

Washington State Register

October 20, 1999

OLYMPIA, WASHINGTON

ISSUE 99-20



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filed not later than October 6, 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

STATE MAXIMUM INTEREST RATE

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

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

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.

John G. Schultz
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].

1999 - 2000

DATES FOR REGISTER CLOSING, DISTRIBUTION, AND FIRST AGENCY ACTION

Issue Number	Closing Dates ¹			Distribution Date	First Agency Hearing Date ³	Expedited Adoption ⁴
	Non-OTS and 30 p. or more	Non-OTS and 11 to 29 p.	OTS ² 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 -					
99 - 20	Sep 8, 1999	Sep 22, 1999	Oct 6, 1999	Oct 20, 1999	Nov 9, 1999	Dec 7, 1999
99 - 21	Sep 22, 1999	Oct 6, 1999	Oct 20, 1999	Nov 3, 1999	Nov 23, 1999	Dec 21, 1999
99 - 22	Oct 6, 1999	Oct 20, 1999	Nov 3, 1999	Nov 17, 1999	Dec 7, 1999	Jan 4, 2000
99 - 23	Oct 20, 1999	Nov 3, 1999	Nov 17, 1999	Dec 1, 1999	Dec 21, 1999	Jan 19, 2000
99 - 24	Nov 3, 1999	Nov 17, 1999	Dec 1, 1999	Dec 15, 1999	Jan 4, 2000	Feb 1, 2000
00 - 01	Nov 24, 1999	Dec 8, 1999	Dec 22, 1999	Jan 5, 2000	Jan 25, 2000	Feb 23, 2000
00 - 02	Dec 8, 1999	Dec 22, 1999	Jan 5, 2000	Jan 19, 2000	Feb 8, 2000	Mar 7, 2000
00 - 03	Dec 22, 1999	Jan 5, 2000	Jan 19, 2000	Feb 2, 2000	Feb 22, 2000	Mar 21, 2000
00 - 04	Jan 5, 2000	Jan 19, 2000	Feb 2, 2000	Feb 16, 2000	Mar 7, 2000	Apr 4, 2000
00 - 05	Jan 19, 2000	Feb 2, 2000	Feb 16, 2000	Mar 1, 2000	Mar 21, 2000	Apr 18, 2000
00 - 06	Feb 2, 2000	Feb 16, 2000	Mar 1, 2000	Mar 15, 2000	Apr 4, 2000	May 2, 2000
00 - 07	Feb 23, 2000	Mar 8, 2000	Mar 22, 2000	Apr 5, 2000	Apr 25, 2000	May 23, 2000

¹ 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.

² 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.

³ 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.

⁴ 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 and 1.12.040.

STATEMENT OF OWNERSHIP, MANAGEMENT, AND CIRCULATION
(Required by 39 U.S.C. 3685)

The WASHINGTON STATE REGISTER (ISSN 0164-6389), is published twice each month by the Statute Law Committee, Office of the Code Reviser, Legislative Building, P.O. Box 40552, Olympia, Washington 98504-0552. The filing date of this report was September 27, 1999. The 1999 annual subscription price is \$195 for 24 issues. The general business offices of the publisher are located in the Legislative Building, Olympia, Washington 98504-0552.

The editor is Kerry S. Radcliff, Code Reviser's Office, Legislative Building, P.O. Box 40552, Olympia, Washington 98504-0552. There is no managing editor. The owner is the Statute Law Committee, State of Washington, Legislative Building, P.O. Box 40552, Olympia, Washington 98504-0552.

There are no known bondholders, mortgagees, or other security holders.

The extent and nature of the circulation is as follows:

	Average no. copies each issue during preceding 12 months	Actual no. copies of single issue published nearest to filing date
Total no. copies printing	800	800
Paid circulation		
Paid outside-county mail subscriptions	291	299
Paid in-county subscriptions	21	23
Sales through dealers & carriers, street vendors, & counter sales	46	42
Other classes mailed through the USPS	0	0
Total paid circulation	358	364
Free distribution by mail		
Outside-county	39	39
In-county	2	2
Other classes mailed through the USPS	0	0
Free distribution outside the mail	25	17
Total free distribution	66	58
Total distribution	424	422
Copies not distributed	376	378
Total	800	800
Percent paid circulation	83.96%	86.26%

I certify that the statements made by me are correct and complete.

Kerry S. Radcliff
Editor

REGULATORY FAIRNESS ACT

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

Small Business Economic Impact Statements (SBEIS)

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

Mitigation

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

When is an SBEIS Required?

When:

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

When is an SBEIS Not Required?

When:

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

There is less than minor economic impact on business;

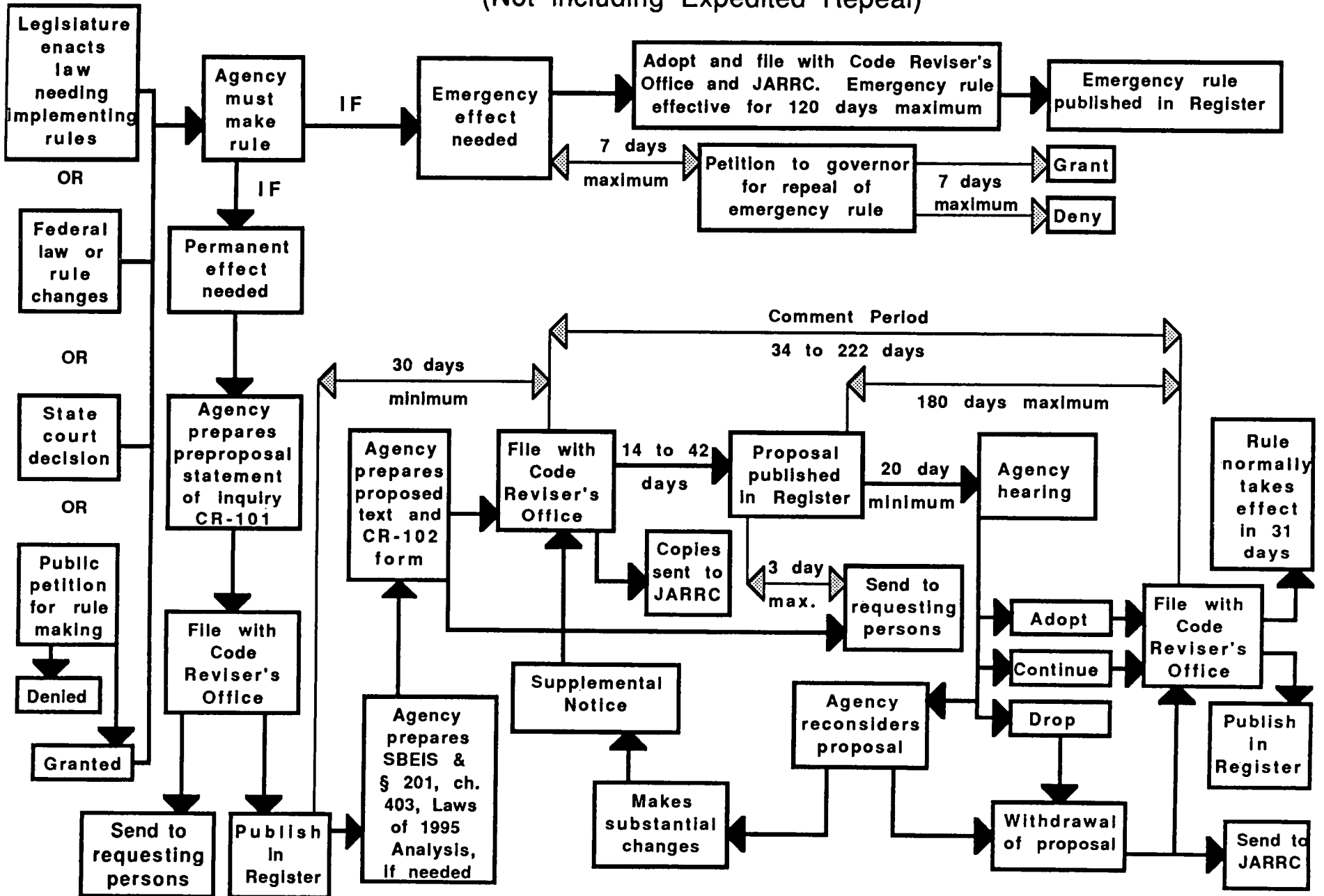
The rule **REDUCES** costs to business (although an SBEIS may be a useful tool for demonstrating this reduced impact);

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

The rule is pure restatement of state statute.

RULE-MAKING PROCESS

(Not including Expedited Repeal)



WSR 99-20-010
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Medical Assistance Administration)

[Filed September 24, 1999, 12:13 p.m.]

Subject of Possible Rule Making: WAC 388-513-1380 Institutional—Participation—Client cost of care, this rule adopts, on a permanent basis, changes in the federal allocation standards for a community spouse, a dependent family member, and shelter expenses that became effective April 1, 1999. These standards have been adopted on an emergency basis under WSR 99-18-040.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.04.050, 74.04.057, 74.08.090, 74.09.500, and Section 1924(g) of the Social Security Act.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The rule needs to be amended to comply with federal requirements to ensure continued federal financial participation.

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 Kevin Sullivan, Regulatory Improvement Coordinator, Medical Assistance Administration, Olympia, Washington 98504-5530, phone (360) 586-2089, fax (360) 753-7315, TTY 1-800-848-5429, e-mail sullikm@dshs.wa.gov.

September 22, 1999

Marie Myerchin-Redifer, Manager
 Rules and Policies Assistance Unit

WSR 99-20-035
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF HEALTH
 [Filed September 29, 1999, 11:22 a.m.]

Subject of Possible Rule Making: Chapter 246-130 WAC, Human immunodeficiency virus (HIV) infection interventions.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 43.70.040 and 43.70.120.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To promote health and productivity, in addition to reducing the risk of people with HIV infecting their partners, by providing drugs and other interventions to eligible persons with HIV disease. These rules guide DOH's HIV early intervention program.

Process for Developing New Rule: We will invite the affected public to participate in all stages of this rule development, including formal presentation to the Early Intervention Program Steering Committee.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Vincent Collins, HIV Client Services, P.O. Box 47841, Olympia, WA 98504-7841, (360) 236-3453, fax 664-2216, e-mail VLC1303@doh.wa.gov.

September 29, 1999

Eric Slagle
 for Mary Selecky
 Secretary

WSR 99-20-037
PREPROPOSAL STATEMENT OF INQUIRY
WASHINGTON STATE PATROL

[Filed September 29, 1999, 1:23 p.m.]

Subject of Possible Rule Making: Amendment to chapter 204-38 WAC, Flashing amber lamps.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 46.37.005 and 46.37.280.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: For the safety of rural newspaper carriers and the motoring public. This amendment will increase the visibility of vehicles being driven by rural newspaper carriers, particularly in inclement weather and during the hours of darkness.

Process for Developing New Rule: Request from some rural newspaper carriers.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Ms. Carol Morton, Washington State Patrol, P.O. Box 42635, Olympia, WA 98504, phone (360) 412-8934, fax (360) 493-9090.

September 27, 1999

Annette M. Sandberg
 Chief

AMENDATORY SECTION (Amending WSR 94-17-167, filed 8/24/94, effective 9/24/94)

WAC 204-38-030 Definitions. (1) "Flashing" lamps shall include those lamps which emit a beam of light which is broken intermittently and regularly by use of an electronic or electric switch, a rotating reflector, a rotating lamp, or a strobe lamp.

(2) "Other construction and maintenance vehicles" shall mean those vehicles owned or operated by a private company which is in the process of providing highway construction or maintenance services or is working in conjunction with any public utility.

(3) "Pilot cars" shall mean those vehicles which are used to provide escort for overlegal size loads upon the roadways of this state.

(4) "Public utilities vehicles" shall mean those vehicles used for construction, operations, and maintenance, and which are owned or operated by a public or private utility, including, but not limited to, companies providing water,

electricity, natural gas, telephone, and television cable services, and railroads.

(5) "Tow trucks" shall mean those vehicle engaged in removing disabled or abandoned vehicles from the roadway and which are used primarily for that purpose.

(6) "Animal control vehicles" shall mean those vehicles, either publicly or privately owned, which are used primarily for transportation of animals to or from animal shelters, humane society facilities, or veterinary medicine facilities.

(7) "Hazardous materials response team vehicles" shall mean those vehicles either publicly or privately owned which are used for responding to hazardous materials incidents.

(8) "Search and rescue team(s) vehicles" shall mean those vehicles either publicly or privately owned which are used for responding to search and rescue situations.

(9) "Rural newspaper carrier vehicles" shall mean those vehicles driven on rural roads by carriers delivering newspapers on their route.

AMENDATORY SECTION (Amending WSR 92-11-032, filed 5/15/92, effective 6/15/92)

WAC 204-38-040 Mounting of lamps. One or more flashing amber lamps may be mounted on public utilities vehicles, other construction and maintenance vehicles, pilot cars, tow trucks, animal control vehicles, ~~((and))~~ hazardous materials response team vehicles, search and rescue team vehicles, and rural newspaper carrier vehicles. The lamp(s) shall be mounted and shall be of sufficient intensity so as to be clearly visible to approaching traffic for at least five hundred feet in normal sunlight.

The provisions of WAC 204-72-030 and 204-72-040 shall be adhered to as they relate to the mounting of warning lamps.

AMENDATORY SECTION (Amending Order 88-02-ESR, filed 7/18/88)

WAC 204-38-050 Use of lamps. Flashing amber lamps shall be used on the vehicles described in WAC 204-38-040 only when such vehicles are actually involved in construction, maintenance, or operations which require that warning be given to ensure the protection of the motoring public or the work crew. Warning lamps shall not be illuminated while traveling to or from the site of operations. For the purposes of tow truck operations, the site of operations shall be only that place where vehicles are attached to or detached from the tow truck. Lamps on pilot cars shall be illuminated only while the vehicle is actually providing escort service. Lamps on rural newspaper delivery vehicles shall only be illuminated when the vehicle is traveling on the delivery route.

Nothing in this chapter shall relieve the operator of any vehicle from displaying any other light or warning device required by statute or regulation, and nothing herein shall permit any vehicle operator to disregard any traffic law. To be considered approved equipment for use under the provisions of this section, all devices must meet the criteria established in RCW 46.37.320. In descending order of preference, these are:

- (1) Conformance to Federal Motor Vehicle Safety Standards, or, if none,
- (2) Conformance to current standards and specifications of the Society of Automotive Engineers, or, if none,
- (3) Certified for compliance by any recognized organization or agency such as, but not limited to, the American National Standards Institute, the Society of Automotive Engineers, or the American Association of Motor Vehicle Administrators.

WSR 99-20-048
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Medical Assistance Administration)
 [Filed September 30, 1999, 2:43 p.m.]

Subject of Possible Rule Making: MAA will be rewriting the general requirements in chapter 388-87 WAC for people who are contracted with the department to provide, and be reimbursed for, services or equipment to MAA clients. The rules will be repealed from chapter 388-87 WAC and adopted into chapter 388-502 WAC to consolidate the rules for providers.

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

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The rules need to be rewritten and clarified to comply with the governor's executive order on regulatory improvement. Clarifications and possible changes include, but may not be limited to, when/how a provider may bill a client and time limits for submitting a claim.

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 Leslie Saeger, Regulatory Improvement Manager, Medical Assistance Administration, Olympia, Washington 98504-5530, phone (360) 664-2315, fax (360) 753-7315, TTY 1-800-848-5429, e-mail saegell@dshs.wa.gov.

September 30, 1999
 Marie Myerchin-Redifer, Manager
 Rules and Policies Assistance Unit

WSR 99-20-049
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Medical Assistance Administration)
 [Filed September 30, 1999, 2:44 p.m.]

Subject of Possible Rule Making: Sections of chapter 388-550 WAC, Hospital services.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.08.090, 42 U.S.C. 1395x(v).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: This rewrite is to ensure MAA's administrative code reflects current policy and practice and coordinates with policies of Division of Alcohol and Substance Abuse and the Mental Health Division of the department. Also to comply with the Governor's Executive Order 97-02.

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 Kathy Sayre, Program Assistance and Support Services, Medical Assistance Administration, Olympia, Washington 98504-5530, phone (360) 586-0355, fax (360) 753-7315, TTY 1-800-848-5429, e-mail sayrek@dshs.wa.gov.

September 30, 1999
 Marie Myerchin-Redifer, Manager
 Rules and Policies Assistance Unit

WSR 99-20-050
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Medical Assistance Administration)
 [Filed September 30, 1999, 2:44 p.m.]

Subject of Possible Rule Making: Repealing chapter 388-41 WAC, Medical audit dispute resolution; and new WAC 388-560-1000 Audit dispute resolution process.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.08.090 and 43.20B.675.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The department is establishing a new chapter (chapter 388-560 WAC, Medical audit dispute) to consolidate rules regarding the administrative process for audit dispute resolution or medical services providers. WAC 388-41-020 is being repealed to avoid duplication. The rule is being rewritten to update policy to reflect current practice, as well as to comply with the Governor's Executive Order 97-02.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Although no other agency regulates this specific subject, the Office of Contracts and Asset Management and the Office of Administrative Hearings may each have an interest in these rules. In order to maintain consistency, the department will consult with OCAM and OAH as these rules are developed.

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 L. Mike Freeman, Regulatory Improvement Project, Medical Assistance Administration, Olympia, Washington 98504-5530, phone (360) 586-0941, fax (360) 753-7315, TTY 1-800-848-5429, e-mail freemlm@dshs.wa.gov.

September 30, 1999
 Marie Myerchin-Redifer, Manager
 Rules and Policies Assistance Unit

WSR 99-20-055
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF HEALTH
 [Filed October 1, 1999, 3:58 p.m.]

Subject of Possible Rule Making: Retired active status for licensed hearing instrument fitter/dispensers, certified audiologists and certified speech-language pathologists.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 18.130.250 Retired active license status.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Licensed hearing instrument fitter/dispensers, certified audiologists and speech-language pathologists requested a rule on this subject to create a mechanism that would allow those credential holders who are practicing intermittently or in emergency circumstances to continue providing these services.

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

Process for Developing New Rule: (Collaborative) the Board of Hearing and Speech will conduct a public meeting to allow interested persons to participate in the development of this rule. In addition, interested parties, which include licensees, certificate holders, Washington Speech and Hearing Association, Washington State Audiology Society and Washington Hearing Health Care Professionals, Washington Self Help for the Hard of Hearing and private citizens will be notified by mail.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Diane Young, Program Manager,

Department of Health, P.O. Box 47869, Olympia, WA 98504-7869, phone (360) 236-4916, fax (360) 236-4918.

September 9, 1999

T. Diane Young

Program Manager

PREPROPOSAL STATEMENT OF INQUIRY

DEPARTMENT OF HEALTH

(Surgical Technology Program)

[Filed October 1, 1999, 4:00 p.m.]

WSR 99-20-056

PREPROPOSAL STATEMENT OF INQUIRY

DEPARTMENT OF HEALTH

[Filed October 1, 1999, 3:59 p.m.]

Subject of Possible Rule Making: Cancer registry.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 43.20.050, 43.70.130, 70.54.270.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The existing rules have four areas which should be addressed to streamline reporting obligations and provide clarity to the rules. (1) Eliminate in situ cancer of the cervix from the reportable list, remove tobacco history and modify method of reporting stage in the data items list. (2) Amend rule to include specific language to encourage electronic reporting methods. (3) Address ambiguity in the law regarding the reporting obligations of contractors vs. hospitals and clinics. (4) Clarify the rule relating to the disclose of confidential data for public health vs. research purposes.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Public Law 102-515 Cancer Registries Amendment Act, enacted October 24, 1992, and regulated by the National Program of Cancer Registries of the Center for disease Control and Prevention. The CDC publishes a list of criteria for meeting Public Law 102-595. The rules governing the reporting of cancer are reviewed against those criteria.

Process for Developing New Rule: See paragraph below.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Valerie Spadt, Department of Health, WSCR, P.O. Box 47835, Olympia, WA 98584 [98504], (360) 236-3624, vjs1303@doh.wa.gov.

Proposed changes to the rules will be reviewed by the Advisory Council to the Washington State Cancer Registry and a technical work group. Proposed rules changes will then be reviewed and discussed at public work sessions held throughout the state.

October 1, 1999

Eric Slagle
for Mary Selecky
Secretary

Subject of Possible Rule Making: HB 1864 was signed by the governor on May 14, 1999. This bill establishes a new profession called surgical technologists under the secretary, Department of Health. This profession will be registered by the secretary. There is no education, examination or continuing education requirements. Rules need to establish a list of tasks surgical technologists may perform as well as definitions of various terms that will assist surgical technologists in understanding their scope of practice.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 18.215 RCW and RCW 18.130.050.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The statute is vague as to what kinds of tasks a surgical technologist may perform. Rules would outline these tasks and put the surgical technologist applicant and licensee on notice as to their scope. In the event that a surgical technologist were to perform tasks beyond their scope, this would allow the applicant and licensee some advance notice of practice concerns. Some definitions of surgical technologist terms should be developed so that all applicants and licensees are aware of what is meant when these terms are used. This will provide assistance to the applicants and licensees in understanding and following the rules.

Separate rules are being developed to define fees, applications, renewals and appeal procedures.

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 hold several public rule writing workshops to work with students, surgical technologists, schools and facilities who employ surgical technologists. Following the workshops a public rules hearing will be held to take additional input. All persons on the interested person mailing list, schools and targeted facilities will be contacted to participate in this open public process. The dates are set for December 2, 1999, in Seattle and December 3, 1999, in Spokane.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Kendra Pitzler, Program Manager, Department of Health, P.O. Box 47864, Olympia, WA 98504, phone (360) 236-4723, fax (360) 236-4738.

October 1, 1999

Eric Slagle
for Mary Selecky
Secretary

WSR 99-20-067**PREPROPOSAL STATEMENT OF INQUIRY
HOUSING FINANCE COMMISSION**

[Filed October 4, 1999, 11:30 a.m.]

Subject of Possible Rule Making: WAC 262-01-____ (new sections), providing procedures pursuant to which the commission will distribute a portion of the state private activity bond allocation among competing multifamily housing projects.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 43.180.040(3).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The proposed rules establish the commission's procedures for distributing a portion of the state's private activity bond allocation among competing multifamily housing projects.

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 commission will hold a public hearing on January 27, 2000, regarding its proposed rules and will take written comments from persons interested in the development of rules concerning the distribution of the commission's private activity bond allocation. Comments received will be considered by the commission before the final rules are published pursuant to a formal notice.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Mr. Paul Edwards, Director of Capital Projects, Washington State Housing Finance Commission, 1000 Second Avenue, Suite 2700, Seattle, WA 98104-1046. Written comments must be received by January 26, 1999 [2000]. These comments will be considered by the commission at its January 27, 2000, meeting. That meeting shall constitute a public hearing on the proposed rules and the commission will take public comment at that time. Thereafter, the commission shall proceed with rule making.

October 1, 1999

Paul Edwards

Director of Capital Projects

WSR 99-20-074**PREPROPOSAL STATEMENT OF INQUIRY
HIGHER EDUCATION
COORDINATING BOARD**

[Filed October 4, 1999, 2:01 p.m.]

Subject of Possible Rule Making: Washington scholars program.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 28.80 [28B.80] RCW.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The 1999 legislature revised student eligibility criteria for the Washington scholars program. The revisions permit alternates to assume a scholars

award if the original recipient fails to maintain continuous enrollment during the first year of eligibility.

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 Ann McLendon, Program Manager, Higher Education Coordinating Board, 917 Lakeridge Way, P.O. Box 43430, Olympia, WA 98504-3430, (360) 753-7843, fax (360) 704-6243, annm@hecb.wa.gov; or John Klacik, Associate Director, Higher Education Coordinating Board, 917 Lakeridge Way, P.O. Box 43430, Olympia, WA 98504-3430, (360) 753-7851, (360) 704-6243, jklacik@hecb.wa.gov.

October 4, 1999

John Klacik

Associate Director

WSR 99-20-075**PREPROPOSAL STATEMENT OF INQUIRY
HIGHER EDUCATION
COORDINATING BOARD**

[Filed October 4, 1999, 2:01 p.m.]

Subject of Possible Rule Making: The Washington promise scholarship program.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 28B.80 RCW.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The Washington promise scholarship program was created by the 1999 legislature. Rules on this subject will regulate student eligibility, award disbursements, and institutional participation.

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 John Klacik, Associate Director, Higher Education Coordinating Board, 917 Lakeridge Way, P.O. Box 43430, Olympia, WA 98504-3430, phone (360) 753-7851, fax (360) 704-6251, e-mail johnk@hecb.wa.gov.

October 4, 1999

John Klacik

Associate Director

WSR 99-20-104

PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF COMMUNITY,
TRADE AND ECONOMIC DEVELOPMENT

[Filed October 5, 1999, 3:00 p.m.]

Subject of Possible Rule Making: New sections and changes to the existing emergency shelter assistance program (ESAP) WAC 365-120-010 through 365-120-060. The Washington state homeless families plan directs CTED to be the principal state department responsible for providing shelter and housing services to homeless families with children. The plan calls for an increase in ESAP funding and transitional housing programs, including support for operating costs of transitional housing facilities and rental assistance for homeless families with children. This WAC would establish guidelines for these programs.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Washington State Supreme Court's December 1997 decision in *Washington State Coalition for the Homeless v. Department of Social and Health Services*. The legislature has passed E2SHB 1493 (chapter 267, Laws of 1999). Chapter 43.63A RCW and RCW 43.63A.650.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The emergency shelter assistance program is being amended to clarify the existing rules, allow for local flexibility, and aid in the administration of the program. These amendments will update existing definitions, the funding allocation process, applicant eligibility criteria, and allowable activities. New sections will be added to provide guidelines for the allocation and use of funds in the transitional housing program.

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

Process for Developing New Rule: CTED has been working with the Homeless Families Advisory Committee to draft policies and procedures for the new programs described in the homeless families with children plan. The advisory committee is composed of low-income housing providers across the state. CTED staff met with the advisory committee on July 28, 29 and September 1, 1999, to create program guidelines, and has been soliciting additional comments from this group by telephone and e-mail. The final draft of the WAC language will be sent to the committee for review and endorsement. CTED will also mail the proposed WAC to all interested parties prior to the WAC hearing with an invitation for comments. Community forums will be held on October 27 and 28, 1999.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Department of Community, Trade and Economic Development, Attn: Jennifer Turin, Program Manager, P.O. Box 48300, Olympia, WA 98504-8300, phone (360) 753-1928, fax (360) 586-5880, e-mail jent@cted.wa.gov.

October 5, 1999

Jean L. Ameluxen
Director of
Intergovernmental Relations

WSR 99-20-112

PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF LICENSING

[Filed October 6, 1999, 8:43 a.m.]

Subject of Possible Rule Making: Chapter 308-56A WAC, Certificate of title—Motor vehicles etc, to include but not limited to WAC 308-56A-610, 308-56A-620, 308-56A-630, 308-56A-640, 308-56A-650, 308-56A-660, 308-56A-670, 308-56A-680, and 308-56A-690.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 46.01.110 and 46.12.030.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Rule making may be required as a result of this review in accordance with Executive Order 97-02.

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

Process for Developing New Rule: Negotiated rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting by mail Patrick J. Zlateff, Rules Coordinator, Title and Registration Services, Vehicle Services, Mailstop 48001, P.O. Box 2957, Olympia, WA 98507-2957, or by phone (360) 902-3718, fax (360) 664-0831, TDD (360) 664-8885.

October 6, 1999

Deborah McCurley
Administrator

Title and Registration Services

WSR 99-20-138

PREPROPOSAL STATEMENT OF INQUIRY
WASHINGTON STATE PATROL

[Filed October 6, 1999, 10:12 a.m.]

Subject of Possible Rule Making: License fraud adjudicative proceedings.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 46.16.010, 46.68.240, 46.68.255, 46.68.230, 46.68.220, 82.48.020, 82.49.010, 82.50.400, 82.32.090.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The legislature decriminalized license fraud violations and imposed civil penalties. The decriminalization requires a process be established to contest and mitigate penalties incurred. This WAC establishes the procedures for the civil hearings.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The Department of Revenue was represented on a committee to write the proposed RCW adopted by the legislature.

Process for Developing New Rule: State patrol formed a committee comprised of license fraud detective, administrative officers and the attorney general to establish hearing rules. The procedures are still being reviewed by the state patrol administrative officers and the attorney general.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Lieutenant Dave Combs or Lieutenant Grant Hulteen, P.O. Box 42600, Olympia, WA 98504-2600, (360) 753-0208 or (360) 753-0223.

October 6, 1999
Annette M. Sandberg
Chief

WSR 99-20-145
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF LICENSING

[Filed October 6, 1999, 11:44 a.m.]

Subject of Possible Rule Making: Establishing the guidelines for obtaining a practice permit in accordance with RCW 18.210.090.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 18.43.035 and 2SSB 5821, chapter 263, Laws of 1999.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The rules are needed to clearly define the procedure for obtaining a practice permit, who must have the permit, and when it expires. These rules will put the on-site wastewater designers on notice that they must obtain a practice permit and explain how to do that.

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 George A. Twiss, Executive Director, P.O. Box 9649, Olympia, WA 98507-9649, phone (360) 586-3661, fax (360) 664-2551.

October 6, 1999
George A. Twiss
Executive Director

WSR 99-20-146
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF REVENUE

[Filed October 6, 1999, 11:50 a.m.]

Subject of Possible Rule Making: WAC 458-20-166 Hotels, motels, boarding houses, rooming houses, resorts, summer camps, trailer camps, etc.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 82.32.300.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The current rule needs updating to provide information regarding the United States government's new credit card program. The rule also needs to be revised to clarify the conditions under which a lodging provider is considered to be making a tax exempt lease or rental of real property, as opposed to a retail sale of lodging.

