	99-05-044	390-14-055	PREP	99-06-058	448-13-080	AMD	99-06-048
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388-540-001	PREP	99-05-044	390-14-105	PREP	99-06-060	448-13-170	AMD	99-06-048
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388-550-1050	PREP	99-06-087	390-20-015	PREP	99-06-066	448-15-040	NEW	99-06-047
388-550-1200	AMD	99-06-046	390-20-023	PREP	99-06-067	448-15-050	NEW	99-06-047
388-550-2431	NEW	99-06-046	390-20-100	PREP	99-06-068	448-15-060	NEW	99-06-047
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388-550-2800	PREP	99-06-084	391-08	PREP	99-04-013	458-12-040	PREP	99-05-069
388-550-2900	AMD	99-06-046	391-55	PREP	99-04-013	458-12-300	PREP	99-05-069
388-550-2900	PREP	99-06-084	391-65	PREP	99-04-013	458-12-301	PREP	99-05-069
388-550-3000	AMD	99-06-046	392-172	PREP	99-06-049	458-12-305	PREP	99-05-069
388-550-3100	AMD	99-06-046	399-30-032	NEW-P	99-05-062	458-12-315	REP-XR	99-04-017
388-550-3450	PREP	99-06-084	399-30-033	NEW-P	99-05-062	458-12-320	REP-XR	99-04-017
388-550-3500	AMD	99-06-046	399-30-034	NEW-P	99-05-062	458-12-326	PREP	99-05-069
388-550-3500	PREP	99-06-084	434-55-060	AMD-XA	99-05-038	458-12-327	PREP	99-05-069
388-550-3700	AMD	99-06-046	434-55-065	AMD-XA	99-05-038	458-12-330	PREP	99-05-069
388-550-3900	PREP	99-06-084	434-130-090	AMD-XA	99-05-039	458-12-335	PREP	99-05-069
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388-550-4500	PREP	99-06-084	434-180-360	AMD	99-02-047	458-12-338	PREP	99-05-069
388-550-4700	AMD	99-06-046	434-240-205	AMD-P	99-05-054	458-12-339	PREP	99-05-069
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388-550-5000	PREP	99-06-083	434-324-105	REP-P	99-05-054	458-20-131	AMD-P	99-05-017
388-550-5100	PREP	99-06-083	434-334-055	AMD-P	99-05-034	458-20-157	REP-XR	99-04-019
388-550-5110	PREP	99-06-083	434-334-063	NEW-P	99-05-034	458-20-167	AMD	99-03-005

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458-20-222	AMD-P	99-04-015	479-16-020	AMD-P	99-03-089	480-92-016	NEW	99-05-016
458-20-225	REP-XR	99-04-019	479-16-040	AMD-P	99-03-089	480-92-021	AMD	99-05-016
458-20-226	AMD-XA	99-04-021	479-16-098	AMD-P	99-03-089	480-92-031	AMD	99-05-016
458-20-231	AMD	99-02-055	479-20-007	AMD-P	99-03-089	480-92-041	NEW	99-05-016
458-20-238	AMD-XA	99-04-020	479-20-020	AMD-P	99-03-089	480-92-050	AMD	99-05-016
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458-50-050	REP-XR	99-04-031	479-510-450	NEW-P	99-03-088	480-92-100	AMD	99-05-016
458-57-575	NEW	99-03-010	479-510-460	NEW-P	99-03-088	480-92-110	AMD	99-05-016
458-65-020	REP-XR	99-04-018	480-09-005	NEW	99-05-031	480-120-144	NEW	99-05-015
458-65-030	REP-XR	99-04-018	480-09-010	AMD	99-05-031	480-120-151	NEW	99-05-015
458-65-040	REP-XR	99-04-018	480-09-012	AMD	99-05-031	480-120-152	NEW	99-05-015
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460-24A-145	NEW	99-03-052	480-09-101	NEW	99-05-031	480-120-154	NEW	99-05-015
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468-38-150	REP-XR	99-04-058	480-09-140	AMD	99-05-031	480-143-060	REP-P	99-03-074
468-38-170	REP-XR	99-04-058	480-09-150	AMD	99-05-031	480-143-070	REP-P	99-03-074
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468-51-080	AMD	99-06-034	480-09-410	AMD	99-05-031	480-143-160	NEW-P	99-03-074
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468-51-100	AMD	99-06-034	480-09-425	AMD	99-05-031	480-143-180	NEW-P	99-03-074
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468-51-110	AMD	99-06-034	480-09-430	AMD	99-05-031	480-143-200	NEW-P	99-03-074
468-51-120	AMD	99-06-034	480-09-440	AMD	99-05-031	480-143-210	NEW-P	99-03-074
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468-51-140	AMD	99-06-034	480-09-465	AMD	99-05-031	480-146-010	REP-P	99-03-073
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468-52-060	AMD	99-06-035	480-09-510	AMD	99-05-031	480-146-070	REP-P	99-03-073
468-52-070	AMD	99-06-035	480-09-600	AMD	99-05-031	480-146-080	REP-P	99-03-073
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