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

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. Written comments on and/or requests for copies of the rule may be directed to Alan R. Lynn, Legislation and Policy, P.O. Box 47467, Olympia, WA 98504-7467, phone (360) 586-9040, fax (360) 664-0693, e-mail alanr@dor.wa.gov.

Location and Date of Public Meeting: Evergreen Plaza Building, 2nd Floor Conference Room, 711 Capitol Way, Olympia, WA, on November 10, 1999, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Ginny Dale no later than ten days before the hearing date TDD 1-800-451-7985 or (360) 586-0721.

October 6, 1999
Russell W. Brubaker
Assistant Director
Legislation and Policy Division



WSR 99-20-099
EXPEDITED REPEAL
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Management Services Administration)
[Filed October 5, 1999, 1:06 p.m.]

The Following Sections are Proposed for Expedited Repeal: WAC 388-07-005 Acronyms.

Rules Proposed for Expedited Repeal Meet the Following Criteria: Rule is no longer necessary because of changed circumstances.

Any person who objects to the repeal of the rule must file a written objection to the repeal within thirty days after publication of this preproposal statement of inquiry.

Address Your Objection to: Paige Wall, DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504-5250, e-mail wallpg@dshs.wa.gov, fax (360) 664-6185.

Reason the Expedited Repeal of the Rule is Appropriate: This rule should be repealed because it is outdated, duplicative and redundant. Any acronyms that are relevant to DSHS programs are contained in the program rules.

September 24, 1999

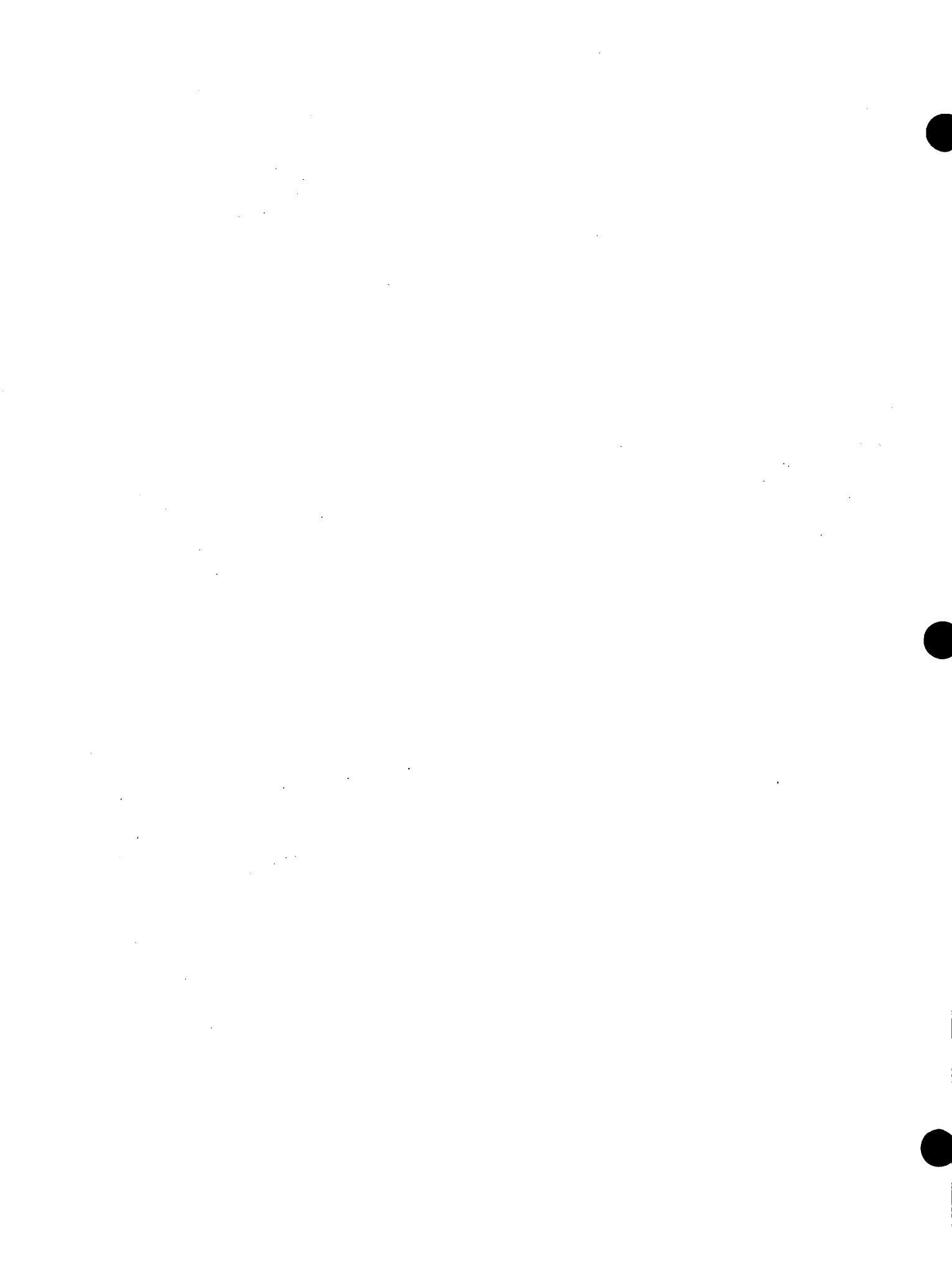
Marie Myerchin-Redifer, Manager
Rules and Policies Assistance Unit

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 388-07-005 Acronyms.

EXPEDITED REPEAL



WSR 99-19-024
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Aging and Adult Services Administration)
 [Filed September 7, 1999, 3:38 p.m.]

Original Notice.

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

Title of Rule:

WAC NUMBER	SECTION TITLE
388-96-010	Definitions.
388-96-202	Scope of audit or department audit.
388-96-218	Proposed, preliminary, and final settlements.
388-96-384	Liquidation or transfer of resident personal funds.
388-96-559	Cost basis of land and depreciation base.
388-96-565	Lives.
388-96-572	Handling of gains and losses upon retirement of depreciable assets—Other periods.
388-96-585	Unallowable costs.
388-96-708	Reinstatement of beds previously removed from service under chapter 70.38 RCW—Effect on prospective payment rate.
388-96-709	Prospective rate revisions—Reduction in licensed beds.
388-96-710	Prospective payment for new contractors.
388-96-714	Nursing facility Medicaid rate allocations—Economic trends and conditions adjustment factors.
388-96-718	Public process for determination of rates.
388-96-723	How often will the department compare the state-wide weighted average payment rate for the capital and noncapital portions of the rate for all nursing facilities with the state-wide weighted average payment rate for the capital and noncapital portions of the rate identified in the Biennial Appropriations Act?
388-96-724	How much advance notice will a nursing facility receive of a rate reduction?
388-96-725	After a RCW 74.46.421 rate reduction, when will a nursing facility's rates return to their previous level?

388-96-726	If a nursing facility's capital and/or noncapital component rates are below the state-wide weighted average payment rate for the capital and/or noncapital portion(s) of the rate identified in the Biennial Appropriations Act, will the department reduce the facility's capital and/or noncapital component rates when it reduces rates under RCW 74.46.421?
388-96-730	How will the department reduce a nursing facility's capital and/or noncapital portion(s) of its rate so that the state-wide weighted average payment rate for the capital and/or noncapital portions of the rate is equal to or less than the state-wide weighted average for the capital and/or noncapital portion(s) of the rate identified in the Biennial Appropriations Act?
388-96-731	When will the department reduce all nursing facilities capital and/or noncapital portion(s) of their rates?
388-96-748	Financing allowance component rate allocation.
388-96-766	Notification of rates—References to rates.
388-96-767	Appraisal values.
388-96-771	Receivership.
388-96-776	Add-ons to the payment rate—Capital improvements.

Purpose:

388-96-010	Adds definitions for "anticipated resident days" and "anticipated resident occupancy." These terms are used in E2SHB 1484, chapter 353, Laws of 1999 Medicaid payment—Nursing facility. Also, defines "nursing facility occupancy percentage," "total rate allocation" and "component rate allocation," which are terms used in chapter 388-96 WAC.
388-96-202	Clarifies that department will audit all resident trust funds.
388-96-218	States how the department will settle calendar year 1998 per directive of RCW 74.46.165.
388-96-384	Changes from forty-five days to thirty days the time allowed for a contractor to transfer personal funds of a deceased resident and final accounting to appropriate jurisdiction or DSHS/Office of Financial Recovery.
388-96-559	Removes return on investment (ROI) and substitutes financing allowance.

PROPOSED

PROPOSED

388-96-565	Requires new buildings receiving certificate of need (CON) approval or exemptions after July 1, 1999 must be depreciated over forty years. Also, for new or replacement buildings or for major renovations receiving CON approval or exemption on or after July 1, 1999, the department will depreciate fixed equipment the same number of years as the life of the building to which it is affixed. In addition, section was revised for clarity.
388-96-572	Removes incorrect reference.
388-96-585	Adds that allowable bad debts will be accounted for in the final settlement process only.
388-96-708	Removes the requirement that to receive an increased rate, the contractor must notify the department thirty days in advance of reinstating banked beds. Clarifies that the post unbanking number of licensed beds must be used in all rate setting.
388-96-709	Uses new definitions in describing how a nursing facility's rate will be changed when it banks beds. Clarifies that the post banking number of licensed beds must be used in all rate setting.
388-96-710	Removes ROI and replaces with financing allowance and variable return.
388-96-714	New section to implement ESSB 5967, chapter 376, Laws of 1999 requiring two economic trends and conditions adjustment factors.
388-96-718	In the public process for determination of rate changes the time allowed for public comment from thirty days to fourteen.
388-96-723, 724, 725, 726 and 731	These sections are revised to identify the Medicaid payment rate as consisting of two parts: Capital and noncapital.
388-96-730	States how the department will reduce a nursing facility's capital and/or noncapital portion(s) of its rate so that the state-wide weighted average payment rate for the capital and/or noncapital portions of the rate is equal to or less than the state-wide weighted average for the capital and/or noncapital portion(s) of the rate identified in the Biennial Appropriations Act.
388-96-748	New section on determining the financing allowance component rate allocation.

388-96-766	Adjustments and updates made after the calendar year in which the adjustments and updates were effective will be accounted for in the final settlement process.
388-96-767, 771 and 776	Changes to these sections reflect the elimination of ROI and the introduction of the two rate components financing allowance and variable return.

Statutory Authority for Adoption: RCW 74.46.165, 74.46.431 as amended by E2SHB 1484, chapter 353, Laws of 1999, ESSB 5967, chapter 376, Laws of 1999 and RCW 74.46.800.

Statute Being Implemented: RCW 74.46.165, [74.46.]020, [74.46.]360, [74.46.]421, [74.46.]431 and ESSB 5967, section 3, chapter 376, Laws of 1999 Sec. 3 1999 c amending (ESSB 5180) s 207 (uncodified).

Summary: The following new WAC sections will implement the changes required by E2SHB 1484, chapter 353, Laws of 1999: WAC 388-96-714 implements two economic trends and conditions adjustment factors; **WAC 388-96-748** implements the determination of financing allowance component rate allocation; and **WAC 388-96-730** implements the department's methodology (required by RCW 74.46.421 a new section from chapter 322, Laws of 1998) for reducing a nursing facility's capital and/or noncapital portion(s) of its rate so that the state-wide weighted average payment rate for the capital and/or noncapital portion(s) of the rate is equal to or less than the state-wide weighted average for the capital and/or noncapital portion(s) of the rate identified in the Biennial Appropriations Act (split of total rate allocation between capital and noncapital in the process required by amendment to RCW 74.46.421, E2SHB 1484, chapter 353, Laws of 1999).

The following existing sections were revised to implement E2SHB 1484, chapter 353, Laws of 1999: WAC 388-96-559, 388-96-710, 388-96-767, 388-96-771, and 388-96-776 are revised to remove references to return on investment and incorporate financing allowance and variable return component rate allocations; **WAC 388-96-565** is revised for clarity and to include new requirement that new buildings after July 1, 1999 must be depreciated over forty years and fixed equipment is depreciated over the life of the building to which it is affixed; and **WAC 388-96-723, 388-96-724, 388-96-726 and 388-96-731** are revised to identify the Medicaid payment rate as consisting of two parts: Capital and noncapital.

Unless otherwise specified the following existing WAC sections were revised under the department's rule-making authority of RCW 74.46.800: WAC 388-96-202 clarifies all resident trust fund audits are subject to audit; **WAC 388-96-218** is to implement RCW 74.46.165(7), section 10, chapter 322, Laws of 1998; **WAC 388-96-384** although RCW 74.46.711 allows forty-five days for transfer of a deceased resident's funds, **WAC 388-97-070 (6)(e)** follows the federal requirement of thirty days. Both RCW 74.46.700 and 74.46.840 require WAC 388-96-384 to state

thirty days; **WAC 388-96-572** removes incorrect reference; **WAC 388-96-585** adds that allowable bad debts will be accounted for in the final settlement process only; **WAC 388-96-708** removes the requirement that to receive an increased rate, the contractor must notify the department thirty days in advance of reinstating banked beds; **WAC 388-96-709** uses new definitions in describing how a NF's rate will be changed when it banks beds. New subsections in **WAC 388-96-708** and **388-96-709** clarify that the post unbanking or banking number of licensed beds must be used in all future minimum occupancy tests; **WAC 388-96-718** in the public process for determination of rate changes the time allowed for public comment is reduced from thirty days to fourteen; and **WAC 388-96-766** adjustments and updates made after the calendar year in which the adjustments and updates were effective will be accounted for in the final settlement process.

Reasons Supporting Proposal: See Summary above.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Patricia Hague, 600 Woodland Square Loop S.E., Lacey, WA 98503, (360) 753-0631.

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: See Purpose above.

Proposal Changes the Following Existing Rules: **The following existing sections were revised to implement E2SHB 1484, chapter 353, Laws of 1999: WAC 388-96-559, 388-96-710, 388-96-767, 388-96-771, and 388-96-776** are revised to remove references to ROI and incorporate FA and VR component rate allocations; **WAC 388-96-565** is revised for clarity and to include new requirement that new buildings after July 1, 1999 must be depreciated over forty years and fixed equipment is depreciated over the life of the building to which it is affixed; and **WAC 388-96-723, 388-96-724, 388-96-726, and 388-96-731** are revised to identify the Medicaid payment rate as consisting of two parts: Capital and noncapital.

Unless otherwise specified the following existing WAC sections were revised under the department's rule-making authority of RCW 74.46.800: WAC 388-96-202 clarifies all resident trust fund audits are subject to audit; **WAC 388-96-218** is to implement RCW 74.46.165(7) amended by section 10, chapter 322, Laws of 1998; **WAC 388-96-384** although RCW 74.46.711 allows forty-five days for transfer a [of] deceased resident funds, the federal requirement is thirty days. Both RCW 74.46.700 and 74.46.840 require the change to thirty days; **WAC 388-96-572** removes incorrect reference; **WAC 388-96-585** adds that allowable bad debts will be accounted for in the final settlement process only. Makes lobbying expenses unallowable costs; **WAC 388-96-708** removes the requirement that to receive an increased rate, the contractor must notify the department thirty days in advance of reinstating banked beds; **WAC 388-96-709** uses new definitions in describing how a

NF's rate will be changed when it banks beds. New subsections in **WAC 388-96-708** and **388-96-709** clarify that the post unbanking or banking number of licensed beds must be used in all rate setting; **WAC 388-96-718** in the public process for determination of rates changes the time allowed for public comment from thirty days to fourteen; and **WAC 388-96-766** adjustments and updates made after the calendar year in which the adjustments and updates were effective will be accounted for in the final settlement process.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Under RCW 18.85.020(1) a small business is defined as one with fewer than fifty employees and whose purpose is to make profit. The revisions to chapter 388-96 WAC only impact businesses with fifty or more employees and approximately one third the businesses are nonprofit. Also the proposed new sections and revisions to chapter 388-96 WAC are exempt from a small business economic impact statement under RCW 19.85.025(2) and 34.05.310 (4)(d) rules that only correct typographical errors make address or name changes, or clarify language of a rule without changing its effect; (e) rules the content of which is explicitly and specifically dictated by statute; and (f) rules that set or adjust fees or rates pursuant to legislative standards.

RCW 34.05.328 applies to this rule adoption. Under RCW 34.05.328 (5)(b)(vi), rules that set or adjust fees or rates pursuant to legislative standards are exempt from RCW 34.05.328. Amendments to and new sections for chapter 388-96 WAC are to implement new sections and amendments to chapter 74.46 RCW made by E2SHB 1484, chapter 353, Laws of 1999 and ESSB 5967, chapter 376, Laws of 1999. RCW 74.46.010 reads as follows: This chapter may be known and cited as the "nursing facility Medicaid payment system." The purposes of this chapter are to specify the manner by which legislative appropriations for Medicaid nursing facility services are to be allocated as payment rates among nursing facilities, and to set forth auditing billing, and other administrative standards associated with payments to nursing home facilities.

Hearing Location: Lacey Government Center (behind Tokyo Bento Restaurant), 1009 College Street S.E., Room 104-B, Lacey, WA 98503, on November 9, 1999, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Paige Wall by October 29, 1999, phone (360) 664-6094, TTY (360) 664-6178, e-mail wallpg@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) 664-6185, by November 9, 1999.

Date of Intended Adoption: November 30, 1999.

September 1, 1999

Marie Myerchin-Redifer, Manager
Rules and Policies Assistance Unit

PROPOSED

AMENDATORY SECTION (Amending WSR 98-20-023, filed 8/14/97 [9/25/98], effective 9/14/97 [10/1/98])

WAC 388-96-010 Definitions. Unless the context indicates otherwise, the following definitions apply in this chapter.

"Accounting" means activities providing information, usually quantitative and often expressed in monetary units, for:

- (1) Decision-making;
- (2) Planning;
- (3) Evaluating performance;
- (4) Controlling resources and operations; and
- (5) External financial reporting to investors, creditors, regulatory authorities, and the public.

"Administration and management" means activities used to maintain, control, and evaluate the efforts and resources of an organization for the accomplishment of the objectives and policies of that organization.

"Allowable costs" ((—)) means documented costs that are necessary, ordinary, and related to the care of Medicaid recipients, and are not expressly declared nonallowable by this chapter or chapter 74.46 RCW. Costs are ordinary if they are of the nature and magnitude that prudent and cost-conscious management would pay.

"Allowable depreciation costs" means depreciation costs of tangible assets, whether owned or leased by the contractor, meeting the criteria specified in RCW 74.46.330.

"Anticipated resident or patient days" are calculated by multiplying the nursing facility's number of licensed beds ((at the nursing facility)) on the effective date of the recalculated Medicaid payment rate allocation by the number of calendar days in the cost report period ((used to set the property rate and multiplying)) on which the department based the Medicaid payment rate allocation that it is recalculating. Then, the product is multiplied by the greater of either the nursing facility's ((expected)) occupancy((, which must be at)) percentage for the cost report period on which the department based the Medicaid payment rate that it is recalculating or eighty-five percent ((or above)).

"Anticipated resident occupancy percentage" is determined by multiplying the number of calendar days in the nursing facility's cost report period on which the department based the Medicaid payment rate that it is recalculating by the number of licensed beds on the effective date of the recalculated Medicaid payment rate allocation. Then, the nursing facility's anticipated resident days are divided by the product. In all determinations that require an anticipated resident occupancy percentage, the department will use the greater of either the nursing facility's anticipated resident occupancy percentage or eighty-five percent.

"Assignment of contract" means:

- (1) A new nursing facility licensee has elected to care for Medicaid residents;
- (2) The department finds no good cause to object to continuing the Medicaid contract at the facility; and
- (3) The new licensee accepts assignment of the immediately preceding contractor's contract at the facility.

"Capitalized lease" means a lease required to be recorded as an asset and associated liability in accordance with generally accepted accounting principles.

"Cash method of accounting" means a method of accounting in which revenues are recorded when cash is received, and expenditures for expense and asset items are not recorded until cash is disbursed for those expenditures and assets.

"Change of ownership" means a substitution of the individual operator or operating entity contracting with the department to deliver care services to medical care recipients in a nursing facility and ultimately responsible for the daily operational decisions of the nursing facility.

(1) Events which constitute a change of ownership include, but are not limited to, the following:

(a) Changing the form of legal organization of the contractor, e.g., a sole proprietor forms a partnership or corporation;

(b) Transferring ownership of the nursing facility business enterprise to another party, regardless of whether ownership of some or all of the real property and/or personal property assets of the facility are also transferred;

(c) Dissolving of a partnership;

(d) Dissolving the corporation, merging the corporation with another corporation, which is the survivor, or consolidating with one or more other corporations to form a new corporation;

(e) Transferring, whether by a single transaction or multiple transactions within any continuous twenty-four-month period, fifty percent or more of the stock to one or more:

(i) New or former stockholders; or

(ii) Present stockholders each having held less than five percent of the stock before the initial transaction; or

(f) Substituting of the individual operator or the operating entity by any other event or combination of events that results in a substitution or substitution of control of the individual operator or the operating entity contracting with the department to deliver care services.

(2) Ownership does not change when the following, without more, occurs:

(a) A party contracts with the contractor to manage the nursing facility enterprise as the contractor's agent, i.e., subject to the contractor's general approval of daily operating and management decisions; or

(b) The real property or personal property assets of the nursing facility change ownership or are leased, or a lease of them is terminated, without a substitution of individual operator or operating entity and without a substitution of control of the operating entity contracting with the department to deliver care services.

"Charity allowance" means a reduction in charges made by the contractor because of the indigence or medical indigence of a patient.

"Component rate allocation(s)" means the initial component rate allocation(s) of the rebased rate for a rebase period effective July 1. If a month and a day, other than July 1, with a year precedes "component rate allocation(s)," it means the initial component rate allocation(s) of the rebased rate of the rebase period has been amended or updated effec-

tive the date that precedes it, e.g., October 1, 1999 direct care component rate allocation.

"**Contract**" means an agreement between the department and a contractor for the delivery of nursing facility services to medical care recipients.

"**Cost report**" means all schedules of a nursing facility's cost report submitted according to the department's instructions.

"**Courtesy allowances**" means reductions in charges in the form of an allowance to physicians, clergy, and others, for services received from the contractor. Employee fringe benefits are not considered courtesy allowances.

"**Donated asset**" means an asset the contractor acquired without making any payment for the asset either in cash, property, or services. An asset is not a donated asset if the contractor:

(1) Made even a nominal payment in acquiring the asset;

or

(2) Used donated funds to purchase the asset.

"**Equity capital**" means total tangible and other assets which are necessary, ordinary, and related to patient care from the most recent provider cost report minus related total long-term debt from the most recent provider cost report plus working capital as defined in this section.

"**Fiscal year**" means the operating or business year of a contractor. All contractors report on the basis of a twelve-month fiscal year, but provision is made in this chapter for reports covering abbreviated fiscal periods. As determined by context or otherwise, "**fiscal year**" may also refer to a state fiscal year extending from July 1 through June 30 of the following year and comprising the first or second half of a state fiscal biennium.

"**Gain on sale**" means the actual total sales price of all tangible and intangible nursing facility assets including, but not limited to, land, building, equipment, supplies, goodwill, and beds authorized by certificate of need, minus the net book value of such assets immediately prior to the time of sale.

"**Intangible asset**" is an asset that lacks physical substance but possesses economic value.

"**Interest**" means the cost incurred for the use of borrowed funds, generally paid at fixed intervals by the user.

"**Multiservice facility**" means a facility at which two or more types of health or related care are delivered, e.g., a hospital and nursing facility, or a boarding home and nursing facility.

"**Nonadministrative wages and benefits**" means wages, benefits, and corresponding payroll taxes paid for nonadministrative personnel, not to include administrator, assistant administrator, or administrator-in-training.

"**Nonallowable costs**" means the same as "**unallowable costs**."

"**Nonrestricted funds**" means funds which are not restricted to a specific use by the donor, e.g., general operating funds.

"**Nursing facility occupancy percentage**" is determined by multiplying the number of calendar days for the cost report period by the number of licensed beds for the

same cost report period. Then, the nursing facility's actual resident days for the same cost report period is divided by the product. In all determinations that require a nursing facility occupancy percentage, the department will use the greater of either a nursing facility's occupancy percentage or eighty-five percent.

"**Per diem (per patient day or per resident day) costs**" means total allowable costs for a fiscal period divided by total patient or resident days for the same period.

"**Prospective daily payment rate**" means the rate assigned by the department to a contractor for providing service to medical care recipients prior to the application of settlement principles.

"**Recipient**" means a Medicaid recipient.

"**Related care**" includes:

- (1) The director of nursing services;
- (2) Activities and social services programs;
- (3) Medical and medical records specialists; and
- (4) Consultation provided by:
 - (a) Medical directors; and
 - (b) Pharmacists.

"**Relative**" includes:

- (1) Spouse;
- (2) Natural parent, child, or sibling;
- (3) Adopted child or adoptive parent;
- (4) Stepparent, stepchild, stepbrother, stepsister;
- (5) Father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law;
- (6) Grandparent or grandchild; and
- (7) Uncle, aunt, nephew, niece, or cousin.

"**Start-up costs**" means the one-time preopening costs incurred from the time preparation begins on a newly constructed or purchased building until the first patient is admitted. Start-up costs include:

- (1) Administrative and nursing salaries;
- (2) Utility costs;
- (3) Taxes;
- (4) Insurance;
- (5) Repairs and maintenance; and
- (6) Training costs.

Start-up costs do not include expenditures for capital assets.

"**Total rate allocation**" means the initial rebased rate for a rebase period effective July 1. If a month and a day, other than July 1, with a year precedes "total rate allocation," it means the initial rebased rate of the rebase period has been amended or updated effective the date that precedes it, e.g., October 1, 1999 direct care component rate allocation.

"**Unallowable costs**" means costs which do not meet every test of an allowable cost.

"**Uniform chart of accounts**" means a list of account titles identified by code numbers established by the department for contractors to use in reporting costs.

"**Vendor number**" means a number assigned to each contractor delivering care services to medical care recipients.

(~~"**Working capital**" means total current assets necessary, ordinary, and related to patient care from the most recent cost report minus total current liabilities necessary;~~

ordinary, and related to patient care from the most recent cost report.)

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

AMENDATORY SECTION (Amending WSR 98-20-023, filed 9/25/98, effective 10/1/98)

WAC 388-96-202 Scope of audit or department audit. (1) The department ((shall)) will review the contractor's recordkeeping and accounting practices and, where appropriate, make written recommendations for improvements.

(2) The department's audit ((shall)) will result in a schedule of summarizing adjustments to the contractor's cost report. The schedule ((shall)) will show whether such adjustments eliminate costs reported or include costs not reported. Each adjustment listed ((shall)) will include an explanation for the adjustment, the cost report account, and the dollar amount. In accordance with chapter 74.46 RCW, the department ((shall)) will comply with the purpose of department audits by verifying that:

(a) Supporting records are in agreement with reported data;

(b) Only those assets, liabilities, and revenue and expense items the department has specified as allowable have been included by the contractor in computing the costs of services provided under its contract;

(c) Allowable costs have been accurately determined and are necessary, ordinary, and related to resident care;

(d) Related organizations and beneficial ownerships or interests have been correctly disclosed;

(e) Home office or central office costs have been reported and allocated in accordance with the provisions of this chapter and chapter 74.46 RCW;

(f) Recipient and non-Medicaid resident trust funds have been properly maintained and disbursed;

(g) Facility receivables do not include benefits or payments to which the provider is not entitled; and

(h) The contractor is otherwise in compliance with the provisions of this chapter and chapter 74.46 RCW.

(3) In complying with the purpose of department audits in chapter 74.46 RCW, the department may select any or all schedules of a facility's cost report. The department ((shall)) will audit cost reports, resident trust fund accounts, and facility receivables of each nursing facility participating in the Medicaid payment system as determined necessary by the department.

(4) When determining the contractor's final settlement, the department ((shall)) will apply to reported costs adjustments written under subsection (2), whether used for the purpose of establishing component rate allocations as described in chapter 74.46 RCW or to ascertain contractor compliance with subsection (2).

AMENDATORY SECTION (Amending WSR 98-20-023, filed 9/25/98, effective 10/1/98)

WAC 388-96-218 Proposed, preliminary, and final settlements. (1) For each component rate, the department

shall calculate a settlement at the lower of prospective payment rate or audited allowable costs, except as otherwise provided in this chapter.

(2) In the proposed settlement report, a contractor shall compare the contractor's payment rates during a report period, weighted by the number of resident days reported for the period when each rate was in effect, to the contractor's allowable costs for the reporting period. The contractor shall take into account all authorized shifting, retained savings, and upper limits to rates on a cost center basis.

(a) Within one hundred twenty days after a proposed settlement report is received, the department shall:

(i) Review the proposed settlement report for accuracy; and

(ii) Either accept or reject the proposal of the contractor. If accepted, the proposed settlement report shall become the preliminary settlement report. If rejected, the department shall issue, by cost center, a preliminary settlement report fully substantiating disallowed costs, refunds, or underpayments due and adjustments to the proposed preliminary settlement.

(b) A contractor shall have twenty-eight days after receipt of a preliminary settlement report to contest such report under WAC 388-96-901 and 388-96-904. Upon expiration of the twenty-eight-day period, the department shall not review or adjust a preliminary settlement report. Any administrative review of a preliminary settlement shall be limited to calculation of the settlement, to the application of settlement principles and rules, or both, and shall not encompass rate or audit issues.

(3) The department shall issue a final settlement report to the contractor after the completion of the department audit process, including exhaustion or termination of any administrative review and appeal of audit findings or determinations requested by the contractor, but not including judicial review as may be available to and commenced by the contractor.

(a) The department shall prepare a final settlement by cost center and shall fully substantiate disallowed costs, refunds, underpayments, or adjustments to the cost report and financial statements, reports, and schedules submitted by the contractor. The department shall take into account all authorized shifting, savings, and upper limits to rates on a cost center basis. For the final settlement report, the department shall compare:

(i) The payment rate the contractor was paid for the facility in question during the report period, weighted by the number of allowable resident days reported for the period each rate was in effect to the contractor's;

(ii) Audited allowable costs for the reporting period; or

(iii) Reported costs for the nonaudited reporting period.

(b) A contractor shall have twenty-eight days after the receipt of a final settlement report to contest such report pursuant to WAC 388-96-901 and 388-96-904. Upon expiration of the twenty-eight-day period, the department shall not review a final settlement report. Any administrative review of a final settlement shall be limited to calculation of the settlement, the application of settlement principles and rules, or both, and shall not encompass rate or audit issues.

(c) The department shall reopen a final settlement if it is necessary to make adjustments based upon findings resulting

from a department audit performed pursuant to RCW 74.46.100. The department may also reopen a final settlement to recover an industrial insurance dividend or premium discount under RCW 51.16.035 in proportion to a contractor's Medicaid recipients.

(4) In computing a preliminary or final settlement, a contractor may shift savings and/or overpayment in the support services cost center to cover a deficit and/or underpayment in the direct care or therapy cost centers up to the amount of the savings as provided in RCW 74.46.165(4). The provider's payment rate is subject to the provisions of RCW 74.46.421.

(5) If an administrative or judicial remedy sought by the facility is not granted or is granted only in part after exhaustion or mutual termination of all appeals, the facility shall refund all amounts due the department within sixty days after the date of decision or termination plus interest as payment on judgments from the date the review was requested pursuant to WAC 388-96-901 and WAC 388-96-904 to the date the repayment is made.

(6) In determining whether a facility has forfeited unused rate funds in its direct care, therapy care and support services component rates under authority of RCW 74.46.165(3), the following rules shall apply:

(a) Federal or state survey officials shall determine when a facility is not in substantial compliance or is providing substandard care, according to federal and state nursing facility survey regulations;

(b) Correspondence from state or federal survey officials notifying a facility of its compliance status shall be used to determine the beginning and ending dates of any period(s) of noncompliance; and

(c) Forfeiture shall occur if the facility was out of substantial compliance more than ninety days during the settlement period. The ninety-day period need not be continuous if the number of days of noncompliance exceed ninety days during the settlement period regardless of the length of the settlement period. Also, forfeiture shall occur if the nursing facility was determined to have provided substandard quality of care at any time during the settlement period.

(7)(a) For calendar year 1998, the department will calculate two settlements covering the following periods:

(i) January 1, 1998 through September 30, 1998; and

(ii) October 1, 1998 through December 31, 1998.

(b) The department will use Medicaid rates weighted by total patient days (i.e., Medicaid and non-Medicaid days) to divide 1998 costs between the two settlement periods identified in subsection (7)(a) of this section.

(c) The department will net the two settlements for 1998 to determine a nursing facility's 1998 settlement.

AMENDATORY SECTION (Amending WSR 95-19-037 (Order 3896), filed 9/12/95, effective 10/13/95)

WAC 388-96-384 Liquidation or transfer of resident personal funds. (1) Upon the death of a resident, the facility shall promptly convey the resident's personal funds held by the facility with a final accounting of such funds to the department or to the individual or probate jurisdiction administering the resident's estate.

(a) If the deceased resident was a recipient of long-term care services paid for in whole or in part by the state of Washington then the personal funds held by the facility and the final accounting shall be sent to the state of Washington, department of social and health services, office of financial recovery (or successor office).

(b) The personal funds of the deceased resident and final accounting must be conveyed to the individual or probate jurisdiction administering the resident's estate or to the state of Washington, department of social and health services, office of financial recovery (or successor office) no later than the ((~~forty-fifth~~)) thirtieth day after the date of the resident's death.

(i) When the personal funds of the deceased resident are to be paid to the state of Washington, those funds shall be paid by the facility with a check, money order, certified check or cashier's check made payable to the secretary, department of social and health services, and mailed to the Office of Financial Recovery, Estate Recovery Unit, P.O. Box 9501, Olympia, Washington 98507-9501, or such address as may be directed by the department in the future.

(ii) The check, money order, certified check or cashier's check or the statement accompanying the payment shall contain the name and social security number of the deceased individual from whose personal funds account the monies are being paid.

(c) The department of social and health services shall establish a release procedure for use of funds necessary for burial expenses.

(2) In situations where the resident leaves the nursing home without authorization and the resident's whereabouts is unknown:

(a) The nursing facility shall make a reasonable attempt to locate the missing resident. This includes contacting:

(i) Friends,

(ii) Relatives,

(iii) Police,

(iv) The guardian, and

(v) The community services office in the area.

(b) If the resident cannot be located after ninety days, the nursing facility shall notify the department of revenue of the existence of "abandoned property," outlined in chapter 63.29 RCW. The nursing facility shall deliver to the department of revenue the balance of the resident's personal funds within twenty days following such notification.

(3) Prior to the sale or other transfer of ownership of the nursing facility business, the facility operator shall:

(a) Provide each resident or resident representative with a written accounting of any personal funds held by the facility;

(b) Provide the new operator with a written accounting of all resident funds being transferred; and

(c) Obtain a written receipt for those funds from the new operator.

AMENDATORY SECTION (Amending WSR 97-17-040, filed 8/14/97, effective 9/14/97)

WAC 388-96-559 Cost basis of land and depreciation base. (1) For all partial or whole rate periods after December

31, 1984 unless otherwise provided or limited by this chapter or by this section, chapter 388-96 WAC or chapter 74.46 RCW, the total depreciation base of depreciable assets and the cost basis of land shall be the lowest of:

(a) The contractor's appraisal, if any;
 (b) The department's appraisal obtained through the department of general administration of the state of Washington, if any; or

(c) The historical purchase cost of the contractor, or lessor if the assets are leased by the contractor, in acquiring ownership of the asset in an arm's-length transaction, and preparing the asset for use, less goodwill, and less accumulated depreciation, if applicable, incurred during periods the assets have been used in or as a facility by any and all contractors. Such accumulated depreciation is to be measured in accordance with subsection (5) of this section and WAC 388-96-561, 388-96-565, and 388-96-567. Where the straight-line or sum-of-the-years digits method of depreciation is used the contractor:

(i) May deduct salvage values from historical costs for each cloth based item, e.g., mattresses, linen, and draperies; and

(ii) Shall deduct salvage values from historical costs of at least:

(A) Five percent of the historical value for each noncloth item included in moveable equipment; and

(B) Twenty-five percent of the historical value for each vehicle.

(2) Unless otherwise provided or limited by this chapter or by chapter 74.46 RCW, the department shall, in determining the total depreciation base of a depreciable real or personal asset owned or leased by the contractor, deduct depreciation relating to all periods subsequent to the more recent of:

(a) The date such asset was first used in the medical care program; or

(b) The most recent date such asset was acquired in an arm's-length purchase transaction which the department is required to recognize for Medicaid cost reimbursement purposes.

No depreciation shall be deducted for periods such asset was not used in the medical care program or was not used to provide nursing care.

(3) The department may have the fair market value of the asset at the time of purchase established by appraisal through the department of general administration of the state of Washington if:

(a) The department challenges the historical cost of an asset; or

(b) The contractor cannot or will not provide the historical cost of a leased asset and the department is unable to determine such historical cost from its own records or from any other source.

The contractor may allocate or reallocate values among land, building, improvements, and equipment in accordance with the department's appraisal.

If an appraisal is conducted, the depreciation base of the asset and cost basis of land will not exceed the fair market value of the asset. An appraisal conducted by or through the

department of general administration shall be final unless the appraisal is shown to be arbitrary and capricious.

(4) If the land and depreciable assets of a newly constructed nursing facility were never used in or as a nursing facility before being purchased from the builder, the cost basis and the depreciation base shall be the lesser of:

(a) Documented actual cost of the builder; or

(b) The approved amount of the certificate of need issued to the builder.

When the builder is unable or unwilling to document its costs, the cost basis and the depreciation base shall be the approved amount of the certificate of need.

(5) For leased assets, the department may examine documentation in its files or otherwise obtainable from any source to determine:

(a) The lessor's purchase acquisition date; or

(b) The lessor's historical cost at the time of the last arm's-length purchase transaction.

If the department is unable to determine the lessor's acquisition date by review of its records or other records, the department, in determining fair market value as of such date, may use the construction date of the facility, as found in the state fire marshal's records or other records, as the lessor's purchase acquisition date of leased assets.

(6) For all rate periods past or future, where depreciable assets or land are acquired from a related organization, the contractor's depreciation base and land cost basis shall not exceed the base and basis the related organization had or would have had under a contract with the department.

(7) If a contractor cannot or will not provide the lessor's purchase acquisition cost of assets leased by the contractor and the department is unable to determine historical purchase cost from another source, the appraised asset value of land, building, or equipment, determined by or through the department of general administration shall be adjusted, if necessary, by the department using the *Marshall and Swift Valuation Guide* to reflect the value at the lessor's acquisition date. If an appraisal has been prepared for leased assets and the assets subsequently sell in the first arm's-length transaction since January 1, 1980, under subsection (9) of this section, the *Marshall and Swift Valuation Guide* will be used to adjust, if necessary, the asset value determined by the appraisal to the sale date. If the assets are located in a city for which the *Marshall and Swift Valuation Guide* publishes a specific index, or if the assets are located in a county containing that city, the city-specific index shall be used to adjust the appraised value of the asset. If the assets are located in a city or county for which a specific index is not calculated, the *Western District Index* calculated by Marshall and Swift shall be used.

(8) For new or replacement building construction or for substantial building additions requiring the acquisition of land and which commenced to operate on or after July 1, 1997, the department shall determine allowable land costs of the additional land acquired for the new or replacement construction or for substantial building additions to be the lesser of:

(a) The contractor's or lessor's actual cost per square foot; or

(b) The square foot land value as established by an appraisal that meets the latest publication of the *Uniform Standards of Professional Appraisal Practice (USPAP)* and the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA). The department shall obtain a USPAP appraisal that meets FIRREA first from:

(i) An arms'-length lender that has accepted the ordered appraisal; or

(ii) If the department is unable to obtain from the arms'-length lender a lender-approved appraisal meeting USPAP and FIRREA standards or if the contractor or lessor is unable or unwilling to provide or cause to be provided a lender-approved appraisal meeting USPAP and FIRREA standards, then:

(A) The department shall order such an appraisal; and

(B) The contractor shall immediately reimburse the department for the costs incurred in obtaining the USPAP and FIRREA appraisal.

(9) Except as provided for in subsection (8) of this section, for all rates effective on or after January 1, 1985, if depreciable assets or land are acquired by purchase which were used in the medical care program on or after January 1, 1980, the depreciation base or cost basis of such assets shall not exceed the net book value existing at the time of such acquisition or which would have existed had the assets continued in use under the previous Medicaid contract with the department; except that depreciation shall not be accumulated for periods during which such assets were not used in the medical care program or were not in use in or as a nursing care facility.

(10)(a) Subsection (9) of this section shall not apply to the most recent arm's-length purchase acquisition if it occurs ten years or more after the previous arm's-length transfer of ownership nor shall subsection (9) of this section apply to the first arm's-length purchase acquisition of assets occurring on or after January 1, 1980, for facilities participating in the Medicaid program before January 1, 1980. The depreciation base or cost basis for such acquisitions shall not exceed the lesser of the fair market value as of the date of purchase of the assets determined by an appraisal conducted by or through the department of general administration or the owner's acquisition cost of each asset, land, building, or equipment. An appraisal conducted by or through the department of general administration shall be final unless the appraisal is shown to be arbitrary and capricious. Should a contractor request a revaluation of an asset, the contractor must document ten years have passed since the most recent arm's-length transfer of ownership. As mandated by Section 2314 of the Deficit Reduction Act of 1984 (P.L. 98-369) and state statutory amendments, and under RCW 74.46.840, for all partial or whole rate periods after July 17, 1984, this subsection is inoperative for any transfer of ownership of any asset, including land and all depreciable or nondepreciable assets, occurring on or after July 18, 1984, leaving subsection (9) of this section to apply without exception to acquisitions occurring on or after July 18, 1984, except as provided in subsections (10)(b) and (11) of this section.

(b) For all rates after July 17, 1984, subsection (8)(a) shall apply, however, to transfers of ownership of assets:

(i) Occurring before January 1, 1985, if the costs of such assets have never been reimbursed under Medicaid cost reimbursement on an owner-operated basis or as a related party lease; or

(ii) Under written and enforceable purchase and sale agreements dated before July 18, 1984, which are documented and submitted to the department before January 1, 1988.

(c) For purposes of Medicaid cost reimbursement under this chapter, an otherwise enforceable agreement to purchase a nursing home dated before July 18, 1984, shall be considered enforceable even though the agreement contains:

(i) No legal description of the real property involved; or

(ii) An inaccurate legal description, notwithstanding the statute of frauds or any other provision of law.

(11)(a) In the case of land or depreciable assets leased by the same contractor since January 1, 1980, in an arm's-length lease, and purchased by the lessee/contractor, the lessee/contractor shall have the option to have the:

(i) Provisions of subsection (10) of this section apply to the purchase; or

(ii) ~~((Reimbursement))~~ Component rate allocations for property and ~~((return on investment continue to be))~~ financing allowance calculated under the provisions ~~((contained in))~~ of chapter 74.46 RCW ((74.46.530 (1)(e) and (f) and WAC 388-96-754(5))). ~~((Reimbursement shall))~~ Component rate allocations will be based upon provisions of the lease in existence on the date of the purchase, but only if the purchase date meets the criteria of RCW 74.46.360 (6)(c)(ii)(A) through (D).

(b) The lessee/contractor may select the option in subsection (11)(a)(ii) of this section only when the purchase date meets one of the following criteria. The purchase date is:

(i) After the lessor has declared bankruptcy or has defaulted in any loan or mortgage held against the leased property;

(ii) Within one year of the lease expiration or renewal date contained in the lease;

(iii) After a rate setting for the facility in which the reimbursement rate set, under this chapter and under chapter 74.46 RCW, no longer is equal to or greater than the actual cost of the lease; or

(iv) Within one year of any purchase option in existence on January 1, 1988.

(12) For purposes of establishing the property and ~~((return on investment))~~ financing allowance component rate ~~((s))~~ allocations, the value of leased equipment, if unknown by the contractor, may be estimated by the department using previous department of general administration appraisals as a data base. The estimated value may be adjusted using the *Marshall and Swift Valuation Guide* to reflect the value of the asset at the lessor's purchase acquisition date.

AMENDATORY SECTION (Amending WSR 97-17-040, filed 8/14/97, effective 9/14/97)

WAC 388-96-565 Lives. (1) Except for new buildings ~~((, major remodels and major repair projects as defined in subsection (3) of this section, the contractor shall use lives~~

reflecting the estimated actual useful life of assets, for example, land improvements, buildings, equipment, leasehold improvements, and other assets. Lives shall not be shorter than guideline lives published by the American Hospital Association in computing allowable depreciation. In cases of newly constructed buildings containing newly licensed nursing home beds, the shortest lives shall be the most recently published lives for construction classes as defined and described in the *Marshall Valuation Service* published by the Marshall Swift Publication Company.

(2) The contractor shall measure lives from the date on which the assets were first used in the medical care program or from the date of the most recent arm's-length acquisition by purchase of the asset, whichever is more recent. The contractor shall extend lives to reflect periods, if any, during which assets were not used to provide nursing care or were not used in the medical care program.

(3) Effective July 1, 1997, for depreciable assets acquired on or after July 1, 1997 including new facilities, major remodels, and major repair projects that begin operating on or after July 1, 1997, the department shall use the most current edition of *Estimated Useful Lives of Depreciable Hospital Assets* published by the American Hospital Publishing, Inc., to determine the useful life of depreciable assets; new building, major remodels, and major repair projects; provided that, the shortest life that may be used for new buildings is thirty years. New building, major remodels, and major repair projects are those projects that meet or exceed the expenditure minimum established by the department of health pursuant to chapter 70.38 RCW) replacement buildings, major remodels and major repair projects as defined in subsection (5) of this section, to compute allowable depreciation, the contractor must use lives reflecting the estimated actual useful life of the assets (e.g., land improvements, buildings, including major remodels and major repair projects, equipment, leasehold improvements, etc.). However the lives used must not be shorter than guidelines lives in the most current edition of *Estimated Useful Lives of Depreciable Hospital Assets* published by American Hospital Publishing, Inc.

(2) To compute allowable depreciation for major remodels and major repair projects as defined in subsection (5) of this section that began operating:

(a) Before July 1, 1997, the contractor must use the shortest lives in the most recently published lives for construction classes as defined and described in the *Marshall Valuation Service* published by the Marshall Swift Publication Company; or

(b) After July 1, 1997, the contractor must use the shortest lives of the guideline lives in the most current edition of *Estimated Useful Lives of Depreciable Hospital Assets* published by American Hospital Publishing, Inc.

(3) To compute allowable depreciation for new buildings and replacement buildings as defined in subsection (5) of this section that:

(a) Began operating before July 1, 1997, the contractor must use the construction classes as defined and described in *Marshall Valuation Service* published by the Marshall Swift

Publication Company; provided that, thirty years is the shortest life that may be used;

(b) Began operating on or after July 1, 1997, the contractor must use the most current edition of *Estimated Useful Lives of Depreciable Hospital Assets* published by American Hospital Publishing, Inc.; provided that, thirty years is shortest life that may be used; and

(c) Received certificate of need approval or certificate of need exemptions under chapter 70.38 RCW on or after July 1, 1999, the contractor must use the most current edition of *Estimated Useful Lives of Depreciable Assets* published by American Hospital Publishing, Inc.; provided that, forty years is the shortest life that may be used.

(4) To compute allowable depreciation, the contractor must:

(a) Measure lives from the most recent of either the date on which the assets were first used in the medical care program or the last date of purchase of the asset through an arm's-length acquisition; and

(b) Extend lives to reflect periods, if any, during which assets were not used in a nursing facility or as a nursing facility.

(5) New buildings, replacement buildings, major remodels, and major repair projects are those projects that meet or exceed the expenditure minimum established by the department of health pursuant to chapter 70.38 RCW.

((4)) (6) Contractors shall depreciate building improvements other than major remodels and major repairs defined in subsection ((3)) (5) of this section over the remaining useful life of the building, as modified by the improvement, but not less than fifteen years.

((5)) (7) Improvements to leased property which are the responsibility of the contractor under the terms of the lease shall be depreciated over the useful life of the improvement in accordance with American Hospital Association guidelines.

((6)) (8) A contractor may change the estimate of an asset's useful life to a longer life for purposes of depreciation.

(9) For new or replacement building construction or for major renovations receiving certificate of need approval or exemption under chapter 70.38 RCW on or after July 1, 1999, the department will depreciate fixed equipment the same number of years as the life of the building to which it is affixed.

AMENDATORY SECTION (Amending WSR 93-12-051 (Order 3555), filed 5/26/93, effective 6/26/93)

WAC 388-96-572 Handling of gains and losses upon retirement of depreciable assets—Other periods. (1) This section shall apply in the place of WAC 388-96-571 effective January 1, 1981, for purposes of settlement for settlement periods subsequent to that date, and for purposes of setting rates for rate periods beginning July 1, 1982, and subsequently.

(2) A gain or loss on the retirement of an asset shall be the difference between the remaining undepreciated base and any proceeds received for, or to compensate for loss of, the asset.

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(3) If the retired asset is replaced, the gain or loss shall be applied against or added to the cost of the replacement asset, provided that a loss will only be so applied if the contractor has made a reasonable effort to recover at least the outstanding book value of the asset.

(4) If the retired asset is not replaced, any gain shall be offset against property expense for the period during which it is retired and any loss shall be expensed subject to the provisions of WAC 388-96-554((7)).

AMENDATORY SECTION (Amending WSR 98-20-023, filed 9/25/98, effective 10/1/98)

WAC 388-96-585 Unallowable costs. (1) The department shall not allow costs if not documented, necessary, ordinary, and related to the provision of care services to authorized patients. Unallowable costs listed in subsection (2) of this section represent a partial summary of such costs, in addition to those unallowable under chapter 74.46 RCW and this chapter.

(2) The department shall include, but not limit, unallowable costs to the following:

(a) Costs in excess of limits or violating principles set forth in this chapter;

(b) Costs resulting from transactions or the application of accounting methods circumventing principles set forth in this chapter;

(c) Bad debts. Beginning July 1, 1983, the department shall allow bad debts of Title XIX recipients only if:

(i) The debt is related to covered services;

(ii) It arises from the recipient's required contribution toward the cost of care;

(iii) The provider can establish reasonable collection efforts were made;

(iv) The debt was actually uncollectible when claimed as worthless; and

(v) Sound business judgment established there was no likelihood of recovery at any time in the future.

Reasonable collection efforts shall consist of at least three documented attempts by the contractor to obtain payment demonstrating that the effort devoted to collecting the bad debts of Title XIX recipients is the same devoted by the contractor to collect the bad debts of non-Title XIX recipients. The department will account for allowable Title XIX recipient bad debts through the final settlement process only;

(d) Any portion of trade association dues attributable to legal and consultant fees and costs in connection with lawsuits or other legal action against the department shall be unallowable;

(e) Legal and consultant fees in connection with a fair hearing against the department relating to those issues where:

(i) A final administrative decision is rendered in favor of the department or where otherwise the determination of the department stands at the termination of administrative review; or

(ii) In connection with a fair hearing, a final administrative decision has not been rendered; or

(iii) In connection with a fair hearing, related costs are not reported as unallowable and identified by fair hearing docket number in the period they are incurred if no final

administrative decision has been rendered at the end of the report period; or

(iv) In connection with a fair hearing, related costs are not reported as allowable, identified by docket number, and prorated by the number of issues decided favorably to a contractor in the period a final administrative decision is rendered;

(f) All interest costs not specifically allowed in this chapter or chapter 74.46 RCW; and

(g) Increased costs resulting from a series of transactions between the same parties and involving the same assets, e.g., sale and lease back, successive sales or leases of a single facility or piece of equipment.

AMENDATORY SECTION (Amending WSR 98-20-023, filed 9/25/98, effective 10/1/98)

WAC 388-96-708 Reinstatement of beds previously removed from service under chapter 70.38 RCW—Effect on prospective payment rate. (1) After removing beds from service (banked) under the provisions of chapter 70.38 RCW the contractor may bring back into service beds that were previously banked.

(2) When the contractor returns to service beds banked under the provisions of chapter 70.38 RCW, the department will recalculate the contractor's prospective payment rate allocations based on the facility's anticipated resident occupancy level following the increase in licensed bed capacity.

(3) The effective date of the recalculated prospective rate for beds returned to service:

(a) ~~((Between the first and the fifteenth))~~ Before the sixteenth of a month, shall be the first of the month in which the banked beds returned to service; or

(b) ~~((Between the sixteenth and the end))~~ After the fifteenth of a month, shall be the first of the month following the month in which the banked beds returned to service.

(4) The recalculated prospective payment rate shall comply with all the provisions of rate setting contained in chapter 74.46 RCW or in this chapter, including all lids and maximums unless otherwise specified in this section.

(5) The recalculated prospective Medicaid payment rate shall be subject to adjustment if required by RCW 74.46.421.

(6) After the department recalculates the contractor's prospective Medicaid component rate allocations using the increased number of licensed beds and until the number of licensed beds changes, the department will use the contractor's post unbanking number of licensed beds in all rate setting.

AMENDATORY SECTION (Amending WSR 98-20-023, filed 9/25/98, effective 10/1/98)

WAC 388-96-709 Prospective rate revisions—Reduction in licensed beds. (1) The department will revise a contractor's prospective Medicaid payment rate when the contractor reduces the number of its licensed beds and:

(a) ~~((Notifies the department in writing thirty days before the licensed bed reduction; and~~

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~~(b) Supplies~~) Provides a copy of the new bed license and documentation of the number of beds sold, exchanged or otherwise placed out of service, along with the name of the contractor that received the beds, if any; and

~~((e))~~ (b) Requests a rate revision.

(2) The revised prospective Medicaid payment rate ~~((shall))~~ will comply with all the provisions of rate setting contained in chapter 74.46 RCW and in this chapter, including all lids and maximums, unless otherwise specified in this section.

(3) The revised prospective Medicaid payment rate ~~((shall))~~ will be effective the first of a month determined as follows:

(a) When the contractor complies with subsection (1)(a) and ~~((and (e)))~~ of this section and the effective date of the licensed bed reduction falls:

(i) Between the first and the fifteenth of the month, then the revised prospective Medicaid payment rate is effective the first of the month in which the licensed bed reduction occurs; or

(ii) Between the sixteenth and the end of the month, then the revised prospective Medicaid payment rate is effective the first of the month following the month in which the licensed bed reduction occurs.

(b) The department ~~((shall))~~ will revise a nursing facility's prospective Medicaid payment rate to reflect a reduction in licensed beds as follows:

(i) The department ~~((shall))~~ will use the reduced total number of licensed beds to determine the nursing facility's anticipated resident occupancy percentage used to calculate the direct care, therapy care, support services ~~((and))~~, operations ~~((rate))~~ and variable return component rate allocations. If the actual nursing facility occupancy percentage from the rate base cost report is:

(A) At or ~~((over))~~ above eighty-five percent before the reduction and ~~((remains))~~ the anticipated resident occupancy percentage is at or above eighty-five percent, ~~((there will be no change to))~~ the department will recompute the component rate allocations using anticipated resident days;

(B) Less than eighty-five percent before the reduction and ~~((changes to))~~ the anticipated resident occupancy percentage is at or above eighty-five percent, ~~((then))~~ the department will recompute the component ~~((s))~~ rate allocations using ~~((actual rate based))~~ anticipated resident days resident days; or

(C) Less than eighty-five percent before the reduction and ~~((remains))~~ the anticipated residency occupancy percentage is below eighty-five percent, ~~((then))~~ the department will recompute the component ~~((s))~~ rate allocations using ~~((the change in))~~ anticipated resident days ~~((from the rate base cost report resulting from the reduced number of licensed beds used to calculate the eighty-five percent))~~.

(ii) To determine occupancy used to calculate the property and ~~((return on investment (ROI)))~~ financing allowance rate component allocations, the department ~~((shall))~~ will use the facility's anticipated resident occupancy level subsequent to the decrease in licensed bed capacity as long as the occupancy for the reduced number of beds is at or above eighty-five percent and in no case shall the department use less than

eighty-five percent occupancy of the facility's reduced licensed bed capacity.

(4) After the department recalculates the contractor's prospective Medicaid component rate allocations using the decreased number of licensed beds and until the number of licensed beds changes, the department will use the contractor's post banking number of licensed beds in all rate setting.

AMENDATORY SECTION (Amending WSR 98-20-023, filed 9/25/98, effective 10/1/98)

WAC 388-96-710 Prospective payment rate for new contractors. (1) The department shall establish an initial prospective Medicaid payment rate for a new contractor as defined under WAC 388-96-026 within sixty days following the new contractor's application and approval for a license to operate the facility under chapter 18.51 RCW. The rate shall take effect as of the effective date of the contract, except as provided in this section, and shall comply with all the provisions of rate setting contained in chapter 74.46 RCW and in this chapter, including all lids and maximums set forth.

(2) Except for quarterly updates per RCW 74.46.501 (7)(c), the rate established for a new contractor as defined in WAC 388-96-026 (1)(a) or (b) shall remain in effect for the nursing facility until the rate can be reset effective July 1 using the first cost report for that facility under the new contractor's operation containing at least six months' data from the prior calendar year, regardless of whether reported costs for facilities operated by other contractors for the prior calendar year in question will be used to cost rebase their July 1 rates. The new contractor's rate thereafter shall be cost rebased only as provided in this chapter and chapter 74.46 RCW.

(3) To set the initial prospective Medicaid payment rate for a new contractor as defined in WAC 388-96-026 (1)(a) and (b), the department shall:

(a) Determine whether the new contractor nursing facility belongs to the metropolitan statistical area (MSA) peer group or the non-MSA peer group using the latest information received from the office of management and budget or the appropriate federal agency;

(b) Select all nursing facilities from the department's records of all the current Medicaid nursing facilities in the new contractor's peer group with the same bed capacity plus or minus ten beds. If the selection does not result in at least seven facilities, then the department will increase the bed capacity by plus or minus five bed increments until a sample of at least seven nursing facilities is obtained;

(c) Based on the information for the nursing facilities selected under subsection (3)(b) of this section and available to the department on the day the new contractor began participating in the Medicaid payment rate system at the facility, rank from the highest to the lowest the component rate allocation in direct care, therapy care, support services, and operations cost centers and based on this ranking:

(i) Determine the middle of the ranking and then identify the rate immediately above the median for each cost center identified in subsection (3)(c) of this section. The rate immediately above the median will be known as the "selected rate" for each cost center;

(ii) Set the new contractor's nursing facility component rate allocation for therapy care, support services, and operations at the "selected rate";

(iii) Set the direct care rate using data from the direct care "selected" rate facility identified in (c) of this subsection as follows:

(A) The cost per case mix unit shall be the rate base allowable case mixed direct care cost per patient day for the direct care "selected" rate facility, whether or not that facility is held harmless under WAC 388-96-728 and 388-96-729, divided by the facility average case mix index per WAC 388-96-741;

(B) The cost per case mix unit determined under (c)(iii)(A) of this subsection shall be multiplied by the Medicaid average case mix index per WAC 388-96-740. The product shall be the new contractor's direct care rate under case mix; and

(C) The department shall not apply RCW 74.46.506 (5)(k) to any direct care rate established under subsection (5)(e) or (f) of this section. A new contractor whose direct care rate was established under subsection (5)(e) or (f) of this section is not eligible to be paid by a "hold harmless" rate as determined under RCW 74.46.506 (5)(k);

(iv) Set the property rate in accordance with the provisions of this chapter and chapter 74.46 RCW; and

(v) Set the ~~((return on investment))~~ financing allowance and variable return component rate allocations in accordance with the provisions of this chapter and chapter 74.46 RCW. In computing the ~~((financing allowance))~~ variable return component rate allocation, the department shall use for direct care, therapy care, support services and operations ~~((cost centers the rates))~~ rate allocations set pursuant to subsection (3)(c)(i), (ii) and (iii) of this section.

(d) Any subsequent revisions to the rate component allocations of the sample members will not impact a "selected rate" component allocation of the initial prospective rate established for the new contractor under this subsection.

(4) For the WAC 388-96-026 (1)(a) or (b) new contractor, the department shall establish rate component allocations for:

(a) Direct care, therapy care, support services and operations ~~((cost centers))~~ based on the "selected rates" as determined under subsection (3)(c) of this section that are in effect on the date the new contractor began participating in the program; ~~((and))~~

(b) Property in accordance with the provisions of this chapter and chapter 74.46 RCW using for the new contractor as defined under:

(i) WAC 388-96-026 (1)(a), information from the certificate of need; or

(ii) WAC 388-96-026 (1)(b), information provided by the new contractor within ten days of the date the department requests the information in writing. If the contractor as defined under WAC 388-96-026 (1)(b), has not provided the requested information within ten days of the date requested, then the property rate will be zero. The property rate will remain zero until the information is received~~((:));~~

(c) ~~((Return on investment rate))~~ Variable return in accordance with the provisions of this chapter and chapter 74.46 RCW using the "selected rates" established under sub-

section (3)(c) of this section that are in effect on the date the new contractor began participating in the program~~((to compute the working capital provision and variable return)); and~~ (d) Financing allowance using for the new contractor as defined under:

(i) WAC 388-96-026 (1)(a), information from the certificate of need; or

(ii) WAC 388-96-026 (1)(b), information provided by the new contractor within ten days of the date the department requests the information in writing. If the contractor as defined under WAC 388-96-026 (1)(b), has not provided the requested information within ten days of the date requested, then the net book value of allowable assets will be zero. The financing allowance rate component allocation will remain zero until the information is received.

(5) The initial prospective payment rate for a new contractor as defined under WAC 388-96-026 (1)(a) or (b) shall be established under subsections (3) and (4) of this section. If the WAC 388-96-026 (1)(a) or (b) contractor's initial rate:

(a) Was set before January 1, 1997, and the contractor does not have six months or greater of cost report data for 1996, the October 1, 1998, rate will be set using the contractor's 1997 cost report. Its July 1, 1999, and July 1, 2000, rates will not be cost rebased;

(b) Was set between January 1, 1997, and June 30, 1997, the October 1, 1998, rate will be set using the contractor's 1997 cost report. Its July 1, 1999, and July 1, 2000, rates will not be cost rebased;

(c) Was set between July 1, 1997, and June 30, 1998, the October 1, 1998, rate will be the revised initial sample based rate using October 1, 1998, rate data for direct care, therapy care, support services, and operations, and following the steps identified in subsection (3)(c)(i) and (ii) of this section. There will be no change to the facilities identified in the initial rate under subsection (3)(b) of this section. There will be no change to the property rate. The financing allowance will be revised. The contractor's July 1, 1999, rate will be rebased using 1998 cost report data. Its July 1, 2000, rate will not be cost rebased;

(d) Was set between July 1, 1998, and September 30, 1998, the October 1, 1998, rate will be the revised initial sample based rate using October 1, 1998, rate data for direct care, therapy care, support services, and operations, and following the steps identified in subsection (3)(c)(i) and (ii) of this section. There will be no change to the facilities identified in the initial rate under subsection (3)(b) of this section. There will be no change to the property rate. The financing allowance will be revised. The July 1, 1999, rate will be revised in the same manner using July 1, 1999, rate data. The July 1, 2000, rate will be rebased using 1999 cost report data;

(e) Is set between October 1, 1998, and June 30, 1999, the initial rate is set in accordance with subsections (3) and (4) of this section. The July 1, 1999, rate will be the revised initial sample based rate using July 1, 1999, rate data for direct care, therapy care, support services, and operations, and following the steps identified in subsection (3)(c)(i) and (ii) of this section. There will be no change to the facilities identified in the initial rate under subsection (3)(b) of this section. There will be no change to the property ~~((rate:))~~ and the financing allowance ~~((will be revised))~~ component rate

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allocations. The department will revise the variable return component rate allocation. The July 1, 2000, rate will be rebased using 1999 cost report data; or

(f) Is set between July 1, 1999, and June 30, 2000, the initial rate is set in accordance with subsections (3) and (4) of this section. The July 1, 2000, rate will be the revised initial sample based rate using July 1, 2000, rate data for direct care, therapy care, support services, and operations, and following the steps identified in subsection (3)(c)(i) and (ii) of this section. There will be no change to the facilities identified in the initial rate under subsection (3)(b) of this section. There will be no change to the property ((rate-)) and the financing allowance ((will be revised)) component rate allocations. The department will revise the variable return component rate allocation.

(6) For the WAC 388-96-026 (1)(c) new contractor, the initial prospective payment rate shall be the last prospective payment rate the department paid to the Medicaid contractor operating the nursing facility immediately prior to the effective date of the new Medicaid contract or assignment. If the WAC 388-96-026 (1)(c) contractor's initial rate:

(a) Was set before January 1, 1997, and the new contractor does not have a cost report containing at least six months' data from 1996, its October 1, 1998, rate will be set by using twelve months of cost report data derived from the old contractor's data and the new contractor's data for the 1996 cost report year and its July 1, 1999, and July 1, 2000, rates will not be cost rebased;

(b) Was set between January 1, 1997, and September 30, 1998, its October 1, 1998, rate will be set by using the old contractor's 1996 twelve months' cost report data and its July 1, 1999, and July 1, 2000, rates will not be cost rebased; or

(c) Is set on or after October 1, 1998, its July 1, 1999, and July 1, 2000, rates will not be cost rebased.

(7) A prospective payment rate set for all new contractors shall be subject to adjustments for economic trends and conditions as authorized and provided in this chapter and in chapter 74.46 RCW. For the WAC 388-96-026 (1)(a) or (b) new contractor, to adjust the October 1, 1998, payment rate for economic trends and conditions, the department shall apply a 2.96 percent inflation factor to direct care, therapy care, support services, and operations rate components.

(8) For a WAC 388-96-026 (1)(a), (b) or (c), the Medicaid case mix index and facility average case mix index shall be determined in accordance with this chapter and chapter 74.46 RCW.

NEW SECTION

WAC 388-96-714 Nursing facility Medicaid rate allocations—Economic trends and conditions adjustment factors. (1)(a) For July 1, 1999, the department will increase the following component rate allocations for each nursing facility by two percent:

- (i) Direct care based on case mix requirements of RCW 74.46.506 (5)(g);
- (ii) Therapy care;
- (iii) Support services; and
- (iv) Operations.

(b) For direct care based on case mix, the department will apply the two percent increase allowed under subsection (1)(a)(i) of this section to the total of the component rate allocations identified in subsection (1)(a) of this section after the direct care component rate allocation is adjusted for case-mix changes and before application of any reductions required by RCW 74.46.421.

(c) For July 1, 1999, the department will increase by one percent the direct care component rate allocation based on the requirements of RCW 74.46.506 (5)(k)(i).

(2) For July 1, 2000, the department will increase each nursing facility's component rate allocations in the same manner as described in subsection (1) of this section. The department will base the direct care component rate allocation of subsection (1)(c) of this section on the requirements of RCW 74.46.506 (5)(k)(ii).

(3)(a) After applying subsection (1) of this section, the department will determine whether a nursing facility's July 1 total rate allocation will be adjusted by an additional economic trends and conditions factor. The department will adjust a nursing facility's July 1 total rate allocation set pursuant to this chapter and chapter 74.46 RCW when it is less than its April 1, 1999 total rate allocation adjusted for case mix changes. Whether the April 1, 1999 or July 1 direct care rate allocation is determined by case mix under RCW 74.46.506 (a) through (j) or a hold harmless rate under RCW 74.46.506(k), the department will determine whether the July 1 total rate allocation is less than the April 1, 1999 total rate allocation adjusted for case mix changes by:

(i) Calculating the nursing facility's April 1, 1999 direct care component rate allocation by applying the case mix index (CMI) used to set the nursing facility's July 1 direct care component rate allocation;

(ii) Comparing the April 1, 1999 direct care component rate allocation determined by applying the CMI used to determine the nursing facility's July 1 direct care component rate allocation with its direct care component rate allocation of September 30, 1998.

(iii) Adding the higher of the April 1, 1999 direct care component rate allocation based on the CMI used to set the July 1 direct care component rate allocation or the nursing facility's September 30, 1998 direct care component rate allocation to the remaining April 1, 1999 component rate allocations to establish the April 1, 1999 total rate allocation adjusted for case mix changes;

(iv) Comparing the April 1, 1999 total rate allocation adjusted for case mix changes pursuant to subsection (3)(a)(i), (ii), and (iii) of this section with the July 1 total rate allocation set pursuant to this chapter and chapter 74.46 RCW; and

(v) Determining an additional economic trends and conditions factor for the nursing facility when its April 1, 1999 total rate allocation adjusted for case mix changes pursuant to subsection (3)(a)(i), (ii), and (iii) of this section is greater than the facility's July 1 total rate allocation.

(b) The department will determine the additional economic trends and conditions factor by determining the percentage that the April 1, 1999 total rate allocation determined pursuant to subsection (3)(a)(i), (ii), and (iii) of this section is greater than the July 1 total rate allocation. The

percentage is the additional economic trends and condition factor.

(c) For each nursing facility whose April 1, 1999 total rate allocation adjusted for case mix changes pursuant to subsection (3)(a) of this section is greater than its July 1 total rate allocation, the department will increase each of its July 1 component rate allocations by the nursing facility's additional economic trends and condition factor determined pursuant to subsection (3)(a) and (b) of this section. A nursing facility's additional economic trends and condition factor will be reduced proportionately by the percentage by which total supplemental payments to all nursing facilities would exceed the funds provided for such payments in the biennial appropriations act.

(d) The department will adjust by an additional economic trends and conditions factor determined pursuant to subsection (3)(a) and (b) of this section only the amount of a nursing facility's total rate allocation or its amended or updated total rate allocation that has not resulted from the nursing facility, under WAC 388-96-708, reinstating beds that were previously removed from service (i.e., banked) under chapter 70.38 RCW.

(4) After the initial determination under subsection (3) of this section of whether a nursing facility's July 1 total rate allocation will be adjusted by an additional economic trends and conditions factor, the department may amend or update a nursing facility's April 1, 1999 total rate allocation including any or all component rate allocations and/or its July 1 total rate allocation including any or all component rate allocations. If any amendments or updates occur, then the department will apply subsection (3) using the newly amended or updated April 1, 1999 total rate allocation and/or component rate allocation(s) and/or the amended or updated total rate allocation and/or component rate allocation(s).

AMENDATORY SECTION (Amending WSR 98-19-062, filed 9/16/98, effective 10/17/98)

WAC 388-96-718 Public process for determination of rates. (1) The purpose of this section is to describe the manner in which the department will comply with the federal Balanced Budget Act of 1997, Section 4711 (a)(1), codified at 42 U.S.C. 1396a (a)(13)(A).

(2) For all material changes to the methodology for determining nursing facility Medicaid payment rates occurring after October 1, 1997, and requiring a Title XIX state plan amendment to be submitted to and approved by the Health Care Financing Administration under applicable federal laws, the department shall follow the following public process:

(a) The proposed estimated initial payment rates, the proposed new methodologies for determining the payment rates, and the underlying justifications shall be published. Publication shall be:

(i) In the Washington State Register; or

(ii) In the Seattle Times and Spokane Spokesman Review newspapers.

(b) The department shall maintain and update as needed a mailing list of all individuals and organizations wishing to receive notice of changes to the nursing facility Medicaid

payment rate methodology, and all materials submitted for publication shall be sent postage prepaid by regular mail to such individuals and organizations. Individuals and organizations wishing to receive notice shall notify the department in writing.

(c) Nursing facility (~~providers~~) contractors, their associations, nursing facility Medicaid beneficiaries, representatives of (~~providers~~) contractors or beneficiaries, and other concerned members of the public shall be given a reasonable opportunity to review and comment on the proposed estimated rates, methodologies and justifications. The period allowed for review and comment shall not be less than (~~thirty~~) fourteen calendar days after the date of the Washington State Register containing the published material or the date the published material has appeared in both the Seattle Times and the Spokane Spokesman Review.

(d) If, after receiving and considering all comments, the department decides to move ahead with any change to its nursing facility Medicaid payment rate methodology, it shall adopt needed further changes in response to comments, if any, and shall publish the final estimated initial rates, final rate determination methodologies and justifications. Publication shall be:

(i) In the Washington State Register; or

(ii) In the Seattle Times and Spokane Spokesman Review newspapers.

(e) Unless an earlier effective date is required by state or federal law, implementation of final changes in methodologies and commencement of the new rates shall not occur until final publication has occurred in the Register or in both designated newspapers. The department shall not be authorized to delay implementation of, or to alter, ignore or violate requirements of, state or federal laws in response to public process comments.

(f) Publication of proposed estimated initial payment rates and final estimated initial payment rates shall be deemed complete once the department has published:

(i) The statewide average proposed estimated initial payment rate weighted by adjusted Medicaid resident days for all Medicaid facilities from the most recent cost report year, including the change from the existing statewide average payment rate weighted by adjusted Medicaid resident days for all Medicaid facilities from the most recent cost report year; and

(ii) The statewide average final estimated initial payment rate weighted by adjusted Medicaid resident days for all Medicaid facilities from the most recent cost report year, including the change from the existing statewide average payment rate weighted by adjusted Medicaid resident days for all Medicaid facilities from the most recent cost report year.

(3) Nothing in this section shall be construed to prevent the department from commencing or completing the public process authorized by this section even though the proposed changes to the methodology for determining nursing facility Medicaid payment rates are awaiting federal approval, or are the subject of pending legislative, gubernatorial or rule-making action and are yet to be finalized in statute and/or regulation.

(4)(a) Neither a contractor nor any other interested person or organization shall challenge, in any administrative appeals or exception procedure established in rule by the department under the provisions of chapter 74.46 RCW, the adequacy or validity of the public process followed by the department in proposing or implementing a change to the payment rate methodology, regardless of whether the challenge is brought to obtain a ruling on the merits or simply to make a record for subsequent judicial or other review. Such challenges shall be pursued only in courts of proper jurisdiction as may be provided by law.

(b) Any challenge to the public process followed by the department that is brought in the course of an administrative appeals or exception procedure shall be dismissed by the department or presiding officer, with prejudice to further administrative review and record-making, but without prejudice to judicial or other review as may be provided by law.

(5) The public process required and authorized by this section shall not apply to any change in the payment rate methodology that does not require a Title XIX state plan amendment under applicable federal laws, including but not limited to:

(a) Prospective or retrospective changes to nursing facility payment rates or to methodologies for establishing such rates ordered by a court or administrative tribunal, after exhaustion of all appeals by either party as may be authorized by law, or the expiration of time to appeal; or

(b) Changes to nursing facility payment rates for one or more facilities resulting from the application of authorized payment rate methodologies, principles or adjustments, including but not limited to: partial or phased-in termination or implementation of rate methodologies; scheduled cost rebasing; quarterly or other updates to reflect changes in case mix or other private or public source data used to establish rates; adjustments for inflation or economic trends and conditions; rate funding for capital improvements or new requirements imposed by the department; changes to resident-specific or exceptional care rates; and changes to correct errors or omissions by the contractor or the department.

AMENDATORY SECTION (Amending WSR 98-20-023, filed 9/25/98, effective 10/1/98)

WAC 388-96-723 How often will the department compare the state-wide weighted average payment rate for the capital and noncapital portions of the rate for all nursing facilities with the state-wide weighted average payment rate for the capital and noncapital portions of the rate identified in the biennial appropriations act? (1) On a monthly basis, the department will compare the state-wide weighted average payment rate for the capital and noncapital portions of the rate for all nursing facilities with the state-wide weighted average payment rate for the capital and noncapital portions of the rate identified in the biennial appropriations act.

(2) To determine the state-wide weighted average payment rate for the capital and/or noncapital portion of the rate, the department ~~((shall))~~ **will** use total billed Medicaid days ~~((and total billed Medicaid dollars)).~~

~~(2) Under RCW 74.46.421, the department must implement a reduction in all nursing facilities' component rates any time its comparison indicates that the state-wide weighted average payment rate for all nursing facilities:~~

~~(a) Exceeds the state-wide weighted average payment rate identified in the Biennial Appropriations Act; or~~

~~(b) Is likely to exceed the state-wide weighted average payment rate identified in the Biennial Appropriations Act)) incurred in the calendar year immediately preceding the current fiscal year for the purpose of weighting the July 1 capital and/or noncapital rates that have been adjusted, or updated pursuant to chapter 74.46 RCW and this chapter.~~

AMENDATORY SECTION (Amending WSR 98-20-023, filed 9/25/98, effective 10/1/98)

WAC 388-96-724 How much advance notice will a nursing facility receive of a rate reduction? (1) The department will notify the nursing facility at least twenty-eight calendar days in advance of the effective date of a reduction taken under RCW 74.46.421.

(2) ~~((The))~~ **A** rate reduction taken under RCW 74.46.421 will be effective the first day of the month following the twenty-eight calendar day advance notice.

AMENDATORY SECTION (Amending WSR 98-20-023, filed 9/25/98, effective 10/1/98)

WAC 388-96-725 After ~~((the))~~ a RCW 74.46.421 rate reduction~~((s))~~ when will a nursing facility's rates return to their previous level? (1) The department will not reverse any rate reductions ~~((to all nursing facilities' component rates))~~ taken in accordance with RCW 74.46.421 ~~((will not be reversed)).~~

(2) If after a reduction a nursing facility is eligible to receive an increase in a capital and/or noncapital component rate for some unrelated change~~((;))~~ (e.g., a change in the Medicaid case mix index causes the direct care rate to increase), the department ~~((must))~~ **will** apply the increase to the rate reduced by application of RCW 74.46.421.

(3) Reductions made under RCW 74.46.421 are cumulative. ~~((When a monthly comparison indicates that the state-wide weighted average payment rate for all nursing facilities will exceed or exceeds the state-wide weighted average payment rate identified in the Biennial Appropriations Act, under RCW 74.46.421,))~~ **The department** ~~((must))~~ **will** reduce the capital and/or noncapital component rates for all nursing facilities without reversing any previous reductions ~~((or forgoing any future reductions)).~~

AMENDATORY SECTION (Amending WSR 98-20-023, filed 9/25/98, effective 10/1/98)

WAC 388-96-726 If a nursing facility's capital and/or noncapital component rates are below the state-wide weighted average payment rate for the capital and/or noncapital portion(s) of the rate identified in the biennial appropriations act, will the department reduce the facility's capital and/or noncapital component rates when it

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~~((makes a rate reduction))~~ **reduces rates** under RCW 74.46.421? (1) Even if an individual nursing facility's capital and/or noncapital component rates are below the state-wide weighted average payment rate for the capital and/or noncapital portion(s) of the rate identified in the biennial appropriations act, the department ~~((must))~~ **will** reduce the nursing facility's capital and/or noncapital component rates as required under RCW 74.46.421.

(2) The department ~~((shall))~~ **will** not exempt any nursing facility from a component rates reduction required by RCW 74.46.421 for any circumstance, e.g., billed Medicaid days, under-spending of the biennial appropriation for nursing facility rates, etc.

NEW SECTION

WAC 388-96-730 How will the department reduce a nursing facility's capital and/or noncapital portion(s) of its rate so that the statewide weighted average payment rate for the capital and/or noncapital portion(s) of the rate is equal to or less than the statewide weighted average for the capital and/or noncapital portion(s) of the rate identified in the biennial appropriations act? (1) The department will determine a percentage reduction factor (PRF) that, when applied to all nursing facilities' capital and/or noncapital portion(s) of their rates will result in a statewide weighted average payment rate for the capital and/or noncapital portion(s) of their rates that is equal to or less than the statewide weighted average payment rate for capital and/or noncapital portion(s) of the rate identified in the biennial appropriations act.

(2) By applying various percentages to the capital and/or noncapital portion(s) of the rates for all nursing facilities, the department will identify the percentage(s) that reduce(s) the statewide weighted average payment rate for the capital and/or noncapital portion(s) of the rate to be equal to or less than the statewide weighted average payment rate for the capital and/or noncapital portion(s) of the rate identified in the biennial appropriations act.

(3) The percentage(s) identified in subsection (2) of this section will be the PRF(s). The department will apply the PFR(s) equally to all rate component allocations of each nursing facility's capital and/or noncapital portions of the rate.

NEW SECTION

WAC 388-96-731 When will the department reduce all nursing facilities capital and/or noncapital portion(s) of their rates? (1) Under RCW 74.46.421, the department will reduce the capital portion of the rate for each nursing facility when the statewide weighted average payment rate for the capital portion of the rate for all nursing facilities exceeds or is likely to exceed the statewide weighted average payment rate for the capital portion of the rate identified in the biennial appropriations act.

(2) Under RCW 74.46.421, the department will reduce the noncapital portion of the rate for each nursing facility when the statewide weighted average payment rate for the

noncapital portion of the rate exceeds or is likely to exceed the statewide weighted average payment rate for the noncapital portion of the rate identified in the biennial appropriations act.

NEW SECTION

WAC 388-96-748 Financing allowance component rate allocation. (1) Beginning July 1, 1999, for each Medicaid nursing facility, the department will establish a financing allowance component rate allocation. The financing allowance component rate allocation will be rebased annually, effective July 1st, in accordance with this chapter and chapter 74.46 RCW.

(2) The department will determine the financing allowance component rate allocation by:

(a) Multiplying the net invested funds of each nursing facility by the applicable factor identified in subsection (3) of this section; and

(b) Dividing the sum of the products by the greater of:

(i) A nursing facility's total resident days from the most recent cost report period; or

(ii) Resident days calculated on eighty-five percent facility occupancy.

(3)(a) The multiplication factor required by subsection (2) (a) of this section is determined by the acquisition date of the tangible fixed asset(s). For each nursing facility, the department will multiply the net invested funds for assets acquired:

(i) Before May 17, 1999 by a factor of .10; and/or

(ii) On or after May 17, 1999 by a factor of .085.

(b) The department will apply the factor of .10 to the net invested funds pertaining to new construction or major renovations:

(i) That received certificate of need approval before May 17, 1999;

(ii) That received an exemption from certificate of need requirements under chapter 70.38 RCW before May 17, 1999; or

(iii) for which the nursing facility submitted working drawings to the department of health for construction review before May 17, 1999.

(c) For a new contractor as defined under WAC 388-96-026 (1)(c), assets acquired from the former contractor will retain their initial acquisition dates when determining the new contractor's financing allowance under this section.

AMENDATORY SECTION (Amending Order 1264, filed 1/9/78)

WAC 388-96-766 Notification of rates. (1) The department will notify each contractor in writing of its prospective ~~((reimbursement))~~ Medicaid payment rate allocation. Unless otherwise specified at the time it is issued, the ~~((rate))~~ Medicaid payment rate allocation and/or component rate allocation(s) will be effective from the first day of the month in which it ~~((they))~~ is (are) issued ~~((until a new rate becomes effective))~~. If a Medicaid payment rate allocation and/or component rate allocation(s) is ~~((changed))~~ amended as the result of an appeal in accordance with WAC 388-96-904, it

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will be effective as of the date the rate appealed from became effective.

(2) If a total Medicaid payment rate allocation and/or component rate allocation(s) is (are) adjusted, updated or amended after the calendar year in which the adjustment or update was effective, then the department will account for any amounts owed through the settlement process.

AMENDATORY SECTION (Amending WSR 84-12-039 (Order 2105), filed 5/30/84)

WAC 388-96-767 Appraisal values. If a contractor is unwilling or unable to provide and document the lessor's historical cost of leased assets, the department shall arrange for an appraisal of such assets to be conducted by the state of Washington department of general administration. If such an appraisal is conducted, it shall be the basis for all property and ~~((return on investment reimbursement))~~ financing allowance component rate allocations, except that: If documentation subsequently becomes available to the department establishing the lessor's historical cost is less than the appraisal value, the historical cost shall be the basis for all property and ~~((return on investment reimbursement))~~ financing allowance component rate allocations.

AMENDATORY SECTION (Amending WSR 90-09-061 (Order 2970), filed 4/17/90, effective 5/18/90)

WAC 388-96-771 Receivership. (1) If the nursing home is providing care to recipients of state medical assistance, the receiver shall:

- (a) Become the Medicaid contractor for the duration of the receivership period;
- (b) Assume all reporting responsibilities for new contractors;
- (c) Assume all other responsibilities for new contractors set forth in this chapter; and
- (d) Be responsible for the refund of Medicaid rate payments in excess of costs during the period of receivership.

(2) In establishing the prospective rate during receivership the department shall consider:

(a) Compensation, if any, ordered by the court for the receiver. Such compensation may already be available to the receiver through the rate as follows:

- (i) ~~((The return on investment))~~ Financing allowance and variable return component rate allocations, or
- (ii) The administrator's salary in the case of facilities where the receiver is also the administrator.

If these existing sources of compensation are less than what was ordered by the court, additional costs may be allowed in the rate up to the compensation amount ordered by the court.

(b) Start-up costs and costs of repairs, replacements, and additional staff needed for patient health, security, and welfare. To the extent such costs can be covered through ~~((return on investment))~~ the financing allowance and the variable return component rate allocations, no additional monies will be added to the rate;

(c) Any other allowable costs as set forth in this chapter.

(3)(a) Upon order of the court, the department shall provide emergency or transitional financial assistance to a receiver not to exceed thirty thousand dollars.

(b) The department shall recover any emergency or transitional expenditure made by the department on behalf of a nursing home not certified to participate in the Medicaid Title XIX program from revenue generated by the facility which is not obligated to the operation of the facility.

(c) In order to help recover an emergency or transitional expenditure, regardless of whether the facility is certified to participate in the Medicaid Title XIX program or not, the department may:

(i) File an action against the former licensee or owner at the time the expenditure is made to recover such expenditure; or

(ii) File a lien on the facility or on the proceeds of the sale of the facility.

(4) If recommendations on receiver's compensation are solicited from the department by the court, the department shall consider the following:

- (a) The range of compensation for nursing home managers;
- (b) Experience and training of the receiver;
- (c) The size, location, and current condition of the facility;
- (d) Any additional factors deemed appropriate by the department.

(5) When the receivership terminates, the department may revise the nursing home's Medicaid reimbursement. The Medicaid reimbursement rate for:

(a) The former owner or licensee shall be what it was before receivership, unless the former owner or licensee requests prospective rate revisions from the department as set forth in this chapter; and

(b) Licensed replacement operators shall be determined consistent with rules governing prospective reimbursement rates for new contractors as set forth in this chapter.

AMENDATORY SECTION (Amending WSR 98-20-023, filed 9/25/98, effective 10/1/98)

WAC 388-96-776 Add-ons to the payment rate—Capital improvements. (1) The department shall grant an add-on to a payment rate for any capitalized additions or replacements made as a condition for licensure or certification; provided, the net rate effect is ten cents per patient day or greater.

(2) The department shall grant an add-on to a prospective rate for capitalized improvements done under RCW 74.46.431(12); provided, the legislature specifically appropriates funds for capital improvements for the biennium in which the request is made and the net rate effect is ten cents per patient day or greater. Physical plant capital improvements include, but are not limited to, capitalized additions, replacements or renovations made as a result of an approved certificate of need or exemption from the requirements for certificate of need for the replacement of existing nursing facility beds pursuant to RCW 70.38.115 (13)(a) or capitalized additions or renovations for the removal of physical plant waivers.

(3) Rate add-ons granted pursuant to subsection (1) or (2) of this section shall be limited in total amount each fiscal year to the total current legislative appropriation, if any, specifically made to fund the Medicaid share of such rate add-ons for the fiscal year. Rate add-ons are subject to the provisions of RCW 74.46.421.

(4) When physical plant improvements made under subsection (1) or (2) of this section are completed in phases, the department shall not grant a rate add-on for any addition, replacement or improvement until each phase is completed and fully utilized for the purpose for which it was intended. The department shall limit rate add-on to only the actual cost of the depreciable tangible assets meeting the criteria of RCW 74.46.330 and as applicable to that specific completed and fully utilized phase.

(5) When the construction class of any portion of a newly constructed building will improve as the result of any addition, replacement or improvement occurring in a later, but not yet completed and fully utilized phase of the project, the most appropriate construction class, as applicable to that completed and fully utilized phase, will be assigned for purposes of calculating the rate add-on. The department shall not revise the rate add-on retroactively after completion of the portion of the project that provides the improved construction class. Rather, the department shall calculate a new rate add-on when the improved construction class phase is completed and fully utilized and the rate add-on will be effective in accordance with subsection (9) of this section using the date the class was improved.

(6) The department shall not add on construction fees as defined in WAC 388-96-747 and other capitalized allowable fees and costs as related to the completion of all phases of the project to the rate until all phases of the entire project are completed and fully utilized for the purpose it was made. At that time, the department shall add on these fees and costs to the rate, effective no earlier than the earliest date a rate add-on was established specifically for any phase of this project. If the fees and costs are incurred in a later phase of the project, the add-on to the rate will be effective on the same date as the rate add-on for the actual cost of the tangible assets for that phase.

(7) The contractor requesting an adjustment under subsection (1) or (2) shall submit a written request to the office of rates management separate from all other requests and inquiries of the department, e.g., WAC 388-96-904 (1) and (5). A complete written request shall include the following:

(a) A copy of documentation requiring completion of the addition or replacements to maintain licensure or certification for adjustments requested under subsection (1) of this section;

(b) A copy of the new bed license, whether the number of licensed beds increases or decreases, if applicable;

(c) All documentation, e.g., copies of paid invoices showing actual final cost of assets and/or service, e.g., labor purchased as part of the capitalized addition or replacements;

(d) Certification showing the completion date of the capitalized additions or replacements and the date the assets were placed in service per RCW 74.46.360;

(e) A properly completed depreciation schedule for the capitalized additions or replacement as provided in this chapter;

(f) A written justification for granting the rate increase; and

(g) For capitalized additions or replacements requiring certificate of need approval, a copy of the approval and description of the project.

(8) The department's criteria used to evaluate the request may include, but is not limited to:

(a) The remaining functional life of the facility and the length of time since the facility's last significant improvement;

(b) The amount and scope of the renovation or remodel to the facility and whether the facility will be better able to serve the needs of its residents;

(c) Whether the improvement improves the quality of living conditions of the residents;

(d) Whether the improvement might eliminate life safety, building code, or construction standard waivers;

(e) Prior survey results; and

(f) A review of the copy of the approval and description of the project.

(9) The department shall not grant a rate add-on effective earlier than sixty days prior to the receipt of the initial written request by the office of rates management and not earlier than the date the physical plant improvements are completed and fully utilized. The department shall grant a rate add-on for an approved request as follows:

(a) If the physical plant improvements are completed and fully utilized during the period from the first day to the fifteenth day of the month, then the rate will be effective on the first day of that month; or

(b) If the physical plant improvements are completed and fully utilized during the period from the sixteenth day and the last day of the month, the rate will be effective on the first day of the following month.

(10) If the initial written request is incomplete, the department will notify the contractor of the documentation and information required. The contractor shall submit the requested information within fifteen calendar days from the date the contractor receives the notice to provide the information. If the contractor fails to complete the add-on request by providing all the requested documentation and information within the fifteen calendar days from the date of receipt of notification, the department shall deny the request for failure to complete.

(11) If, after the denial for failure to complete, the contractor submits a written request for the same project, the date of receipt for the purpose of applying subsection (9) of this section will depend upon whether the subsequent request for the same project is complete, i.e., the department does not have to request additional documentation and information in order to make a determination. If a subsequent request for funding of the same project is:

(a) Complete, then the date of the first request may be used when applying subsection (9) of this section; or

(b) Incomplete, then the date of the subsequent request must be used when applying subsection (9) of this section

even though the physical plant improvements may be completed and fully utilized prior to that date.

(12) The department shall respond, in writing, not later than sixty calendar days after receipt of a complete request.

(13) If the contractor does not use the funds for the purpose for which they were granted, the department shall immediately recoup the misspent or unused funds.

(14) When any physical plant improvements made under subsection (1) or (2) of this section results in a change in licensed beds, any rate add-on granted will be subject to the provisions regarding the number of licensed beds, patient days, occupancy, etc., included in this chapter and chapter 74.46 RCW.

(15) All rate components to fund the Medicaid share of nursing facility new construction or refurbishing projects costing in excess of one million two hundred thousand dollars, or projects requiring state or federal certificate of need approval, shall be based upon a minimum facility occupancy of eighty-five percent for the direct care, therapy care, support services, operations (~~and property cost centers, and the return on investment (ROI) rate~~), property, financing allowance, and variable return component rate allocations, during the initial rate period in which the adjustment is granted. These same component rate(~~s~~) allocations shall be based upon a minimum facility occupancy of eighty-five percent for all rate periods after the initial rate period.

(16) When a capitalized addition or replacement results in an increased licensed bed capacity during the calendar year following the capitalized addition or replacement:

(a) The department shall for:

(i) Property, use the facility's anticipated resident occupancy level subsequent to the increase in licensed bed capacity; and

(ii) The financing allowance, multiply the net invested funds (~~by ten percent~~) in accordance with WAC 388-96-748(3) and divide by the facility's anticipated resident occupancy level subsequent to the increase in licensed bed capacity; and

(b) The anticipated resident occupancy for the increased number of beds must be at or above eighty-five percent. In all cases the department shall use at least eighty-five percent occupancy of the facility's increased licensed bed capacity.

**WSR 99-19-156
PROPOSED RULES
BENTON CLEAN
AIR AUTHORITY**

[Filed September 22, 1999, 10:01 a.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 70.94.141.

Title of Rule: Regulation 1.

Purpose: Establish fee schedule for Notice of Construction and Asbestos programs; revise fee schedule for Source Registration program; removal of ten acre exemption to bring in compliance with state law; name change correction throughout regulation.

Statutory Authority for Adoption: Chapter 70.94 RCW.
Statute Being Implemented: Chapter 70.94 RCW.

Summary: See Purpose above.

Reasons Supporting Proposal: Full cost recovery for program expenses.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: David A. Lauer, 650 George Washington Way, Richland, WA, (509) 943-3396.

Name of Proponent: Benton Clean Air Authority, 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: Currently, there are no fee schedules for the Notice of Construction or Asbestos programs, except for a filing fee. The Source Registration program is not recovering cost of implementation. The BCAA board voted to unanimously change the agency name in March 1998.

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

RCW 34.05.328 does not apply to this rule adoption.

Hearing Location: Benton Public Utility District, 2721 West 10th Avenue, Kennewick, WA 99336, on November 11, 1999, at 6:00 p.m.

Submit Written Comments to: David A. Lauer, fax (509) 943-2232, by November 12, 1999.

Date of Intended Adoption: November 18, 1999.

September 21, 1999

David A. Lauer
Control Officer

**April 1996
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ARTICLE 1

Policy, Short Title, and Definitions

ADOPTED: April 18, 1996

EFFECTIVE: May 25, 1996

Section 1.01: Policy

The Benton County Clean Air Authority, with the boundaries of Benton County, has been activated by the Washington Clean Air Act, Revised Code of Washington (RCW) 70.94 as amended. The Benton County Clean Air Authority, declared to be and directed to function as a single county authority, adopts this Regulation as well as RCW 70.94 as amended to control the emissions of air contaminants from all sources within the jurisdiction of the Author-

ity; to provide for the uniform administration and enforcement of this Regulation; and to carry out the requirements and purposes of the Washington Clean Air Act.

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

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

This Regulation adopts the RCW and Washington Administrative Codes (WAC) to the extent applicable to this Authority. When the Benton County Clean Air Authority judges it necessary, specific local provisions are adopted to implement the above laws.

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.

Section 1.02: Name of Authority

The name of the County Air Pollution Control Authority, with the boundaries of Benton County, shall be known as the "BENTON COUNTY CLEAN AIR AUTHORITY."

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.

Section 1.03: Short Title

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

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

ARTICLE 5
Open Burning

ADOPTED: April 18, 1996

EFFECTIVE: May 25, 1996

Section 5.01: Reserved

Section 5.02: Authority Implementation

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

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

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

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

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

1. Unless otherwise specified, on "burn days" open burning may be conducted in areas where open burning is allowed only between the hours of 9 a.m. and one hour before Sunset.

2. The fire must not include the following materials: garbage, dead animals, asphalt, petroleum products, paints, rubber products, plastics, paper (other than what is necessary to start a fire), cardboard, treated wood, construction debris, metal or any substance (other than natural vegetation) which when burned releases toxic emissions, dense smoke, or obnoxious odors.

3. A person capable of extinguishing the fire must attend it at all times and the fire must be extinguished before leaving it.

4. No fires are to be within fifty feet of structures.

5. The pile must not be larger than four feet by four feet by three feet.

6. Only one pile at a time may be burned, and each pile must be extinguished before lighting another.

7. No outdoor fire is permitted in or within 500 feet of forest slash.

8. If the fire creates a nuisance, it must be extinguished.

9. Permission from the landowner or the landowner's designated representative must be obtained before starting an open fire.

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

F. Special burning permits

1. No building, structure, or vessel may be demolished by intentional burning, either for demolition or for fire training, without a written approval, in the form of a special burning permit, from the Authority. The special permit will contain restrictions regarding prohibited materials, fire safety, asbestos removal or demolition, and other restrictions as deemed necessary. Special burn permits shall be subject to a fee as described in Section 10.09.

2. No burning of large quantities of unprocessed or processed natural vegetation, except as provided under Section 5.02(D), accumulated from land clearing or other activities or events is allowed except by written special permit from the Authority. Special burning permits will specify restrictions

and conditions on a case by case basis. Special burning permits shall be subject to a fee as described in Section 10.09. Agricultural burning as defined in WAC 173-430-020 on commercially viable agricultural enterprises is exempted.

3. When anyone under the jurisdiction of this Authority would like to apply for a special burning permit to allow them to perform an operation or procedure otherwise not granted under this Article, they may submit a request for special burn permit ~~Request for Special Burning Permit (RSBP)~~ at least five (5) working days prior to the proposed activity to the Authority with an application fee as described in Section 10.09. Payment of the fee shall not guarantee the applicant that the request will be approved. The ~~RSBP~~ request for special burn permit must include the name, address and phone number of the applicant, a detailed explanation of the requested special permit, purpose of the special permit, and how the applicant would incur hardship without the special permit.

6. Only one pile at a time may be burned, and each pile must be extinguished before lighting another.

7. No outdoor fire is permitted in or within 500 feet of forest slash.

8. If the fire creates a nuisance, it must be extinguished.

9. Permission from the landowner or the landowner's designated representative must be obtained before starting an open fire.

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

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2. No burning of large quantities of unprocessed or processed natural vegetation, except as provided under Section 5.02(D), accumulated from land clearing or other activities or events is allowed except by written special permit from the Authority. Special burning permits will specify restrictions and conditions on a case by case basis. Special burning permits shall be subject to a fee as described in Section 10.09. Agricultural burning as defined in WAC 173-430-020 on commercially viable agricultural enterprises is exempted.

3. When anyone under the jurisdiction of this Authority would like to apply for a special burning permit to allow them to perform an operation or procedure otherwise not granted under this Article, they may submit a request for special burn permit ~~Request for Special Burning Permit (RSBP)~~ at least five (5) working days prior to the proposed activity to the Authority with an application fee as described in Section 10.09. Payment of the fee shall not guarantee the applicant that the request will be approved. The ~~RSBP~~ request for special burn permit must include the name, address and phone number of the applicant, a detailed explanation of the requested special permit, purpose of the special permit, and how the applicant would incur hardship without the special permit.

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.

ARTICLE 6 Agricultural Burning

ADOPTED: April 18, 1996

EFFECTIVE: May 25, 1996

Section 6.01: Reserved

Section 6.02: Authority Implementation

A. For the purpose of this section agricultural burning does not include incidental agricultural burning as listed in RCW 70.94.745. All other agricultural burning of ~~more than ten (10) acres annually~~ requires a written agricultural burning permit.

B. Agricultural burning permit applications and agricultural burning permits for Benton County farmers are available from the ~~BCCAA~~ BCAA and are subject to the fees described in Section 10.10.

C. Agricultural burning will be allowed only on designated "burn days". The Authority will make daily "burn" or "no-burn" designations based on current monitoring and meteorological data. This information will be provided daily on a published burn-message phone line, and/or through the local media.

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

1. Unless otherwise specified, on "burn days" agricultural burning may be conducted in areas where burning is allowed only between the hours of 9 a.m. and one hour before Sunset.

2. It is the responsibility of those conducting agricultural burning to be informed of any additional fire safety rules as determined by their local fire district or county.

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.

ARTICLE 8 Asbestos

ADOPTED: April 18, 1996

EFFECTIVE: May 25, 1996

Section 8.01: CFR Adoption by Reference.

This article adopts all provisions of the following Code of Federal Regulations (CFR) by reference and makes it a part of Regulation 1 of this Authority: CFR 40 Part 61 Subpart M "National Emission Standard for Asbestos;" and CFR 40 Part 763 Subpart E "Asbestos Containing Materials in Schools."

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.

Section 8.02: Authority Implementation

A. Definitions

1. Residential asbestos projects are defined as the renovation of any residential unit component or contents containing category I and II non-friable asbestos containing material (ACM) or regulated asbestos containing material (RACM), as defined in CFR 40 Part 61 Subpart M occurring in or on a residential unit.

2. Residential units are defined as any building with four or fewer dwelling units each containing space for uses such as living, sleeping, preparation of food, and eating that is used, occupied, or intended or designed to be occupied by one family as their domicile. This term includes houses, mobile homes, trailers, houseboats, and houses with a "mother-in-law apartment" or "guest room". This term does not include any facility that contains a residential unit.

B. All Section 8.01 requirements shall apply to asbestos renovation and demolition projects that are greater than 48 square feet or 10 linear feet, (unless the surface area of the pipe is greater than forty-eight feet) and are subject to the notification requirements and fee schedule described in Section 10.07.

C. Operators (Certified Asbestos Abatement Contractors) who perform residential asbestos projects are subject to the requirements of Section 8.03(A) only when RACM is involved. D. Only resident owners who occupy the residence and certified asbestos abatement contractors may conduct residential asbestos projects.

E. Resident owners performing their own residential asbestos projects for ACM and/or RACM are subject to the following requirements:

1. A written notification on forms provided by the Authority shall be submitted to the Authority ten (10) working days prior to the asbestos removal.

2. A filing fee as described in Section 10.07 of this Regulation shall accompany the written notice.

3. The owner of a residential project must participate in a prescribed educational program prepared by the Authority concerning the hazards of asbestos removal in the home. This program may include, but may not be limited to:

a. Watching an informational video,

b. Agreement to read and understand informational pamphlets, provided by the Authority, concerning proper residential asbestos removal. Any questions pertaining to this material shall be addressed by the Authority.

4. If after reviewing the notification form, interviewing the applicant about methods of removal and disposal, and inspecting the site as deemed necessary, the Authority may grant permission for owner or operator, or require a certified asbestos contractor to perform removal.

F. A demolition project under Section 8.01 and 8.02 ~~(F)~~ that contains no asbestos requires ten (10) working day advance notification.

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

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.

PROPOSED

Section 8.03: Unexpected Discovery of Asbestos

A. In the event of an unexpected discovery of asbestos during a renovation or demolition project, which was originally thought to contain no asbestos, the requirements of either Section 8.01 or 8.02 are applicable, and all work must stop until these requirements have been met.

B. During an approved renovation or demolition project, if an unexpected discovery of additional asbestos is made which increases the project by 20% or greater than originally reported, an amendment or emergency waiver form must be filed with the Authority before work may continue.

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

A. In all such instances the suspected material shall be considered asbestos, and treated with proper precautions until such time as it is determined not to contain asbestos.

B. Immediate action shall be taken to contain the spill and to prevent entry of unprotected and/or unauthorized persons; methods shall include but are not limited to:

1. Roping off contaminated areas, danger signs may be considered appropriate in open areas.

2. Locking or barring doors in buildings.

C. A call shall be placed to the appropriate emergency response center to provide them with the necessary information so that they may notify the ~~BCCAA~~ BCAA and/or respective law enforcement agency on an emergency basis.

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.

ARTICLE 9**Source Registration**

ADOPTED: April 18, 1996

EFFECTIVE: May 25, 1996

Section 9.01: Registration Required General Requirements for Registration

The classes of air contaminant sources listed in ~~Exhibit "A"~~ Section 9.02 below shall be registered with the Authority.

A. Program purpose. The registration program is a program to develop and maintain a current and accurate record of air contaminant sources. Information collected through the registration program is used to evaluate the effectiveness of air pollution control strategies and to verify source compliance with applicable air pollution requirements.

B. Program components. The components of the registration program consist of:

1. Registration Issuance Initial registration and annual or other periodic reports from stationary source owners providing information on location, size, height of contaminant outlets, processes employed, nature and quantity of the air con-

taminant emissions, and other information that is relevant to air pollution and available or reasonably capable of being assembled. For purposes of this chapter, information relevant to air pollution may include air pollution requirements established by rule, regulatory order, or ordinance pursuant to chapter 70.94 RCW.

2. On-site inspections necessary to verify compliance with registration requirements.

3. Data storage and retrieval systems necessary for support of the registration program.

4. Emission inventory reports and emission reduction credits computed from information provided by source owners pursuant to registration requirements.

5. Staff review, including engineering analysis for accuracy and currentness of information provided by source owners pursuant to registration program requirements.

6. Clerical and other office support in direct furtherance of the registration program.

7. Administrative support provided in directly carrying out the registration program.

C. Registration Issuance

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

Reviser's note: The unnecessary strike through 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.

Section 9.02: General Requirements for Registration

A. Registration of an installation or facility shall be made by the owner or lessee of the source, or agent of the owner, lessee or source, on forms furnished by the Authority. The owner or lessee of the source is responsible for registration and for the accuracy of the information submitted.

B. A separate registration shall be required for each source. The owner or operator shall register each facility with a detailed inventory of emission points, emission type, and quantity of emissions.

C. Each registration shall be signed by the owner or lessee, or the agent for such owner or lessee, and returned with the appropriate fee. Penalties can be assessed for non-compliance in accordance with Section 2.11 (B)(8).

1. General. Any person operating or responsible for the operation of an air contaminant source in Benton County for which registration and reporting are required shall register the source emission unit with the BCAA. The owner or operator shall make reports containing information as may be required by the BCAA concerning location, size and height of contaminant outlets, processes employed, nature and quantity of the air contaminant emission and such other information as is relevant to air pollution and available or reasonably capable of being assembled.

E. 2. Registration form. Registration information shall be provided on forms supplied by the BCAA and shall be completed and returned within the time specified on the form. Emission units within the facility shall be listed separately unless the BCAA determines that certain emission units may be combined into process streams for purposes of registration and reporting.

F. 3. Signatory responsibility. The owner, operator, or their designated management representative shall sign the registration form for each source. The owner or operator of the source shall be responsible for notifying the BCAA of the existence of the source, and for the accuracy, completeness, and timely submittal of registration reporting information and any accompanying fee.

G. 4. Operational and maintenance plan. Owners or operators of registered sources within Benton County shall maintain an operation and maintenance plan for process and control equipment. The plan shall reflect good industrial practice and shall include a record of performance and periodic inspections of process and control equipment. In most instances, a manufacturer's operations manual or an equipment operation schedule may be considered a sufficient operation and maintenance plan. The plan shall be reviewed and updated by the source owner or operator at least annually. A copy of the plan shall be made available to the BCAA upon request.

H. 5. Report of closure. A report of closure shall be filed with the BCAA within ninety days after operations producing emissions permanently cease at any applicable source under this section.

I. 6. Report of change of ownership. A new owner or operator shall report to the BCAA within ninety days of any change of ownership or change in operator.

J. 7. Operating permit program source exemption. Permit program sources, as defined in RCW 70.94.030(17), are not required to comply with the registration requirements of WAC 173-400-100 through 173-400-104 this section.

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

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Section 9.01: Section 9.02: EXHIBIT "A" Source Classification

1. A. All sources required to register with Ecology according to WAC 173-400-100 in General Regulations for Air Pollution Sources.

2. B. All facilities required to register according to WAC 173-491, Emission Standards and Controls for Sources Emitting Gasoline Vapors.

3. Any source or emission unit as defined in WAC 173-400-030 with an emission greater than or equal to 20% of the amount of the regulated pollutants listed in WAC 173-400-030 excluding "major sources" as defined in WAC 173-401-200.

4. C. Any existing stationary source, which if new, the federal standard of performance (NSPS) would be applicable according to WAC 173-400-115 Standards of Performance for New Sources.

5. D. Any existing source, which if new, would be subject to a National Emission Standard for Hazardous Air Pollutants (NESHAPS).

6. E. Any new or existing source of toxic air pollutants as defined in WAC 173-460-020, which exceeds small quantity emission rates defined in WAC 173-460-080.

7. F. Any new source category and any existing source, which if new, would be required by WAC 173-400-110 to undergo New Source Review.

8. G. Permanently located abrasive blasting operations.

9. Dry cleaners and dry cleaning plants.

10. Fuel burning equipment other than those serving dwellings of four or less families and has a heat input of more than 1,000,000 BTU per hour.

11. Insulation manufacturers.

12. Metal plating and anodizing operations.

13. Plastics and fiberglass fabrication facilities.

14. Permanently located surface coating operations including but not limited to coating of vehicles, metal, wood, plastic, rubber, or glass.

15. Permanently located vapor and gas collection systems including liquid stripping and flares.

16. H. Waste oil burners except waste oil burners used for space heating and which have an input not to exceed 500,000 BTU per hour provided that such burners are operated in accordance with WAC 173-303-515.

17. Corpus crematoriums.

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.

**ARTICLE 10
Fees and Charges**

ADOPTED: April 18, 1996

EFFECTIVE: May 25, 1996

Section 10.01: Fees and Charges Required

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

Section 10.02: Fees Otherwise Provided

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

Section 10.03: Fee Waiver, Indigency

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

Section 10.04: General Administrative Fees

A. A fee of ~~twenty-five~~ fifteen cents (\$.15) per page shall be charged for photocopies.

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~~B. A fee of twenty dollars (\$20.00) per hour shall be charged for all time expended preparing photocopies and for obtaining documents to be photocopied for requests covering more than ten pages.~~

~~B. A fee of twenty dollars (\$20.00) per hour will be charged for research time for requests covering more than one-hour of staff time.~~

~~C. A fee of ten dollars (\$10.00) will be charged per copy of audio or video materials.~~

~~E. D. The actual cost of postage or shipping shall be charged for all material requested to be mailed.~~

~~D. E. For other administrative services requested and performed by Authority staff which are not provided to the public generally, the Control Officer shall determine such charge as reasonably reimburses the Authority for time and materials expended in providing the service.~~

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.

Section 10.05: Registration Fees for Air Contaminant Sources

A. The Authority shall charge an annual registration fee pursuant to RCW 70.94.151. The Authority shall levy annual registration fees for services provided in administering the registration program. Fees received under the registration program shall not exceed the cost of administering the registration program. The Board will review the registration program on an annual basis.

B. All air contaminant sources required by Section 9.02, EXHIBIT "A" to be registered shall be divided into the following three categories and are subject to the applicable fee:

1. Class 1 sources are defined as all sources emitting pollutants, unless otherwise exempted by law or contained in Class 2 or Class 3. Class 1 sources shall pay an annual registration fee equal to a base fee of two hundred dollars (\$200.00) plus ten dollars (\$10.00) per ton of pollutant emitted plus fifteen dollars (\$15) per emission point, of one hundred dollars (\$100.00) at the time of registration.

2. Class 1 toxic sources are defined as sources listed in WAC 173-460-020, unless otherwise exempted by law or contained in Class 2 or Class 3. Class 1 toxics sources shall pay an annual registration fee equal to a base fee of two hundred dollars (\$200.00) plus one hundred dollars (\$100.00) per ton of pollutant emitted plus fifteen dollars (\$15) per emission point.

~~2. 3. Class 2~~

~~a. Class 2 sources shall pay an annual registration fee at the time of registration. In no case shall the fee so calculated be less than three hundred fifty dollars (\$350.00) per year.~~

a. Sources emitting a base amount of more than 20% of the amount of the regulated pollutants listed in the definition of significant emissions in WAC 173-400-030, except major sources as defined in WAC 173-401-200, which are eligible for the Federal Clean Air Act Title V air operating permits. ~~For these emission sources, the Class 2 fee shall be an amount equal to the average BCCAA BCAA "per ton" fee for air operating permittees times the actual tons of pollutants emitted each year in excess of the above defined base amount.~~

b. Class 2 sources shall pay an annual registration fee equal to a base fee of six hundred dollars (\$600.00) plus ten dollars (\$10.00) per ton of pollutant emitted plus fifteen dollars (\$15.00) per emission point at the time of registration.

c. Class 2 toxic sources are those sources emitting more than ~~4~~ one (1) ton of a single or more than 2.5 tons of a combination of toxic substances as defined in WAC 173-460-020, except major sources as defined in RCW 70.94.030(17). ~~(Section 10.05(B)(2)(b)). The Class 2 fee for sources emitting toxic pollutants shall be an amount equal to the average BCCAA "per ton" fee for air operating permittees times the actual tons of toxic pollutants over the above defined base amount times a factor of seven (7). Class 2 toxic sources shall pay an annual registration fee equal to a base fee of six hundred dollars (\$600.00) plus one hundred dollars (\$100.00) per ton of pollutant emitted plus fifteen dollars (\$15.00) per emission point at the time of registration.~~

~~3. 4.~~ Class 3 sources are those sources that meet the requirements for permitting under the air operating program as described in WAC 173-401. Class 3 sources are subject to the fee schedule outlined in Section 10.08 of this Regulation.

C. All gasoline facilities required by Section 9.02; EXHIBIT "A" to be registered shall register annually in accordance with WAC 173-491-030 and pay the following annual fees:

1. Gasoline Loading Terminals: one thousand dollars (\$1,000.00) eight hundred dollars (\$800.00) plus ten dollars (\$10.00) per ton of pollutant emitted, five hundred dollars (\$500.00),

2. Bulk Gasoline Plants: four hundred dollars (\$400.00) plus ten dollars (\$10.00) per ton of pollutant emitted, two hundred dollars (\$200.00), and

3. ~~C~~ Gasoline Dispensing Facilities: one hundred dollars (\$100.00) a base fee of two hundred dollars (\$200.00) plus ten dollars (\$10.00) per ton of pollutant emitted.

a. With less than 500,000 gallons of annual throughput the fee shall be \$150.00.

b. With greater than 500,000 but less than 1.5 million gallons of annual throughput the fee shall be \$300.00.

c. With greater than 1.5 million gallons of annual throughput the fee shall be \$900.00.

d. Once classified will remain in a higher throughput classification for a period of two (2) years consecutive years before reassignment to a lower classification.

D. Upon approval by the BCAA Board of Directors as part of the annual budget process, fees in Section 10.05 may be increased annually by at least the fiscal growth factor as determined by the Washington State Office of Financial Management.

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

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

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

A. All construction under RCW 70.94.152 and 153 shall be required to file a Notice of Construction and Application for Approval (NOC). A filing fee of one hundred fifty dollars (\$150.00) shall be paid at the time of filing the NOC. If the registration fee required in Section 10.05 also applies to the construction, the filing fee shall be waived.

~~B. For portable air contaminant sources that locate temporarily at particular sites within the Authority's jurisdiction, a Notice of Intent to Operate a Temporary Source and Application for Approval (NIO) must be filed with the Authority. A fee of one hundred dollars (\$100.00) shall be paid at the time of filing the NIO.~~

~~C. B. In addition to the filing fees provided in Section 10.06(A) and (B), when an inspection is deemed necessary by the Authority, a plan review and inspection fee shall be paid at a rate equal to the hourly rate of the Authority's Air Operating Permit Engineer for a period not to exceed 10 hours. In addition to the filing fee, an examination and inspection fee shall be charged according to Table 10-1. Additional fees for administrative or engineering and technical work shall be charged according to Table 10-2~~

~~1. Fee amounts in Tables 10-1 and 10-2, which are listed as "Actual" areas based upon the Authority's actual cost to complete a review or task and shall be determined using the actual or direct hours expended completing the specific review or task and the corresponding hourly rate of each Authority staff person directly involved. The following provisions shall apply:~~

~~a. Actual hours used in determining the amount of a fee shall be recorded on a daily basis by each Authority staff person directly involved in completing the specific task;~~

~~b. Time accrued for purposes of determining the amount of a fee for this section shall be accounted for to the nearest 15 minutes;~~

c. Current employee cost rates shall be used when calculating actual cost-based fees; and

d. The bill issued for any fee based on the Authority's actual cost shall indicate the total hours expended and the hourly cost rates which were used to determine the fee.

~~D. C. State Environmental Policy Act (SEPA) fees under WAC 197-11. For every environmental checklist the Authority reviews when it is Lead Agency, the applicant shall first pay a filing fee of one hundred dollars (\$100.00) the threshold determination fee of fifty dollars (\$50.00) prior to the undertaking of the threshold determination by the responsible official of the Authority. If the Authority decides it must prepare a statement in order to comply with the SEPA before taking any action on an NOC the cost of preparing, publishing, and distributing such a statement at a cost per hour rate for Authority staff time based upon actual cost as determined by the Control Officer and such other expenses as mutually agreed upon by the applicant and the Control Officer including consulting services, testing, reproduction, distributing, etc., shall be paid by the applicant.~~

~~E. The cost of publishing a public notice shall be borne by the applicant or other initiator of the action.~~

F. D. When an operation for which an NOC or NIO Temporary NOC (less than one year at a location) is required commences prior to making application and receiving approval, the Control Officer or his authorized agent may conduct an investigation as part of the application NIO review. In such a case, an investigation fee of three times the fees required in Section 10.06 hundred dollars (\$300.00) shall be paid in addition to all other required fees in Section 10.06. Payment of the fees does not relieve any person from the requirement to comply with the regulations nor from any penalties for failure to comply.

E. Upon approval by BCAA Board of Directors as part of the annual budget process, fees in Section 10.06 may be increased annually by at least the fiscal growth factor as determined by the Washington State Office of Financial Management.

Table 10-1: Notice of Construction Examination and Inspection Fees

CATEGORY	FEE	CATEGORY	FEE
Fuel Burning (million BTU/hr)		Gasoline Dispensing Facilities	
2 or more but less than 5	\$200	Stage I	\$300
5 or more but less than 10	\$250	Stage II	\$300
10 or more but less than 30	\$350	Stage I and II Combined	\$500
30 or more but less than 50	\$450	Toxics review for gasoline facility	\$1,500
50 or more but less than 100	\$650		
100 or more but less than 250	\$1,400	Temporary Source	\$400
250 or more but less than 500	\$2,500	Relocation of Source	\$200
500 or more	\$3,500		
Fuel change or new fuel	1/2 new Installation	Spray Painting (per booth)	\$300
	Fee	Dry Cleaner (per machine)	\$300

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Air Discharge Actual CFM		Coffee Roaster	\$500
Less than 50	\$300		
50 or more but less than 5,000	\$400	Asphalt Concrete Plant	
5,000 or more but less than 20,000	\$500	Initial	\$1,000
20,000 or more but less than 50,000	\$600	Relocation of Portable Unit	\$500
50,000 or more but less than 100,000	\$700		
100,000 or more but less than 250,000	\$1,000	Soil Thermal Desorption Unit	
250,000 or more but less than 500,000	\$2,000	Initial	\$2,000
More than 500,000	\$4,000	Relocation of Unit	\$700
Refuse Burning Equip (Tons/day)		Odor Source	\$350
0.5 or more but less than 5	\$1,000		
5 or more but less than 12	\$2,000	Composting Facility	Actual
12 or more but less than 250	\$6,000		
250 or more	\$12,000	Landfill Gas System	Actual
Other Incinerators (Pounds/hr)		Soil and Groundwater Remediation	Actual
Less than 100	\$150		
100 or more but less than 200	\$300	All other sources not listed	\$500 or
200 or more but less than 500	\$600		Actual,
500 or more but less than 1000	\$1,200		whichever
1000 or more	\$1,500		is greater
VOC Storage Tanks			
250 or more but less than 10,000	\$300		
10,000 or more but less than 40,000	\$500		
40,000 or more	\$1,000		
Public Noticing	Actual	Variance Request	Actual
Publishing of Public Notices	Actual	Alternative Opacity Limits Review	Actual
Public Hearings	Actual	Construction Begun without Approval	3X regular fees
Air Toxics Screening (WAC 173-460)			
Review for source supplied ASIL	\$300	Synthetic Minor Determination	Actual
Source supplied risk analysis demo	\$1000		
Complete screening procedure	Actual	Major Source, Major Modification, or PSD Thresholds	Actual
NOC Application Assistance	Actual		
		Emission Units Subject to NSPS or	
NOC Applicability Determination	Actual	NESHAPS (except residential wood wood heaters, asbestos renovation or,	
NOC-CEM or Alternate Monitoring Device Installed	Actual	Demolition and perchloroethylene dry cleaning)	Actual
SEPA Threshold Determination (lead agency)	Actual	Construction or Reconstruction of a Major Source of Hazardous Air Pollutants	Actual
Environmental Impact Statement Review	Actual		
NOC Approval Modification	Lessor of	Each CEM or Alternate Monitoring Device	Actual

	1/2 fee or		
	\$350	Each Source Test Required in NOC	Actual
RACT/BACT/MACT/BART/LAER		Opacity/Gain Loading Correlation	Actual
Determination	Actual		
		Bubble Application	Actual
Emission Offset Analysis	Actual		
		Netting Analysis	Actual
Emission Reduction Credit (ERC)			
Application	Actual		

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Reviser's note: The unnecessary strike through 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.

Section 10.07: Asbestos

A. Any owner or operator of a renovation or demolition activity required by CFR 40 Part 61 Subpart M or Article 8 to notify the Authority prior to starting the renovation or demolition, or required by federal regulation to be approved or inspected by the Authority, shall give the required advance notice and pay a processing fee to the Authority determined by the following: as determined in Table 10-3.

~~1. All single renovation or demolition projects under Section 8.01 or Section 8.02(B), require a ten (10) working day advance notification on a written "Notice of Intent to Remove Asbestos Materials," and a fifty dollar (\$50.00) fee.~~

~~2. Annual notices under Section 8.01, and within the notification requirements of Section 8.02(B), require ten (10) working day advance notification, an annual written application for approval, and a three hundred dollar (\$300.00) fee.~~

~~3. An amendment under Section 8.01 or Section 8.02 to an approved renovation or demolition requires prior notification, an amended application, and a twenty-five dollar (\$25.00) fee for the 2nd amendment and any thereafter.~~

~~4. An emergency under Section 8.01 or Section 8.02 requires prior notification, an Emergency Waiver Request Letter submitted by the property owner or operator, a Notice of Intent to Remove Asbestos, and a fifty dollar (\$50.00) emergency fee as well as the normal application fee described in this Section.~~

~~5. A residential asbestos project under Section 8.02 requires ten (10) working day advance notification, on a "Notice of Intent to Remove Asbestos Materials," form accompanied by a filing fee of ten dollars (\$10.00)~~

Table 10-3: Asbestos Fees

Type of project	Project Size LF: linear ft SF: square ft	Advanced Notification Period	Fee	Forms required
Demolition	All	10 working days	\$0	Notice of Intent to Remove Asbestos or to Demolish (NOI)
Asbestos Pproject	Residential	10 working days	\$10	NOI
Asbestos Project	10 to 259 LF 48 to 159 SF	10 working days	\$125.00	NOI
Asbestos Project	260 to 999 LF 160 to 4,999 SF	10 working days	\$250.00	NOI
Asbestos Project	1,000 to 9,999 LF 5,000 to 49,999 SF	10 working days	\$500.00	NOI
Asbestos Pproject	more than 10,000 LF more than 50000 SF	10 working days	\$1500.00	NOI
Amendments	All	Prior Notification	\$50.00	Amended NOI
Annual	All	10 working days	\$1500.00	NOI
Emergencies	All	Prior Notification	Double Fee	NOI & Emergency Waiver Request
Alternate Methods	All	10 working days	Double Fee	NOI & Supporting Documentation

PROPOSED

~~6. A demolition project under Section 8.01 and 8.02 that contains no asbestos requires ten (10) working day advance notification.~~

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

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

Section 10.08: Operating Permit Fees

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

A. Permanent annual fee determination and certification

1. Fee Determination

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

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

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

(A) Preapplication assistance and review of an application and proposed compliance plan for a permit, permit revision, or renewal;

(B) Source inspection, testing, and other data-gathering activities necessary for the development of a permit, permit revision, or renewal;

(C) Acting on an application for a permit, permit revision, or renewal, including the costs of developing an applicable requirement as part of the processing of a permit, permit revision, or renewal, preparing a draft permit and fact sheet, and preparing a final permit, but excluding the costs of developing BACT, LAER, BART, or RACT requirements for criteria and toxic air pollutants;

(D) Notifying and soliciting, reviewing and responding to comment from the public and contiguous states and tribes, conducting public hearings regarding the issuance of a draft permit and other costs of providing information to the public regarding operating permits and the permit issuance process;

(E) Modeling necessary to establish permit limits or to determine compliance with permit limits;

(F) Reviewing compliance certifications and emissions reports and conducting related compilation and reporting activities;

(G) Conducting compliance inspections, complaint investigations, and other activities necessary to ensure that a source is complying with permit conditions;

(H) Administrative enforcement activities and penalty assessment, excluding the costs of proceedings before the pollution control hearings board and all costs of judicial enforcement;

(I) The share attributable to permitted sources of the development and maintenance of emissions inventories;

(J) The share attributable to permitted sources of ambient air quality monitoring and associated recording and reporting activities;

(K) Training for permit administration and enforcement;

(L) Fee determination, assessment, and collection, including the costs of necessary administrative dispute resolution and penalty collection;

(M) Required fiscal audits, periodic performance audits, and reporting activities;

(N) Tracking of time, revenues and expenditures, and accounting activities;

(O) Administering the permit program including the costs of clerical support, supervision, and management;

(P) Provision of assistance to small businesses under the jurisdiction of the permitting authority as required under section 507 of the federal clean air act; and

(Q) Other activities required by operating permit regulations issued by the United States Environmental Protection Agency under the Federal Clean Air Act.

ii. Ecology Development and Oversight. Development and oversight costs are those incurred by Ecology in developing and administering the state operating permit program and in overseeing the administration of the program by the delegated local authorities. Development and oversight costs are in Chapter 252, Laws of 1993 Section 6 (2)(b).

c. Workload Analysis.

i. The ~~BCCAA~~ BCAA shall conduct an annual workload analysis projecting resource requirements for the purpose of facilitating budget preparation for permit administration. The workload analysis shall include resource requirements for both the direct and indirect costs of the permit administration activities in Section 10.08 (A)(1)(b)(i).

ii. Ecology will, for the two-year period corresponding to each biennium, identify the development and oversight activities that it will perform during that biennium. The eligible activities are those referenced in Section 10.08 (A)(1)(b)(ii).

d. Budget Development. The ~~BCCAA~~ BCAA shall annually prepare an operating permit program budget. The budget shall be based on the resource requirements identified in an annual workload analysis and shall take into account the projected fund balance at the start of the calendar year. The ~~BCCAA~~ BCAA shall publish a draft budget for the following calendar year on or before May 31 and shall provide opportunity for public comment thereon in accordance with 10.08 (A)(3)(a). The ~~BCCAA~~ BCAA shall publish a final budget for the following calendar year on or before June 30.

e. Allocation Methodology.

i. Permit Administration Costs. The ~~BCCAA~~ BCAA shall allocate its permit administration costs and its share of Ecology's development and oversight costs among the permit program sources for whom it acts as permitting authority, according to a three-tiered model based upon:

- (A) the number of sources under its jurisdiction;
- (B) the complexity of the sources under its jurisdiction, and

(C) the size of the sources under its jurisdiction, as measured by the quantity of each regulated pollutant emitted. The quantity of each regulated pollutant emitted by a source shall be determined based on the annual emissions data during the most recent calendar year for which data is available. Each of the three tiers shall be equally weighted.

ii. Ecology Development and Oversight Costs. Ecology will allocate its development and oversight costs among all permitting authorities, including the ~~BCCAA~~ BCAA, based upon the number of permit program sources under the jurisdiction of each permitting authority. If Ecology determines that it has incurred extraordinary costs in order to oversee a particular permitting authority and that those costs are readily attributable to the particular permitting authority, Ecology may assess to that permitting authority such extraordinary costs.

f. Fee Schedule. The ~~BCCAA~~ BCAA shall issue annually a fee schedule reflecting the permit administration fee and Ecology's development and oversight fee to be paid by each permit program source under its jurisdiction. The fee schedule shall be based on the information contained in the final source data statements for each year; the final source data statements shall be issued after opportunity for petition and review has been afforded in accordance with Section 10.08 (A)(4).

2. Fee Collection - Ecology and ~~BCCAA~~ BCAA.

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

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

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

b. Dedicated Account.

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

ii. All receipts from fees collected by ~~BCCAA~~ BCAA on behalf of Ecology from permit program sources pursuant to RCW 70.94.152(1), and RCW 70.94.161, Section 6 of Chapter 252, Laws of 1993, and Section 8 of Chapter 252, Laws of

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

3. Accountability

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

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

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

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

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

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

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

b. Tracking of Revenues, Time and Expenditures.

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

ii. Time and Expenditures. The ~~BCCAA~~ BCAA shall track time and expenditures on the basis of functional categories as follows:

- (A) application review and permit issuance;
- (B) permit modification;
- (C) permit maintenance;
- (D) compliance and enforcement;
- (E) business assistance;
- (F) regulation and guidance development;
- (G) management and training;
- (H) technical support.

iii. Use of Information Obtained from Tracking Revenues, Time and Expenditures. The ~~BCCAA~~ BCAA shall use the information obtained from tracking revenues, time and expenditures to modify its workload analysis during each calendar year's review provided for under Section 10.08 (A)(1)(d).

iv. The information obtained from tracking revenues, time, and expenditures shall not provide a basis for challenge to the amount of an individual source's fee.

c. Periodic Fiscal Audits, Reports and Performance Audits. A system of regular, periodic fiscal audits, reports and performance audits shall be conducted in order to evalu-

ate Ecology's and the Authority's operating permit program administration, as follows:

i. Fiscal Audits. The ~~BCCAA~~ BCAA shall contract with the State Auditor to perform a standard fiscal audit of its operating permit program every other year.

ii. Annual Routine Performance Audits. The ~~BCCAA~~ BCAA shall be subject to annual routine performance audits, except that the routine audit shall be incorporated into the extensive performance audit, conducted pursuant to Section 10.08 (A)(3)(c)(v) in each year during which an extensive performance is conducted. Ecology shall issue guidance regarding the content of the routine performance audits and shall conduct the Authority's audits.

iii. Annual Random Individual Permit Review. One permit issued by the ~~BCCAA~~ BCAA shall be subject to review in conjunction with the annual routine performance. The permit to be reviewed shall be selected at random. Ecology shall issue guidance regarding the content of the random individual permit review and shall conduct the Authority's review.

iv. Periodic Extensive Performance Audits. The ~~BCCAA~~ BCAA shall be subject to extensive performance audits every five years. In addition, this authority may be subject to an extensive performance audit more frequently under the conditions of Section 10.08 (A)(3)(c)(v). Ecology shall issue guidance regarding the content of the extensive performance audits and shall conduct the audits of this Authority.

v. Finding of Inadequate Administration or Need for Further Evaluation. If, in the process of conducting a fiscal audit, annual routine audit, or annual random individual permit review, the auditor or Ecology finds that the ~~BCCAA~~ BCAA is inadequately administering the operating permit program or finds that further evaluation is immediately warranted, an extensive performance audit shall be conducted, as provided in Section 10.08 (A)(3)(c)(iv).

vi. Annual Reports. The ~~BCCAA~~ BCAA shall prepare an annual report evaluating its operating permit program administration. Such report shall include any findings of the auditor or Ecology resulting from the relevant fiscal audits, annual routine audits, annual random individual permit reviews or periodic extensive performance audits. The ~~BCCAA~~ BCAA shall submit its report to its Board and to Ecology.

4. Administrative Dispute Resolution.

a. Preliminary Statement of Source Data. The ~~BCCAA~~ BCAA shall provide to the permit program sources under their respective jurisdictions a preliminary statement of emissions and other data from that source upon which the authority intends to base its allocation determination under Section 10.08 (A)(1)(e). Such preliminary statement shall be provided to the permit program sources on or before September 30 of each year. Such preliminary statement shall indicate the name, address and telephone number of the person or persons to whom the source or other individual may direct inquiries and/or petitions for review under Section 10.08 (A)(4)(b) regarding the accuracy of the data contained therein.

b. Petition for Review of Statement. A permit program source or other individual under the jurisdiction of the ~~BCCAA~~ BCAA, as a delegated local authority, may petition

to review for accuracy the data contained in the preliminary source data statement provided for under Section 10.08 (A)(4)(a). Such petition shall be lodged on or before October 31 of each year. Such petition shall be in writing, directed to the individual indicated on the statement of source data. Such petition shall indicate clearly the data to be reviewed, the specific action that the source or petitioning individual is requesting be taken and may, if the source or petitioning individual desires, be accompanied by written documentation supporting the request for review. Such petition shall, in addition, state the name, address and telephone number of the person or persons to whom the ~~BCCAA~~ BCAA may direct inquiries regarding the request. Upon receipt of such a petition, the ~~BCCAA~~ BCAA, as a delegated local authority, must issue its written response to the petitioner on or before November 30 of each year. Such response shall state the conclusions of the review and the reasons therefore, and shall contain a new preliminary source data statement, revised to reflect any changes necessitated by the authority's response.

c. Final Source Data Statement. The ~~BCCAA~~ BCAA shall provide to the permit program sources under its jurisdiction a final statement of emissions and other data from that source upon which the local authority will base its allocation determination under Section 10.08 (A)(1) along with an invoice reflecting the fee billed to that source on or before December 31 of each year.

5. Fee Payment and Penalties

a. Fee Payment. Each permit program source shall pay a fee in the amount reflected in the invoice issued under Section 10.08 (A)(4)(c). Such fee shall be due on or before February 28 of each year.

b. Late Payment of Fees. ~~BCCAA~~ BCAA shall charge a penalty to a permit program source under its jurisdiction for late payment of all or part of its operating permit fee at the following rates:

i. Ten percent of the source's total assessed fee for payment received after the due date for fee payment but up to the first thirty days past the due date for fee payment;

ii. Fifteen percent of the source's total assessed fee for payment received between the thirty-first day and the sixtieth day past the due date for fee payment; and

iii. Twenty-five percent of the source's total assessed fee for payment received between the sixty-first day and the ninetieth day past the due date for fee payment.

c. Failure to Pay Fees. The ~~BCCAA~~ BCAA shall charge a penalty to a permit program source under its jurisdiction for failure to pay all or part of its operating permit fee and/or penalties thereon after ninety days past the due date for fee payment in an amount three times the source's total assessed fee.

d. Other Penalties. The penalties authorized in Section 10.08 (A)(5)(b) and (c), are additional to and in no way prejudice the ~~BCCAA~~ BCAA's ability to exercise other civil and criminal remedies, including the authority to revoke a source's operating permit for failure to pay all or part of its operating permit fee.

e. Facility Closure. Sources that permanently cease operations will be required to pay only a pro rata portion of the annual operating permit fee for the fiscal year in which they cease operations. The portion of the fee to be paid will be calculated by dividing the number of calendar days that

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

f. Transfer in Ownership. Transfer in ownership of a source shall not affect that source's obligation to pay operating permit fees. Any liability for fee payment, including payment of late payment and other penalties shall survive any transfer in ownership of a source.

6. Development and Oversight Remittance by Local Authorities to Ecology

a. Ecology will provide to the Authority a statement of the share of Ecology's development and oversight costs for which it is responsible for collecting from sources under its jurisdiction on or before December 31 of each year.

b. The Authority shall remit to Ecology one-half of the share of Ecology's development and oversight costs for which it is responsible for collecting from sources under its jurisdiction on or before March 31 of each year and shall remit to Ecology the balance of its share of Ecology's development and oversight costs on or before June 30 of each year.

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.

Section 10.09: Special Open Burning Permits

A. Anyone who submits to the Authority a ~~r~~Request for ~~s~~Special ~~b~~Burning ~~p~~Permit (~~RSBP~~) shall pay an application fee of fifty dollars (\$50.00).

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

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.

Section 10.10: Agricultural Burning Permits

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

B. The local portion of the agricultural burn permit fee will be seventy-five cents (\$0.75) per acre.

C. Permits will only be issued upon receipt of full payment. Refunds may be issued by the ~~BCCAA~~ ~~BCAA~~ for acres not burned under each permit.

ACRONYMS AND ABBREVIATIONS

<u>ACM</u>	<u>Asbestos Containing Material</u>
<u>BACT</u>	<u>Best Available Control Technology</u>
<u>BART</u>	<u>Best Available Retrofit Technology</u>
<u>BCAA</u>	<u>Benton Clean Air Authority</u>
<u>Board</u>	<u>Benton Clean Air Authority Board of Directors</u>
<u>BTU</u>	<u>British Thermal Unit (unit of measure)</u>
<u>CEM</u>	<u>Continuous Emission Monitoring</u>
<u>CFR</u>	<u>U.S. Code of Federal Regulations</u>
<u>Ecology</u>	<u>Washington State Department of Ecology</u>
<u>ERC</u>	<u>Emission Recovery Credit</u>
<u>LAER</u>	<u>Lowest Achievable Emission Rate</u>
<u>MACT</u>	<u>Maximum Achievable Control Technology</u>
<u>NESHAP</u>	<u>National Emission Standards for Hazardous Air Pollutants</u>
<u>NOC</u>	<u>Notice of Construction</u>
<u>NOI</u>	<u>Notice of Intent to Demolish or Remove Asbestos</u>
<u>NSPS</u>	<u>New Source Performance Standard</u>
<u>PSD</u>	<u>Prevention of Significant Deterioration</u>
<u>RACM</u>	<u>Regulated Asbestos Containing Material</u>
<u>RACT</u>	<u>Reasonably Available Control Technology</u>
<u>RCW</u>	<u>Revised Code of Washington (law)</u>
<u>RSBP</u>	<u>Request for Special Burn Permit</u>
<u>SEPA</u>	<u>State Environmental Policy Act (law)</u>
<u>WAC</u>	<u>Washington Administrative Code (regulation)</u>

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

WSR 99-20-024

PROPOSED RULES

DEPARTMENT OF AGRICULTURE

[Filed September 28, 1999, 2:59 p.m.]

Continuance of WSR 99-13-184.

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

Title of Rule: Increase seed certification fees for buckwheat, chickpea, field pea, lentil, millet, soybean, sorghum, and small grains. Also to revise standards for field pea and chickpea.

Date of Intended Adoption: October 11, 1999.
September 28, 1999
William E. Brookreson
Deputy Director

WSR 99-20-052
WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF AGRICULTURE

[Filed October 1, 1999, 12:05 p.m.]

The Washington State Department of Agriculture is withdrawing the proposed heritage brand rules, chapter 16-607 WAC, at this time. The CR-102 was filed as WSR 99-16-100 on August 4, 1999.

If you have any questions do not hesitate to contact 902-1852.

Julie Sandberg, Assistant Director
Consumer and Producer Protection Division

WSR 99-20-058
PROPOSED RULES
DEPARTMENT OF HEALTH

[Filed October 1, 1999, 4:01 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-01-161.

Title of Rule: WAC 246-843-205 Standards of conduct.

Purpose: Rule defines the standard for nursing home administrators who choose to work in a licensed nursing home.

Statutory Authority for Adoption: Chapters 18.52, 34.05 RCW.

Statute Being Implemented: Chapter 18.52 RCW.

Summary: Amendment to clarify BNHA intent and acknowledge DSHS authority over licensing of nursing homes.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Barbara Hayes, Department of Health, (360) 236-4921.

Name of Proponent: Board of Nursing Home Administrators, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Amending language more fully explains the conduct of a licensed nursing home administrator who chooses to be in charge of a licensed nursing home.

Proposal Changes the Following Existing Rules: Clarify rule for easier understanding.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Cost does not exceed minor cost threshold.

RCW 34.05.328 does not apply to this rule adoption. This rule does not subject a person to a penalty or sanction; does not establish, alter or revoke a qualification or standard

for nursing home administrator license, and does not make significant amendment to a policy or regulatory program.

Hearing Location: Wesley Gardens Board Room, 815 South 216th, Des Moines, WA 98198, on November 19, 1999, at 3:00 p.m.

Assistance for Persons with Disabilities: Contact Erin Obenland, (360) 236-4920, by November 12, 1999, TDD (800) 525-0127, or (800) 833-6388.

Submit Written Comments to: Barbara Hayes, fax (360) 236-4922, by November 12, 1999.

Date of Intended Adoption: November 19, 1999.

September 10, 1999

Barbara A. Hayes

Program Manager

AMENDATORY SECTION (Amending WSR 95-07-128, filed 3/22/95, effective 4/22/95)

WAC 246-843-205 Standards of conduct. Licensed nursing home administrators shall be on-site full time and in active administrative charge of the licensed nursing home, as licensed under chapter 18.51 RCW, in which they have consented to serve as administrator.

WSR 99-20-059
PROPOSED RULES
DEPARTMENT OF HEALTH

[Filed October 1, 1999, 4:02 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-01-156.

Title of Rule: WAC 246-843-001 Source of authority—Title, 246-843-030 Board of examiners—Meetings, 246-843-040 Board of examiners—General powers and responsibilities, and 246-843-050 Board of examiners—Officers and duties.

Purpose: Rule describes the duties and responsibilities of the Board of Nursing Home Administrators.

Other Identifying Information: Clarify existing language, eliminate unnecessary rules.

Statutory Authority for Adoption: Chapters 18.52, 34.05 RCW.

Statute Being Implemented: Chapter 18.52 RCW.

Summary: Amendment to repeal unnecessary rules and to clarify remaining rule for easier understanding.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Barbara Hayes, Department of Health, (360) 236-4921.

Name of Proponent: Board of Nursing Home Administrators, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Amending language explains the duties and responsibilities of the Board of Nursing Home Administrators in plainer language.

Proposal Changes the Following Existing Rules: Repeal unnecessary rules and clarify remaining rule for easier understanding.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Cost does not exceed minor cost threshold.

RCW 34.05.328 does not apply to this rule adoption. These rules do not subject a person to a penalty or sanction; does not establish, alter or revoke a qualification or standard for nursing home administrator license, and does not make significant amendment to a policy or regulatory program.

Hearing Location: Wesley Gardens Board Room, 815 South 216th, Des Moines, WA 98198, on November 19, 1999, at 3:00 p.m.

Assistance for Persons with Disabilities: Contact Erin Obenland, (360) 236-4920, by November 12, 1999, TDD (800) 525-0127, or (800) 833-6388.

Submit Written Comments to: Barbara Hayes, P.O. Box 47868, Olympia, WA 98504-7868, fax (360) 236-4922, by November 12, 1999.

Date of Intended Adoption: November 19, 1999.
 September 10, 1999
 Barbara A. Hayes
 Program Manager

AMENDATORY SECTION (Amending Order 217B, filed 11/27/91, effective 12/28/91)

WAC 246-843-040 (~~Board of examiners—General powers~~) **Duties and responsibilities.** The board, with the assistance of the secretary (~~for administrative matters~~), shall have the following duties and responsibilities, within the limits of (~~the Nursing Home Administrator Licensing Act and the rules and regulations herein, to~~) chapter 18.52 RCW.

(1) Develop standards (~~which shall be met by~~) for individuals in order to receive a license as a nursing home administrator.

(2) Develop (~~appropriate~~) techniques, including examinations and investigations to (~~the extent necessary to~~) determine whether an individual meets such standards for licensing:

(3) (~~Order the secretary to issue licenses, provisional~~) Approve licenses or temporary permits (~~to~~) for individuals meeting (~~the~~) requirements applicable to them.

(4) (~~Order the secretary, after such notice and hearing, as may be required by law, to~~) Discipline or deny (~~, reprimand, revoke, suspend or refuse to reregister~~) a license (~~of any~~) holder or applicant under authority granted by RCW 18.130.160 or who fails to meet (~~the~~) requirements of chapter 18.52 RCW.

(5) Investigate(;) and take (~~appropriate~~) action (~~with respect to any charge~~) on a report or complaint filed with the board or secretary (~~to the effect~~) that any individual licensed as a nursing home administrator has failed to comply with the requirements of chapter 18.52 RCW.

(6) (~~Issue~~) Adopt rules (~~and regulations which are~~) necessary to carry out the functions of (~~the Nursing Home Administrator License Act~~) chapter 18.52 RCW.

(7) Implement (~~and carry out the~~) requirements of (~~the Nursing Home Administrator Licensing Act and rules and regulations, with the assistance of the secretary for administrative matters, to include such functions as~~) chapter 18.52 RCW, including:

(a) (~~Recommending the~~) Recommend hiring (~~of~~) consultants to advise on matters requiring expert advice;

(b) (~~The delegating of~~) Delegate work responsibilities to (~~committees~~) subcommittees of the board;

(c) (~~Implement and~~) Supervise the administrator-in-training program.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 246-843-001	Source of authority—Title.
WAC 246-843-030	Board of examiners—Meetings.
WAC 246-843-050	Board of examiners—Officers and duties.

WSR 99-20-060

PROPOSED RULES

DEPARTMENT OF HEALTH

(Chemical Dependency Professionals)

[Filed October 1, 1999, 4:04 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-08-095.

Title of Rule: WAC 246-811-060 Examination.

Purpose: There is a need to implement the 1998 legislation to further define what will be required for the examination standards for certification.

Statutory Authority for Adoption: RCW 18.205.060(7).

Statute Being Implemented: Chapter 18.205 RCW.

Summary: This statute required the department to establish examination requirement to become certified as a chemical dependency professional.

Reasons Supporting Proposal: A collaborative effort was made to include stakeholders, practicing CDP providers, the chemical dependency advisory committee, and the Department of Health. The proposed rule reflects this effort in setting examination requirements for certification.

Name of Agency Personnel Responsible for Drafting: Kris Waidely, Program Manager, 1300 S.E. Quince, Olympia, WA, (360) 236-4906; Implementation and Enforcement: Shellie Pierce, Program Manager, 1300 S.E. Quince, Olympia, WA, (360) 236-4907.

Name of Proponent: Department of Health, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Health professions must be self supportive.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This rule specifies the exams which must be taken and passed to qualify as a chemical dependency professional.

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

The proposed regulations would establish licensure requirements for chemical dependency professionals. Under the Regulatory Fairness Act (chapter 19.85 RCW), a small business economic impact statement (SBEIS) is required whenever a regulation imposes "more than minor" costs on a regulated business. The "more than minor" threshold varies by industry. The standard industrial code classifications used to determine the threshold for more than minor impact were:

STANDARD INDUSTRIAL CODE	ECONOMIC ACTIVITY	MINOR COST THRESHOLD
806	Hospitals	\$ 50.00
809	Misc. Health	53.00
805	Nursing and Personnel Care Facilities	50.00

There is one primary significant cost to credential applicants/holders if these rules are adopted: \$65.00 to take the examination.

Costs Required for Examination: Persons qualified for grandfathering prior to July 1, 2001, do not have to pay a \$65.00 examination fee. Persons who do not qualify for grandfathering will be required to pay an examination fee of \$65.00. This fee will be paid directly to the National Association of Alcoholism and Drug Abuse Counselors (NAADAC) which will administer the examination for people seeking certification as a chemical dependency professional.

Does the cost of the proposed rule exceed the threshold where a SBEIS is required? The cost to implement the proposed standards is in excess of \$50 and, therefore, a SBEIS is required.

Does the proposed rule affect both large and small businesses? The Regulatory Fairness Act defines a business as any "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." The act defines a small business as one that employs less than fifty individuals.

The Department of Health estimates that 1926 individuals will be subject to the requirements of the proposed rules.¹ Since the proposed rule would only affect individuals, from the perspective of the Regulatory Fairness Act, all affected businesses are small.

Does the proposed rule impose disproportionate cost on small businesses? Since all businesses affected by the proposed rules are small, the rule cannot impose disproportionate costs. Therefore, the department is not obligated to provide regulatory relief to small businesses.

How did the department involve the public in the development of the proposed rule? Public involvement

was solicited through three mailings from the Department of Health (DOH), (two) mailings from the Department of Social and Health Services (DSHS), seven presentations at colleges and national associations from DOH staff and DSHS staff, four workgroup meetings, six committee meetings and a survey of five hundred professionals.

Opportunity for written comments was provided during different stages of the development of the rules. Comments were received from Chemical Dependency Counselors, two national Chemical Dependency Certification Boards, National Counselor Associations, Chemical Dependency Advisory Committee members and Educational Institutions.

¹This number was derived from a Department of Social and Health Services, Division of Alcohol and Drug Abuse (DASA) statistical report on how many counselors are currently working in state approved facilities. The Department of Health is responsible for regulating Chemical Dependency Professionals, while DASA regulates the facilities employing Chemical Dependency Professionals. Currently, DASA certifies five hundred fifteen facilities.

A copy of the statement may be obtained by writing to Kris Waidely, Program Manager, CDP Program, P.O. Box 47869, Olympia, WA 98504-7869, phone (360) 236-4906, fax (360) 236-4909.

RCW 34.05.328 applies to this rule adoption. These rules are significant under RCW 34.05.238 [34.05.328] because they require the applicant to take a national examination. The agency has conducted the additional analysis required by RCW 34.05.328.

Hearing Location: Target Plaza, 2725 Harrison Avenue N.W., Unit 500, Olympia, WA 98504-7852, on November 19, 1999, at 1:00 p.m.

Assistance for Persons with Disabilities: Contact Kris Waidely by November 11, 1999, TDD (800) 833-6388, or (360) 236-4906.

Submit Written Comments to: Kris Waidely, Program Manager, CDP Program, P.O. Box 47869, Olympia, WA 98504-7869, fax (360) 236-4909 by November 11, 1999.

Date of Intended Adoption: November 22, 1999.

October 1, 1999

Eric Slagle
for Mary C. Selecky
Secretary

EXAMINATION

NEW SECTION

WAC 246-811-060 What examination is required for certification? (1) All applicants must take and pass the National Association of Alcoholism and Drug Abuse Counselor (NAADAC) National Certification Examination for Addiction Counselors or International Certification and Reciprocity Consortium (ICRC) Certified Addiction Counselor Level II or higher examination.

(2) The department will accept the passing score established by the testing company.

(3) The application and application fee must be submitted to the department at least ninety days prior to the scheduled examination date. All other supporting documents,

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including verification of education and experience, must be submitted at least sixty days prior to the examination date.

WSR 99-20-061
PROPOSED RULES
DEPARTMENT OF HEALTH
 [Filed October 1, 1999, 4:06 a.m.]

Original Notice.

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

Title of Rule: Environmental health program fees, WAC 246-282-990 Food safety and shellfish program certification fees, WAC 246-254-070, 246-254-080, 246-254-090 and 246-254-100, fees for specialized radioactive material licenses, and WAC 246-205-990 Fees for decontamination of illegal drug sites.

Purpose: Increase fees to the fiscal growth factor of 3.32%.

Statutory Authority for Adoption: RCW 43.70.250.

Summary: Fees support public health activities in the food safety and shellfish, environmental health and safety, and radiation protection programs and need to be adjusted to compensate for inflation and guaranteeing sufficient revenue to fulfill public health protection obligation.

Reasons Supporting Proposal: Fees are necessary to continue program activities at their current level.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Jan Haywood, Tumwater, (360) 236-3011.

Name of Proponent: Department of Health, Environmental Health Programs, governmental.

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

Explanation of Rule; its Purpose, and Anticipated Effects: The purpose of these rules is to guarantee that programs have sufficient revenue to fulfill the obligation to protect public health, in order to do this; fees must be increased to support services the Department of Health provides. With the revenue increased, programs will be able to maintain the current level of public health activities.

Proposal Changes the Following Existing Rules: The change to the existing rule is a proposed fee increase only.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Rules that set or adjust fees pursuant to legislative standards are exempt from the Regulatory Fairness Act.

RCW 34.05.328 does not apply to this rule adoption. Rules that set or adjust fees pursuant to legislative standards are exempt from the requirements of RCW 34.05.328.

Hearing Location: 7171 Cleanwater Lane, Building 5, Olympia, WA 98504, on November 15, 1999, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Jan Haywood by November 9, 1999, TDD (800) 833-6388.

Submit Written Comments to: Jan Haywood, fax (360) 236-2250, by November 12, 1999.

Date of Intended Adoption: December 27, 1999.

October 1, 1999

Eric Slagle

for Mary Selecky

Secretary

AMENDATORY SECTION (Amending WSR 99-12-022, filed 5/24/99, effective 6/24/99)

WAC 246-205-990 Fees. (1) The department shall charge fees for issuance and renewal of certificates. The department shall set the fees by rule.

(2) The fees shall cover the cost of issuing certificates, filing papers and notices, and administering this chapter. The costs shall include reproduction, travel, per diem, and administrative and legal support costs.

(3) Fees are nonrefundable and shall be in the form of check or money order made payable to the department.

(4) The department shall require payment of the following fees upon receipt of application:

(a) (~~Twenty-six~~) Twenty-seven dollars shall be assessed for each initial, renewal, or reciprocal worker certificate application.

(b) (~~Twenty-six~~) Twenty-seven dollars shall be assessed for each initial, renewal, or reciprocal supervisor certificate application.

(c) Five hundred (~~twenty~~) thirty-seven dollars shall be assessed for each initial, renewal, or reciprocal authorized contractor certificate application. The applicant's certificate shall expire annually on the expiration date of the contractor's license issued under the provisions of chapter 18.27 RCW.

(d) Two hundred five dollars shall be assessed for each initial application and fifty dollars shall be assessed for each renewal application for illegal drug manufacturing or storage site decontamination training course approval.

AMENDATORY SECTION (Amending WSR 99-12-022, filed 5/24/99, effective 6/24/99)

WAC 246-282-990 Shellfish program certification fees. (1) Annual certificate fees are:

Type of Operation	Annual Fee
Harvester	\$250.
Shellstock Shipper	
0 - 49 Acres	(\$270.) <u>\$275.</u>
50 or greater Acres	(\$430.) <u>\$440.</u>
Shucker-Packer	
Plants with floor space < 2000 sq. ft.	(\$485.) <u>\$500.</u>
Plants with floor space > 2000 sq. ft. and < 5000 sq. ft.	(\$590.) <u>\$605.</u>

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Type of Operation	Annual Fee
Plants with floor space > 5000 sq. ft.	(\$1,080-) <u>\$1,115.</u>

(2) Type of operations are defined as follows:

(a) "Shellstock shipper" means shippers growing, harvesting, buying, or selling shellstock. Shellstock shippers are not authorized to shuck shellfish or to repack shucked shellfish.

(b) "Shucker-packer" means shippers shucking and packing shellfish. A shucker-packer may act as a shellstock dealer.

(c) "Harvester" means a commercial shellfish operation with activities limited to harvesting shellstock, and shipping and selling it within Washington state to shellfish dealers licensed by the department. Harvesters do not shuck shellfish; repack shucked shellfish; repack shellstock; or store shellstock in any location other than the approved growing area where the shellstock was harvested.

(3) "Export certificate" means a certificate issued by the department to a licensed shucker-packer or shellstock shipper for use in the foreign export of a lot or shipment of shellfish. The fee for each export certificate shall be \$10.

AMENDATORY SECTION (Amending WSR 99-12-022, filed 5/24/99, effective 6/24/99)

WAC 246-254-070 Fees for specialized radioactive material licenses. (1) Persons licensed or authorized to possess or use radioactive material in the following special categories shall forward annual fees to the department as follows:

(a) Four thousand ~~((six))~~ eight hundred ~~((ninety))~~ forty-five dollars for operation of a single nuclear pharmacy.

(b) Eight thousand two hundred sixty-five dollars for operation of a single nuclear laundry.

(c) Eight thousand two hundred sixty-five dollars for a license authorizing a single facility to use more than one curie of unsealed radioactive material in the manufacture and distribution of radioactive products or devices containing radioactive material.

(d) Two thousand ~~((eight))~~ nine hundred ~~((ten))~~ dollars for a license authorizing a single facility to use less than or equal to one curie of unsealed radioactive material or any quantity of previously sealed sources in the manufacture and distribution of products or devices containing radioactive material.

(e) Seven hundred ~~((thirty))~~ fifty-four dollars for a license authorizing the receipt and redistribution from a single facility of manufactured products or devices containing radioactive material.

(f) Five thousand ~~((three))~~ five hundred ~~((seventy))~~ forty-five dollars for a license authorizing decontamination services operating from a single facility.

(g) Two thousand ~~((five))~~ six hundred ~~((forty))~~ twenty-five dollars for a license authorizing waste brokerage including the possession, temporary storage at a single facility, and over-packing only of radioactive waste.

(h) One thousand one hundred ~~((thirty-five))~~ seventy dollars for a license authorizing equipment servicing involving:

- (i) Incidental use of calibration sources;
- (ii) Maintenance of equipment containing radioactive material; or
- (iii) Possession of sealed sources for purpose of sales demonstration only.

(i) Two thousand one hundred ~~((twenty))~~ ninety dollars for a license authorizing health physics services, leak testing, or calibration services.

(j) One thousand three hundred ~~((thirty))~~ seventy dollars for a civil defense license.

(k) Four hundred thirteen dollars for a license authorizing possession of special nuclear material as pacemakers or depleted uranium as shielding.

(2) Persons licensed or authorized to possess and use radioactive material in the following broad scope categories shall forward annual fees to the department as follows:

(a) ~~((Fifteen))~~ Sixteen thousand ~~((eight))~~ four hundred ~~((eighty))~~ five dollars for a license authorizing possession of atomic numbers three through eighty-three with maximum authorized possession of any single isotope greater than one curie.

(b) Seven thousand ~~((three))~~ five hundred ~~((forty))~~ eighty dollars for a license authorizing possession of atomic numbers three through eighty-three with maximum authorized possession of any single isotope greater than 0.1 curie but less than or equal to one curie.

(c) ~~((Five))~~ Six thousand ~~((nine-hundred))~~ ninety-five dollars for a license authorizing possession of atomic numbers three through eighty-three with maximum authorized possession less than or equal to 0.1 curie.

(3) Persons licensed or authorized to possess or use radioactive material which are not covered by any of the annual license fees described in WAC 246-254-070 through 246-254-100, shall pay fees as follows:

- (a) An initial application fee of one thousand dollars;
- (b) Billing at the rate of ninety dollars for each hour of direct staff time associated with issuing and maintaining the license and for the inspection of the license; and
- (c) Any fees for additional services as described in WAC 246-254-120.

(d) The initial application fee will be considered a credit against billings for direct staff charges but is otherwise non-refundable.

(4) Persons licensed or authorized to possess or use radioactive material in a facility for radioactive waste processing, including resource recovery, volume reduction, decontamination activities, or other waste treatment, but not permitting commercial on-site disposal, shall pay fees as follows:

(a) A nonrefundable initial application fee for a new license of sixteen thousand dollars which shall be credited to the applicant's quarterly billing described in (b) of this subsection; and

(b) Quarterly billings for actual direct and indirect costs incurred by the department including, but not limited to, license renewal, license amendments, compliance inspections, a resident inspector for time spent on the licensee's pre-

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mises as deemed necessary by the department, laboratory and other support services, and travel costs associated with staff involved in the foregoing.

AMENDATORY SECTION (Amending WSR 99-12-022, filed 5/24/99, effective 6/24/99)

WAC 246-254-080 Fees for medical and veterinary radioactive material licenses. (1) Persons licensed or authorized to possess or use radioactive material in the following medical or veterinary categories shall forward annual fees to the department as follows:

(a) ~~((Three))~~ Four thousand ~~((nine))~~ one hundred ~~((seventy))~~ dollars for operation of a mobile nuclear medicine program from a single base of operation.

(b) Two thousand ~~((eight))~~ nine hundred ninety~~((five))~~ dollars for a license authorizing groups II and III of WAC 246-235-120 for diagnostic nuclear medicine at a single facility.

(c) Two thousand five hundred ~~((forty))~~ ninety dollars for a license authorizing groups IV and V of WAC 246-235-120 for medical therapy at a single facility.

(d) ~~((Three))~~ Four thousand ~~((nine))~~ one hundred ~~((ninety))~~ twenty dollars for a license authorizing groups II or III and groups IV or V of WAC 246-235-120 for full diagnostic and therapy services at a single facility.

(e) Two thousand ~~((one))~~ two hundred ~~((forty-five))~~ fifteen dollars for a license authorizing group VI of WAC 246-235-120 for brachytherapy at a single facility.

(f) One thousand three hundred ~~((thirty))~~ seventy dollars for a license authorizing brachytherapy or gamma stereotactic therapy or teletherapy at a single facility.

(g) Two thousand ~~((twenty))~~ eighty-five dollars for a license authorizing medical or veterinary possession of greater than two hundred millicuries total possession of radioactive material at a single facility.

(h) One thousand six hundred ~~((ten))~~ sixty dollars for a license authorizing medical or veterinary possession of greater than thirty millicuries but less than or equal to two hundred millicuries total possession of radioactive material at a single facility.

(i) One thousand ~~((one))~~ two hundred ~~((eighty-five))~~ twenty dollars for a license authorizing medical or veterinary possession of less than or equal to thirty millicuries total possession of radioactive material at a single facility.

(j) One thousand ~~((forty))~~ seventy-five dollars for a license authorizing group I as defined in WAC 246-235-120 or in vitro uses of radioactive material at a single facility.

(k) Six hundred ~~((fifty))~~ seventy-one dollars for a license authorizing medical or veterinary possession of a sealed source for diagnostic use at a single facility.

(2) Persons with licenses authorizing multiple locations of use shall increase the annual fee by fifty percent for each additional location or base of operation.

AMENDATORY SECTION (Amending WSR 99-12-022, filed 5/24/99, effective 6/24/99)

WAC 246-254-090 Fees for industrial radioactive material licenses. (1) Persons licensed or authorized to pos-

sess or use radioactive material in the following industrial categories shall forward annual fees to the department as follows:

(a) Four thousand ~~((six))~~ eight hundred ~~((seventy-five))~~ thirty dollars for a license authorizing the use of radiographic exposure devices in one or more permanent radiographic vaults in a single facility.

(b) Six thousand ~~((two))~~ four hundred ~~((sixty-five))~~ seventy dollars for a license authorizing the use of radiographic exposure devices at temporary job sites but operating from a single storage facility.

(c) Three thousand one hundred seventy dollars for a license authorizing well-logging activities including the use of radioactive tracers operating from a single storage facility.

(d) Six hundred ~~((sixty-five))~~ eighty-seven dollars for a license authorizing possession of portable sealed sources including moisture/density gauges and excluding radiographic exposure devices operating from a single storage facility.

(e) Seven hundred ~~((thirty))~~ fifty-four dollars for a license authorizing possession of any nonportable sealed source, including special nuclear material and excluding radioactive material used in a gas chromatograph at a single facility.

(f) Four hundred ~~((sixty))~~ seventy-five dollars for a license authorizing possession of gas chromatograph units containing radioactive material at a single facility.

(g) One thousand ~~((two))~~ three hundred ~~((sixty))~~ five dollars for a license authorizing possession of any self-shielded or pool type irradiator with sealed source total quantity greater than one hundred curies at a single facility.

(h) Six thousand ~~((seven))~~ nine hundred twenty dollars for a license authorizing possession of sealed sources for a walk-in type irradiator at a single facility.

(i) ~~((Five))~~ Six thousand ~~((eight hundred thirty-five))~~ twenty-five dollars for a license authorizing possession of greater than one gram of unsealed special nuclear material or greater than five hundred kilograms of source material at a single facility.

(j) One thousand ~~((eight))~~ nine hundred ~~((seventy))~~ thirty dollars for a license authorizing possession of less than or equal to one gram of unsealed special nuclear material or five hundred kilograms of source material at a single facility.

(k) Three hundred nine dollars for a license authorizing possession of static elimination devices not covered by a general license.

(2) Persons with licenses authorizing multiple locations of permanent storage shall increase the annual fee by fifty percent for each additional location.

(3) Depleted uranium registrants required to file Form RHF-20 shall forward an annual fee of sixty~~((two))~~ two dollars to the department.

AMENDATORY SECTION (Amending WSR 99-12-022, filed 5/24/99, effective 6/24/99)

WAC 246-254-100 Fees for laboratory radioactive material licenses. (1) Persons licensed or authorized to possess or use unsealed radioactive material in the following lab-

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oratory categories shall forward annual fees to the department as follows:

(a) Three thousand (~~one~~) three hundred (~~ninety-five~~) dollars for a license authorizing possession at a single facility of unsealed sources in amounts greater than:

- (i) One millicurie of I-125 or I-131; or
- (ii) One hundred millicuries of H-3 or C-14; or
- (iii) Ten millicuries of any single isotope.

(b) One thousand (~~five~~) six hundred (~~eighty~~) thirty-five dollars for a license authorizing possession at a single facility of unsealed sources in amounts:

- (i) Greater than 0.1 millicurie and less than or equal to one millicurie of I-125 or I-131; or
- (ii) Greater than ten millicuries and less than or equal to one hundred millicuries of H-3 or C-14; or
- (iii) Greater than one millicurie and less than or equal to ten millicuries of any single isotope.

(c) One thousand three hundred (~~thirty~~) seventy dollars for a license authorizing possession at a single facility of unsealed sources in amounts:

- (i) Greater than 0.01 millicurie and less than or equal to 0.1 millicurie of I-125 or I-131; or
- (ii) Greater than one millicurie and less than or equal to ten millicuries of H-3 or C-14; or
- (iii) Greater than 0.1 millicurie and less than or equal to one millicurie of any other single isotope.

(d) Four hundred (~~sixty~~) seventy-five dollars for a license authorizing possession at a single facility of unsealed or sealed sources in amounts:

- (i) Less than or equal to 0.01 millicurie of I-125 or I-131; or
- (ii) Less than or equal to one millicurie of H-3 or C-14; or
- (iii) Less than or equal to 0.1 millicurie of any other single isotope.

(e) Six hundred (~~fifteen~~) thirty-five dollars for a license authorizing possession at a single facility of large quantities of naturally occurring radioactive material in total concentration not exceeding 0.002 microcurie per gram.

(2) Persons with licenses authorizing multiple locations of use shall increase the annual fee by fifty percent for each additional location.

(3) Persons registered to perform in vitro testing pursuant to Form RHF-15 shall forward an annual fee of sixty-two dollars to the department.

WSR 99-20-062
PROPOSED RULES
DEPARTMENT OF HEALTH

[Filed October 1, 1999, 4:08 p.m.]

Original Notice.

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

Title of Rule: No cost testing of good samaritans for certain infectious diseases.

Purpose: Implements chapter 391, Laws of 1999 which requires the department to develop rules to ensure that eligi-

ble good samaritan's can receive no cost testing for certain infectious diseases.

Statutory Authority for Adoption: Chapter 391, Laws of 1999.

Statute Being Implemented: Chapter 391, Laws of 1999.

Summary: This rule establishes qualifications for good samaritans to receive no cost testing for certain infectious diseases at local health departments and establishes procedures for local health officials to determine the testing and other services that must be provided.

Reasons Supporting Proposal: This rule implements a statutory mandate for the testing.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: John F. Peppert, Box 47840, Olympia, WA 98504-7840, (360) 236-3427.

Name of Proponent: Washington State Department of Health, Community and Family Health, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The rule establishes qualifications for good samaritans to receive no cost testing for certain infectious diseases at local health departments and establishes procedures for local health officials to determine the testing and other services that must be provided. These regulations are proposed to ensure eligible good samaritans can receive testing for certain infectious diseases at no cost to the good samaritan. The effect of the rule is to assist individuals in emergency situations who perform a needed and valuable role no cost infectious disease testing.

Proposal does not change existing rules.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This rule is exempt from RCW 19.85.025(3) because it qualifies for an exemption under RCW 34.05.310(4) the content of the rule is specifically dictated by statute.

RCW 34.05.328 does not apply to this rule adoption. This rule does not subject a person to a penalty or sanction; does not establish, alter or revoke a qualification or standard for licensure; and does not make significant amendment to a policy or regulator program. This rule creates a process for local health officials and local jail administrators to implement the requirements of chapter 391, Laws of 1999.

Hearing Location: Building 9, New Market Vocational Park, Cleanwater Lane, Tumwater, Washington, on November 9, 1999, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Harla Eichenberger by November 1, 1999, TDD (800) 833-6388, or (360) 236-3424.

Submit Written Comments to: John Peppert, fax (360) 236-3400, by November 5, 1999.

Date of Intended Adoption: November 12, 1999.

October 1, 1999

Eric Slagle

for Mary C. Selecky

Secretary

Chapter 246-138 WAC

TESTING OF GOOD SAMARITANS FOR CERTAIN
INFECTIOUS DISEASESNEW SECTION

WAC 246-138-001 Purpose. The purpose of this rule is to ensure eligible good samaritans may receive testing for certain infectious diseases at no cost to the good samaritan.

NEW SECTION

WAC 246-138-010 Definitions. The following definitions apply throughout this chapter unless the context clearly indicates otherwise.

(1) "Certain infectious diseases" means hepatitis A virus (HAV), hepatitis B virus (HBV), hepatitis C virus (HCV), and human immunodeficiency virus (HIV).

(2) "Good samaritan" means a person rendering emergency care or transportation as described in RCW 4.24.300 and 4.24.310.

(3) "Local health department" means the city, town, county, or district agency providing public health services to persons within the area, as provided in chapters 70.05 and 70.08 RCW.

(4) "Local health officer" means the individual appointed under chapter 70.05 RCW as the health officer for the local health department, or appointed under chapter 70.08 RCW as the director of public health of a combined city-county health department.

(5) "Exchange of bodily fluids significantly increasing the odds of being exposed to a deadly infectious disease" or "exposure to infectious disease":

(a) For HBV, HCV, and HIV means physical contact resulting in exposure presenting possible risk, limited to:

(i) A physical assault upon the exposed person involving blood or semen;

(ii) Intentional, unauthorized, nonconsensual use of needles or sharp implements to inject or mutilate the exposed person;

(iii) An accidental parenteral or mucous membrane or nonintact skin exposure to blood, semen, or vaginal fluids; or

(iv) For HBV only, mucous membrane or nonintact skin exposure to saliva; or

(b) For HAV means physical contact resulting in oral exposure of the good samaritan to the feces of the person she/he was assisting.

NEW SECTION

WAC 246-138-020 How is a good samaritan eligible for no cost testing for certain infectious diseases? To receive no cost testing, a good samaritan must:

(1) Seek testing from the local health department of the county of her or his residence within thirty days of the exposure to infectious disease;

(2) Have sustained an exposure to infectious disease as determined by the local health officer or authorized representative, while rendering emergency care or transportation; and

(3) Be uninsured or have health insurance that does not cover most of the costs of testing.

NEW SECTION

WAC 246-138-030 What are the duties and responsibilities of the local health department? Local health departments, during regular hours of operation shall:

(1) Determine whether the good samaritan has sustained an exposure to infectious disease;

(2) Determine which certain infectious diseases or other infectious diseases are appropriate to test for, which tests should be done and when the tests should be done, based on the nature and time of the exposure to infectious disease and the natural history of infection for the diseases in question;

(3) Offer counseling and testing, consistent with recommendations in the sixteenth edition 1995 of *Control of Communicable Diseases Manual*, edited by Abram S. Benenson, published by the American public health association, for those infectious diseases to which the good samaritan is determined to have sustained an exposure to infectious disease;

(4) Obtain the informed consent of the good samaritan prior to testing;

(5) Provide the good samaritan with the results of the testing and the possible need for retesting;

(6) Refer the good samaritan to an appropriate health care provider for any subsequent needed care in the event of a positive test; and

(7) Maintain the confidentiality of those medical records as required by chapters 70.24 RCW and 246-100 WAC.

NEW SECTION

WAC 246-138-040 Limitations. Nothing in this chapter requires a local health department to provide health care services beyond the counseling, testing, and referral described in this chapter.

WSR 99-20-064

PROPOSED RULES

DEPARTMENT OF LICENSING

[Filed October 4, 1999, 8:26 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-18-009.

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

Purpose: 1. To meet the criteria set forth in Governor Locke's Executive Order 97-02.

2. To clarify rules and help make them more comprehensible.

Statutory Authority for Adoption: RCW 88.02.070 and 88.02.100.

Summary: Amending WAC 308-93-079 Government exempt vessels, 308-93-090 Rented or leased vessels and 308-93-160 Excise tax exemptions—Indians; and repealing

WAC 308-93-100 Retention of registration certificate for leased or rented vessels and 308-93-340 Commercial fishing vessels.

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

Name of Agency Personnel Responsible for Drafting: Patrick J. Zlateff, 1125 Washington Street S.E., Olympia, 902-3718; Implementation and Enforcement: Eric Andersen, 1125 Washington Street S.E., Olympia, (360) 902-4045.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The anticipated effects will be a clarification of the above mentioned requirements.

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

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

RCW 34.05.328 does not apply to this rule adoption. The contents of the proposed rules are explicitly and specifically dictated by statute.

Hearing Location: Highways-Licenses Building, Conference Room 107, 1125 Washington Street S.E., Olympia, WA 98507, on November 10, 1999, at 1:00 p.m.

Assistance for Persons with Disabilities: Contact Patrick J. Zlateff by November 9, 1999, TDD (360) 664-8885, or (360) 902-3718.

Submit Written Comments to: Patrick J. Zlateff, Rules Coordinator, Title and Registration Services, P.O. Box 2957, Olympia, WA 98507-2957, fax (360) 664-0831, by November 9, 1999.

Date of Intended Adoption: December 6, 1999.

October 4, 1999

Fran Lukes
for Deborah McCurley
Administrator
Title and Registration Services

AMENDATORY SECTION (Amending Order TL/RG 25, filed 5/7/86)

~~WAC 308-93-079 Government exempt vessels. ((Any vessel owned by the state of Washington or by any county, city, town or other political subdivision of the state of Washington, clearly identifiable as such and used exclusively by that agency, may obtain a title and valid annual registration upon payment of all fees required under chapter 88.02 RCW but shall be exempt from payment of the excise tax. The department may assign a registration number and issue a decal, which must be displayed as prescribed under WAC 308-93-140.)) (1) If a government agency chooses to display registration numbers and current vessel decals in addition to being clearly identifiable as a government vessel, what fees are required? Government agencies are required to pay filing and registration fees. Excise tax is not required.~~

(2) If the department issues a Washington registration number and current decals, is the government agency required to display them? Yes, if a registration number and decals are issued, they must be displayed as prescribed in WAC 308-93-140.

AMENDATORY SECTION (Amending Order TL-RG 8, filed 9/13/84)

~~WAC 308-93-090 Rented or leased vessels. ((If the owner of the vessel is a Washington resident, and the vessel is leased and operated in Washington, it must be titled and registered in Washington. If the owner is a resident of another state and the vessel is leased and operated in Washington, the reciprocity provisions in WAC 308-93-640 apply.~~

~~(1) Rented and leased vessels must be separately registered and titled and display the registration number and decals assigned to the vessel. A dealer's registration number does not cover a rented or leased vessel.~~

~~(2) If the vessel is leased for a period of less than one year the lessor's name may appear on the certificate of title as the sole registered owner with any secured party being shown as the legal owner.~~

~~(3) If the vessel is leased for a period of one year or more or if there is an option to purchase the vessel, the application for certificate of title shall be completed with the name of the lessee as registered owner, followed by the word "lessee." The lessor's name will appear as the legal owner. If the vessel is subject to a security agreement, the application will be completed with the lessor's name appearing immediately below the lessee's name and will be identified by the word "lessor." The address shown will be the lessee's. The secured party's name and address will be shown in the legal owner's space.)) (1) How does the department differentiate between rented and leased vessels? For the purposes of this section a vessel is considered leased if the lease agreement is for a period of one year or more or there is an option to purchase. A vessel is considered rented if the rental agreement is for a period of less than one year and there is no option to purchase in the rental agreement.~~

~~(2) When must rented or leased vessels, used on Washington waters, be titled and registered or required to obtain an identification document? A rented or leased vessel, used on Washington waters, must be titled and registered or have an identification document under the following circumstances. If the vessel is:~~

~~(a) Registered out of country and rented or leased, and used upon Washington waters, the owner of the vessel must purchase a permanent identification document, issued to the vessel, on or before the sixty-first day of use as provided in RCW 88.02.030(3). If the vessel owner is not available, the person(s) applying for the identification document shall have notarized/certified power of attorney from a registered owner of the vessel authorizing him/her to purchase the permanent identification document.~~

~~(b) Registered in a foreign jurisdiction and rented or leased by a nonresident individual, and used upon Washington waters, the owner shall purchase a Vessel 60 Day Temporary Identification Document on or before the sixty-first day~~

of use as provided in RCW 88.02.030(11). Not more than two identification documents shall be purchased in any twelve continuous months. If the vessel owner is not available, the person(s) applying for the identification document shall have notarized/certified power of attorney from a registered owner of the vessel authorizing him/her to purchase the identification document. If the vessel is used upon Washington waters for more than one hundred and eighty days, it shall be titled and registered in this state or removed from the waters of this state.

(c) Registered in a foreign jurisdiction and rented or leased by a Washington resident, and used upon Washington waters, the following apply:

(i) If the vessel is leased for one year or more or there is an option to buy on either the rental or lease agreement, the Washington resident must register the vessel in his or her name on or before the sixty-first day of use upon Washington waters.

(ii) If the vessel is rented for less than one year, it must be registered in the name of the owner, not the operator on or before the sixty-first day of use upon Washington waters. Any secure party is shown as the legal owner.

(3) Whose name must be shown on the application for certificate of ownership and registration when the vessel is rented? Rented vessels are titled and registered in the name of the owner, not the operator. Any secured party is shown as legal owner.

(4) What documents must a Washington resident carry with them when they rent or lease a Washington registered vessel and operate the vessel on Washington waters?

(a) When the vessel is less than twenty-six feet in length and rented or leased for less than seven days, the following documents are required to be carried on the vessel:

(i) A copy of the lease or rental agreement signed by the owner or his authorized representative and by the person leasing or renting the vessel which shall contain at least the vessel registration number, the period of time for which the vessel is leased or rented and the hull identification number; and

(ii) A copy of the current registration certificate.

(b) When the vessel is less than twenty-six feet in length and rented or leased for seven days or more, the following documents are required to be carried on the vessel:

(i) A copy of the lease or rental agreement signed by the owner or his authorized representative and by the person leasing or renting the vessel which shall contain at least the vessel registration number, the period of time for which the vessel is leased or rented and the hull identification number; and

(ii) The original current registration certificate.

(c) When the vessel is twenty-six feet or more and is rented or leased, the following documents are required to be carried on the vessel:

(i) A copy of the lease or rental agreement signed by the owner or his authorized representative and by the person leasing or renting the vessel which shall contain at least the vessel registration number, the period of time for which the vessel is leased or rented and the hull identification number; and

(ii) The original current registration certificate.

(5) Do I need to surrender my out-of-state certificate of ownership to the department when I register my leased vessel in Washington? If there is a secured party on the out-of-state certificate of ownership and shows lessee and lessor designations as required by Washington state law or rule, the certificate of ownership need not be surrendered. A certificate of registration will be issued, however, a Washington certificate of ownership will not. If the out-of-state certificate of ownership does not show a secured party or is not in name agreement or does not show lessee and lessor designations as required by Washington law or rule, the out-of-state certificate of ownership shall be surrendered and a Washington certificate of ownership will be issued to the lessor/legal owner.

AMENDATORY SECTION (Amending Order TL-RG-2, filed 6/21/84)

WAC 308-93-160 Excise tax exemptions—Indians.

(1) ((For the purposes of this rule, the following words and terms have the following meanings:

(a) "Indian reservation" means all lands, notwithstanding the issuance of any patent, within the exterior boundaries set aside by the United States for the exclusive use and occupancy of Indian tribes by treaty, law or executive order and which are areas currently recognized as "Indian reservations" by the United States Department of the Interior.

The following Washington reservations are the only "Indian reservations" currently recognized as such by the United States Department of the Interior: Chehalis, Colville, Hoh, Kalispell, Lower Elwha, Lummi, Makah, Muckleshoot, Nisqually, Nooksack, Ozette, Port Gamble, Port Madison, Puyallup, Quileute, Quinault, Shoalwater, Skokomish, Spokane, Squaxin Island, Swinomish, Tulalip, and Yakima.

(b) "Indian tribe" means any organized Indian nation, tribe, band, or community recognized as an "Indian tribe" by the United States Department of the Interior.

(c) "Indian" means persons duly registered on the tribal rolls of the Indian tribe occupying an Indian reservation.

(2) Vessels owned by an Indian tribe occupying a recognized Washington Indian reservation are exempt from payment of the excise tax imposed by chapter 82.49 RCW.

(3) Vessels owned by Indians having their principal residence within the recognized Washington Indian reservation, for the tribe in which they are duly registered on the tribal rolls, are exempt from payment of the excise tax imposed by chapter 82.49 RCW.

(4) A properly completed affidavit of exemption on a form supplied by the department must be submitted with each vessel's registration application as a condition precedent to exemption from excise tax. The department may require such other proof of qualification for exemption as it deems necessary.) What definitions does the department apply to this section? For purposes of this rule, the following words and terms have the following meanings:

(a) "Indian reservation" means all lands, notwithstanding the issuance of any patent, within the exterior boundaries set aside by the United States for the use and occupancy of Indian tribes by treaty, law or executive order and which are

areas currently recognized as "Indian reservations" by the United States Department of the Interior.

(b) "Indian tribe" means an Indian nation, tribe, band, or community recognized as an "Indian tribe" by the United States Department of the Interior.

(c) "Indian" means a person on the tribal rolls of the Indian tribe occupying an Indian reservation.

(2) What Indian reservations in Washington are recognized by the United States Department of the Interior? The following are the only Washington "Indian reservations" currently recognized as such by the United States Department of the Interior: Chehalis Confederated tribes, Colville Confederated tribes, Hoh, Jamestown S'Klallam, Kalispel, Lower Elwha Klallam, Lummi, Makah, Muckleshoot, Nisqually, Nooksack, Port Gambles S'Klallam, Puyallup, Quileute, Quinault, Samish, Sauk-Suiattle, Shoalwater Bay, Skokomish, Spokane, Squaxin, Stillaguamish, Suquamish, Swinomish, Tulalip, Upper Skagit and Yakama.

(3) How does an Indian qualify for a vessel excise tax exemption? To qualify for a vessel excise tax exemption, an Indian shall:

(a) Be enrolled as a tribal member of a recognized Washington tribe;

(b) Have their principal residence within the boundaries of the Indian reservation of the tribe of which they are a member; and

(c) Be a registered owner of the vessel for which the exemption is requested; or

(d) Be the owner of a vessel used in the exercise of treaty fishing rights as defined in the Consent Decree, dated November 28, 1994, entered in *United States v. Washington*, Civ. No. 9213 - Phase I - Sub. 88-1 and signed by the United States, the signatory tribes and the state of Washington.

(4) Are vessels owned by or leased to a governing body of an Indian tribe subject to vessel excise tax? No. Vessels owned by or leased to a governing body of an Indian tribe are not subject to vessel excise tax. Tribal treaty fishing vessels are exempt from excise tax and registration as described in WAC 308-93-700 through 308-93-770.

(5) What documentation does the department require from a tribal member to qualify for a vessel excise tax exemption?

(a) The department requires a properly completed affidavit of exemption on a form supplied or approved by the department. An affidavit for each vessel must be submitted at the time the exemption is established and at the time of renewal if there is a change of address. The department may require such other proof of qualification for exemption as it deems necessary.

(b) If the vessel is used in the exercise of treaty fishing rights, as defined in the Consent Decree dated November 28, 1994, entered in *United States v. Washington*, Civ. No. 9213 - Phase I - Sub. 88-1 and signed by the United States, the signatory tribes and the state of Washington, the registered owner must provide proof that the vessel is registered under the provisions of WAC 308-93-700 through 308-93-770.

(6) What information must be contained within the affidavit of exemption described in subsection (5)(a) of

this section? At the minimum, the affidavit of exemption must include the following:

(a) Description of the vessel including the year and make and either the Washington registration number or the hull identification number;

(b) The registered owner's name, tribe, reservation and enrollment or Bureau of Indian Affairs number;

(c) The principal address of the registered owner as will be shown on the vessel registration certificate;

(d) Signature of the registered owner;

(e) A certification of an authorized tribal authority representing the Indian reservation of the tribe of which the registered owner is a member. The certification must include a statement that the registered owner is an enrolled tribal member and that the address provided by the registered owner is within the boundaries of their reservation;

(f) The position or title of the tribal authority, their telephone number and their signature.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 308-93-100 Retention of registration certificate for leased or rented vessels.

WAC 308-93-340 Commercial fishing vessels.

WSR 99-20-065

PROPOSED RULES

DEPARTMENT OF TRANSPORTATION

[Filed October 4, 1999, 9:18 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-17-079.

Title of Rule: Highway Advertising Control Act, chapter 468-66 WAC.

Purpose: Defines new "certification process" by incorporating into chapter 468-66 WAC the provisions of SB 5832 of the 56th Legislature, 1999 regular session. Amends additional sections of chapter 468-66 WAC to clarify provisions of additional rules.

Statutory Authority for Adoption: Chapter 47.42 RCW, RCW 47.42.060.

Statute Being Implemented: SB 5832.

Summary: Defines new "certification process"; and amends additional sections of chapter 468-66 WAC to clarify provisions of additional rules.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Toby D. Rickman, P.O. Box 47344, Olympia, WA 98504-7344, (360) 705-7280.

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

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

Explanation of Rule, its Purpose, and Anticipated Effects: (a) Amends WAC 468-66-030 Classification of signs, by adding definition as subsection (1)(c) "single on-premise signs."

(b) Amends WAC 468-66-050 Classification of signs, by clarifying stipulation in subsection (2) "for sale or lease sign."

(c) Amends WAC 468-66-070 On premise signs, by clarifying regulation in subsection (2) "measuring from the advertised activity."

(d) Amends WAC 468-66-070 On premise signs, by adding new subsection (3) clarifying signs "advertising shopping centers and malls" and renumbers subsections (3) and (4).

(e) Amends WAC 468-66-110 Signs within commercial and industrial areas of primary system, by clarifying definition of spacing requirements for subsection [(2)](e), "Type 7 and 8 signs."

(f) Amends WAC 468-66-140 Permits, by changing wording in subsection (2) to read "service center," subsection (2)(f) to read "region," and subsection (3)(f) to read "accompanied by a fee of \$50 for each sign face," also subsection (4) to read "\$300."

(g) Amends WAC 468-66-140 Permits, by adding definition in subsection (5) to define new "certification process," adds further definition as subsections [(5)](a) and (b), also renumbers remainder of sections.

Note: Items (f) in part and (g) incorporate into chapter 468-66 WAC the provisions of SB 5382, of the 56th legislature, 1999 regular session. The other items clarify provisions of existing rules.

Proposal Changes the Following Existing Rules: See explanation above.

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

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

Hearing Location: Department of Transportation, Commission Board Room ID2 [1D2], Transportation Building, Olympia, Washington 98504, on November 12, 1999, at 8:30 a.m.

Assistance for Persons with Disabilities: Contact TDD (360) 705-6980, by November 8, 1999.

Submit Written Comments to: Toby D. Rickman, State Traffic Engineer, Washington State Department of Transportation, P.O. Box 47344, Olympia, WA 98504-7344, fax (360) 705-7280, by November 8, 1999.

Date of Intended Adoption: November 12, 1999.

September 30, 1999

Gretchen P. White
for Gerald E. Smith

Deputy Secretary, Operations

AMENDATORY SECTION (Amending Order 170, filed 8/7/97, effective 9/7/97)

WAC 468-66-030 General provisions. Notwithstanding any other provision of the act or these regulations, no signs visible from the main-traveled way of the interstate sys-

tem, primary system, or scenic system which have any of the following characteristics shall be erected or maintained:

(1) Signs advertising activities that are illegal under state or federal laws or regulations in effect at the location of such signs or at the location of such activities.

(2) Illegal, destroyed, abandoned, discontinued or obsolete signs.

(3) Signs that are not clean and in good repair.

(4) Signs that are not securely affixed to a substantial structure.

(5) Signs which attempt or appear to attempt to direct the movement of traffic or which interfere with, imitate or resemble any official traffic sign, signal or device.

(6) Signs which prevent the driver of a vehicle from having a clear and unobstructed view of official signs and approaching or merging traffic.

(7) Signs which contain, include, or are illuminated by any flashing, intermittent, or moving light or lights (except those signs giving public service information).

(8) Signs which use any lighting in any way unless it is so effectively shielded as to prevent beams or rays of light from being directed at any portion of the traveled ways of the highway or is of such low intensity or brilliance as not to cause glare or to impair the vision of the driver of any motor vehicle, or to otherwise interfere with any driver's operation of a motor vehicle.

(9) Signs which move or have any animated or moving parts (except revolving signs giving public service information).

(10) Signs which are erected or maintained upon trees, power poles or painted or drawn upon rocks or other natural features.

(11) Signs which exceed twenty feet in length, width or height, or one hundred fifty square feet in area, including border and trim but excluding supports, except:

(a) Larger signs as permitted within commercial and industrial areas adjacent to the primary system pursuant to RCW 47.42.062; and

(b) Type 3 signs not more than fifty feet from the advertised activity; and

(c) Single on-premise signs advertising shopping centers, malls, and business combinations as described in WAC 468-66-070(3); and

(d) Type 8 signs shall not exceed thirty-two square feet in area, unless they qualify as Type 3 (on-premise) signs.

(12) Electronic signs may be used only to advertise activities conducted or goods and services available on the property on which the signs are located or to present public service information.

(a) Advertising messages may contain words, phrases, sentences, symbols, trade-marks, and logos. A single message or a segment of a message must have a display time of at least two seconds including the time to move onto the sign board, with all segments of the total message to be displayed within ten seconds. A message consisting of only one segment may remain on the sign board as long as desired.

(b) Electronic signs requiring more than four seconds to change from one single message display to another shall be turned off during the change interval.

PROPOSED

(c) Displays traveling horizontally across the sign board must move between sixteen and thirty-two light columns per second. Displays can scroll onto the sign board but must hold for two seconds including scrolling.

(d) Sign displays shall not include any art animations or graphics that portray motion, except for movement of graphics onto or off of the sign board as previously described.

(e) No electronic sign lamp may be illuminated to a degree of brightness that is greater than necessary for adequate visibility. Signs found to be too bright shall be adjusted in accordance with the instructions of the department.

(f) As on-premise signs, electronic signs are subject to the provisions of RCW 47.42.045 and 47.42.062.

(13) Tri-vision signs may be used as Type 3, Type 4, or Type 5 signs, with the following provisions:

(a) Visible to Interstate highways, tri-vision signs may only be used as Type 3 signs.

(b) Rotation of one sign face to another sign face is no more frequent than every eight seconds and the actual rotation process shall be accomplished in four seconds or less.

(c) Tri-vision signs shall contain a default mechanism that will stop the sign in one position should a malfunction occur.

(d) Maximum size limitations shall independently apply to each sign face, including framework and border.

(e) Tri-vision signs are subject to all other applicable provisions of chapter 47.42 RCW and chapter 468-66 WAC.

AMENDATORY SECTION (Amending Order 144, filed 5/27/94, effective 6/27/94)

WAC 468-66-050 Classification of signs. Signs shall be classified as follows:

(1) Type 1—Directional or other official signs or notices.

(a) Signs and notices erected and maintained by public offices or public agencies within their territorial or zoning jurisdiction and pursuant to and in accordance with direction or authorization contained in federal, state, or local law for the purposes of carrying out an official duty or responsibility. Historical markers authorized by state law and erected by state or local government agencies or nonprofit historical societies may be considered official signs.

(b) Service club and religious notices, whose message shall contain only the name of a nonprofit service club or religious organization, its address and the time of its meeting or service.

(2) Type 2—For sale or lease sign. A sign not prohibited by state law which is consistent with the applicable provisions of these regulations and which only advertises the sale or lease (~~only~~) of the parcel of real property upon which the sign is located. The name of the owner of the property offered for sale or lease, or the owner's agent and phone number shall not be displayed more conspicuously than the words "for sale" or "for lease." No other message may be displayed on the sign. Not more than one such sign advertising the sale or lease of a parcel of property shall be (~~permitted in such manner as to be~~) visible to traffic proceeding in any one direction on an interstate system, primary system or scenic system highway.

(3) Type 3—On-premise sign.

(a) A sign advertising an activity conducted on the property on which the sign is located. The sign, except as provided under (b) of this subsection, shall be limited to identifying the establishment or the principal or accessory products or services offered on the property. A sign consisting principally of a brand name, trade name, product, or service incidental to the principal products or services offered on the property, or bringing rental income to the property owner, is not considered an on-premise sign. Not more than one such sign, visible to traffic proceeding in any one direction on an interstate system, primary system, or scenic system highway may be permitted more than fifty feet from the advertised activity.

(b) Temporary political campaign signs are a Type 3 on-premise sign, on which the property owner expresses endorsement of a political candidate or ballot issue, with the following restrictions:

(i) Temporary political campaign signs are limited to a maximum size of thirty-two square feet in area.

(ii) Temporary political campaign signs must be removed within ten days after the election.

(iii) Except as provided in (b)(i) and (ii) of this subsection, temporary political campaign signs are subject to all other applicable provisions of chapter 47.42 RCW and chapter 468-66 WAC that pertain to Type 3 on-premise signs.

(c) Signs reading "future site of" or similar wording will be allowed as an on-premise sign without any activity being apparent on the site for one year from date of installation provided the following conditions have been met:

(i) The department of transportation has received a letter of notification of intent from the owner of the proposed advertised activity.

(ii) The sign shall not inform of activities conducted elsewhere.

(iii) The maximum size of a future site sign shall not be greater than one hundred fifty square feet.

The sign must be removed at the end of the one year time period if the advertised activity has not become operational.

(4) Type 4—Signs within twelve air miles of advertised activities. Signs not prohibited by state law which are consistent with the applicable provisions of these regulations and which advertise activities conducted within twelve air miles of such signs.

(5) Type 5—Signs in the specific interest of the traveling public. Signs authorized to be erected or maintained by state law which are consistent with these regulations and which are designed to give information in the specific interest of the traveling public.

(6) Type 6—Signs lawfully in existence on October 22, 1965, determined by the department of transportation, subject to the approval of the United States Secretary of Transportation, to be landmark signs, including signs on farm structures or natural surfaces, of historic or artistic significance the preservation of which would be consistent with the purposes of chapter 47.42 RCW.

(7) Type 7—Public service signs located on school bus stop shelters, which:

(a) Identify the donor, sponsor or contributor of said shelters;

(b) Contain safety slogans or messages which do not pertain to the donor and occupy not less than sixty percent of the area of the signs. In addition to this area limitation the donor identification portion of the sign may not appear more prominently than the safety slogan message;

(c) Contain no other message;

(d) Are located on school bus shelters which are authorized or approved by city, county, or state law, regulation or ordinance, off the state highway right of way. School bus shelters shall not exceed 10 feet in length, 10 feet in width or 8 feet in height and shall be constructed with the upper 4 feet of the sides perpendicular to the roadway being occupied by the sign. The remainder is to be constructed of a see through nature. No school bus shelter shall be located along fully controlled access highways as specifically referenced in WAC 468-58-030;

(e) Do not exceed 32 square feet in area. Not more than one sign on each shelter may face in any one direction. The sign shall not protrude above the roof line or beyond the sides of the shelter;

(f) Signs erected pursuant to a permit issued by the department of transportation as provided in RCW 47.42.120 and 47.42.130 and the regulations issued thereunder. A permit shall be required for each individual sign face.

(8) Type 8—Temporary agricultural directional signs, with the following restrictions:

(a) Signs shall be posted only during the period of time the seasonal agricultural product is being sold;

(b) Signs shall not be placed adjacent to the interstate highway system unless the sign qualifies as an on-premise (Type 3) sign;

(c) Signs shall not be placed within an incorporated city or town, but may be placed in unzoned areas and areas zoned for agricultural, commercial, and industrial activities;

(d) Premises on which the seasonal agricultural products are sold must be within fifteen miles of the state highway, and necessary supplemental signing on local roads must be provided before the installation of the signs on the state highway;

(e) Signs must be located so as not to restrict sight distances on approaches to intersections, or restrict the visibility of other authorized signs;

(f) The minimum spacing between sign structures shall be three hundred feet. For the purposes of this subsection, a back-to-back sign and a V-type sign shall be considered one sign structure (spacing is independent of off-premise (Type 4 and Type 5) signs).

AMENDATORY SECTION (Amending Order 55, filed 4/18/80)

WAC 468-66-070 On-premise signs (Type 3). (1) Not more than one Type 3 sign visible to traffic proceeding in any one direction on an interstate system, primary system outside an incorporated city or town or commercial or industrial area, or scenic system highway may be permitted more than fifty feet from the advertised activity. The entire sign installation shall be located within the fifty foot distance.

(2) For the purpose of measuring from the "advertised activity" the distance shall be measured from the sign to the nearest portion of that building, storage, or other structure or

processing area, which is the most regularly used and essential to the conduct of the activity.

(3) For signs advertising shopping centers, malls and business combinations, the distance from the "advertised activity" may be measured from the nearest portion of a combined parking area (~~may be considered as part of that activity~~) for purposes of allowing a single (~~individual~~) on-premise sign(~~;~~).

(a) In the event that a shopping center, mall or business combination does erect a single (~~individual~~) on-premise sign as permitted herein, such sign may identify each of the individual businesses conducted upon the premises, and may include a single display area such as a manually changeable copy panel, reader board or electronically changeable message center for advertising on-premise activities.

(b) Individual business signs in such a center, mall or combination area are not permissible more than fifty feet from the individual activity.

~~((3))~~ (4) A Type 3 sign permitted more than fifty feet from the advertised activity pursuant to subsection (1) of this section shall not be erected or maintained a greater distance from the advertised activity than one of the following options selected by the owner of the business being advertised:

(a) One hundred fifty feet measured along the edge of the protected highway from the edge of the main entrance to the activity advertised (when applicable);

(b) One hundred fifty feet from any outside wall of the main building of the advertised activity; or

(c) Fifty feet from any outside edge of a regularly used parking lot maintained by and contiguous to the advertised activity.

~~((4))~~ (5) One Type 3 sign in each direction, not exceeding fifty square feet in area bearing only the name and a directional message, indicating the location of a business, farm, ranch or orchard may be allowed on such premises that were in existence on June 25, 1976, provided that the following conditions exist:

(a) No other Type 3 signs legible from the main traveled lanes of the highway are maintained.

(b) The sign is located on property abutting the highway where ownership or unrestricted lease is contiguous to and includes the advertised activity and not on a strip or parcel of land deemed by the department of transportation to be acquired for the sole purpose of outdoor advertising.

AMENDATORY SECTION (Amending Order 96, filed 8/12/85)

WAC 468-66-110 Signs within commercial and industrial areas of primary system. Signs visible from the main-traveled way of the primary system within commercial and industrial areas whose size and spacing are consistent with the customary use of property for the effective display of outdoor advertising as set forth in this section may be erected and maintained: Provided, That nothing in this section shall restrict Type 3 signs located along any portion of the primary system within an incorporated city or town or within any commercial or industrial area.

(1) Size of signs:

(a) The maximum area for any one sign shall be six hundred seventy-two square feet with a maximum height of twenty-five feet and maximum length of fifty feet inclusive of any border and trim but excluding the base or apron, supports and other structural members: Provided, That cut-outs and extensions may add up to twenty percent of additional sign area.

(b) For the purposes of this subsection, double-faced, back-to-back or V-type signs shall be considered as two signs.

(c) Signs which exceed three hundred twenty-five square feet in area may not be double-faced (abutting and facing the same direction).

(2) Spacing of signs:

(a) Signs may not be located in such a manner as to obscure, or otherwise physically interfere with the effectiveness of an official traffic sign, signal, or device, obstruct or physically interfere with the driver's view of approaching, merging, or intersecting traffic.

(b) On limited access highways established pursuant to chapter 47.52 RCW no two sign structures shall be spaced less than one thousand feet apart, and no sign may be located within three thousand feet of the center of an interchange, a safety rest area or information center, or within one thousand feet of an intersection at grade. Double-faced signs shall be prohibited. Not more than a total of five sign structures shall be permitted on both sides of the highway per mile.

(c) On noncontrolled access highways inside the boundaries of incorporated cities and towns not more than a total of four sign structures on both sides of the highway within a space of six hundred sixty feet shall be permitted with a minimum of one hundred feet between sign structures. In no event, however shall more than four sign structures be permitted between platted intersecting streets or highways. On noncontrolled access highways outside the boundaries of incorporated cities and towns minimum spacing between sign structures on each side of the highway shall be five hundred feet.

(d) For the purposes of this subsection, a back-to-back sign and a V-type sign shall be considered one sign structure.

(e) Official signs, ~~((and))~~ signs advertising activities conducted on the property on which they are located (Type 2 and Type 3 signs), public service signs on school bus stop shelters (Type 7 signs), and temporary agricultural directional signs (Type 8 signs) shall not be considered in determining compliance with the above spacing requirements. The minimum space between structures shall be measured along the nearest edge of the pavement between points directly opposite the signs along each side of the highway and shall apply to signs located on the same side of the highway.

AMENDATORY SECTION (Amending Order 130, filed 4/10/92, effective 5/11/92)

WAC 468-66-140 Permits. (1) No signs except Type 1, Type 2, or Type 3 signs shall be erected or maintained adjacent to interstate system, primary system, or scenic system highways without a permit issued by the department of transportation. Permits for erection and maintenance of signs adjacent to the interstate system, primary system, or scenic sys-

tem will be issued by the department of transportation in accordance with this chapter.

(2) Applications for permits (except for Type 8 signs) will be accepted only at the Department of Transportation ~~((Headquarters Office))~~ Service Center, Olympia, Washington. Applications transmitted by mail shall be effective from date of receipt rather than of mailing.

(3) Application forms shall contain:

(a) The name and address of the owner of the sign;

(b) A statement and the signature of the owner or occupant of the land on which the sign is to be erected or maintained indicating that he has consented thereto;

(c) A statement of the precise location where the sign is to be erected or maintained;

(d) A statement of the proposed size and shape of the sign. An application for a Type 5 sign to be erected along the interstate system shall contain a description of the copy to be placed on the sign;

(e) Such other information as may be required by the department;

(f) For Type 8 signs, application forms accompanied by a fee of fifty dollars for each sign face must be submitted to the appropriate department of transportation ~~((district))~~ region office and submittals must include, in addition to (a) through (e) of this subsection, an exact description of the location of the temporary agricultural business activity, a description of the proposed sign copy, identification of the products sold, expected weeks/months of sales, and assigned tax number. After approval of the application by the transportation district office, the sign may be erected at the beginning of the sale season and must be removed at the end of the sale season. Approved applications shall be valid for five consecutive years from the date of application approval. A new application must be submitted and approved prior to erection of a sign at a location where the five-year validation has expired.

For any Type 8 sign not in compliance with this chapter, the department of transportation shall request the attorney general on its behalf to institute legal proceedings to cause such sign to be removed as an illegal sign without payment of compensation.

Subsections ~~((5))~~ (4) through ~~((10))~~ (8) of this section do not apply to Type 8 signs.

(4) Applications shall be accompanied by a fee of ~~((ten))~~ three hundred dollars for each sign structure.

(5) Permits shall be for the remainder of the calendar year in which they are issued, and ~~((shall be renewed annually upon payment of said fee for the new year without the filing of a new application.))~~ accompanying fees shall not be prorated for fractions of the year. Permits are renewed annually through the following certification process:

~~((6))~~ (a) Prior to ~~((December))~~ January 1 of each year the department of transportation shall ~~((notify in writing))~~ request, through the use of a standard form, permit renewal certification from the owner of every sign for which a permit has been issued under RCW 47.42.120 and this section ~~((that the renewal fee for such sign due in the calendar year to commence on the following January 1 shall be due and payable)).~~ In order to renew the permit, the sign owner shall certify by signature that all sign permits are active and the signs are cur-

rently maintained and in good condition. The completed permit renewal form shall be returned to the department not later than the following February 1. The ~~((notice))~~ permit renewal form shall further state that if ~~((such fee))~~ the required certification has not been ~~((paid))~~ received by February 1, legal proceedings will be initiated to cause removal of such sign as an illegally maintained sign.

~~((7))~~ (b) Following the ~~((notice))~~ request for certification specified in (a) of this subsection ~~((6) of this section))~~, if the due ~~((renewal fee))~~ certification is not received for any permitted sign by the date specified, the department of transportation shall request the attorney general on its behalf to initiate legal proceedings to cause such sign to be removed as an illegal sign without the payment of compensation therefor.

~~((8))~~ (6) Changes in size, shape, or position of a permitted sign shall be reported to the department of transportation at Olympia at least ten days before a change is to be made. In the case of Type 5 signs permitted along the interstate system, changes in copy shall be reported to the department at Olympia at least ten days before a change is to be made.

~~((9))~~ (7) Assignment of permits in good standing shall be effective only upon receipt of assignment by the department of transportation.

~~((10))~~ (8) Every permit issued by the department shall be assigned a separate identification number, and it shall be the duty of each permittee to fasten to each sign a weather-proof label, not larger than six square inches, which shall be furnished by the department and on which shall be plainly visible the said permit number. The permittee shall also place his name in a conspicuous position on the front or back of each sign.

~~((11))~~ (9) A permit issued under this chapter does not relieve the permittee from the duty to comply with all local rules, regulations, and ordinances pertaining to signs and sign structures.

WSR 99-20-066
PROPOSED RULES
NORTHWEST AIR
POLLUTION AUTHORITY

[Filed October 4, 1999, 11:25 a.m.]

Original Notice.

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

Title of Rule: Northwest Air Pollution Authority Regulation (NWAPA).

Purpose: To amend sections of the NWAPA Regulation to provide more clarity for users, to modify fee structures for new source review and registration programs, to clarify requirements for source emission testing and continuous emission monitoring, and to amend requirements for gasoline tank trucks for consistency with federal and state rules.

Statutory Authority for Adoption: Chapter 70.94 RCW.

Summary: Amendatory Sections:

104.1 & 2 Update adoption by reference of current state and federal laws and rules.

- 112.1 Include Control Officer or authorized representatives.
- 133.1 Adjust maximum civil penalty to account for inflation.
- 150 For pollutant disclosure remove reference to Class "A" sources and add sources that have actual emissions over 25 tons. Also give Control Officer the ability to require any source to submit periodic reports based on the nature and amounts emitted.
- 300.2(d) Establish new thresholds (335 hp or 250 kilowatts) for stationary internal combustion engines that will be subject to new source review.
- 320 Amend section to require registration payment before end of registration period. Failure to do so will require submittal of a new "Notice of Construction" if the source wishes to operate again.
- 322.4 Change air operating permit fee calculation basis from 80% based on emissions and 20% based on program eligibility to 90% based on emissions and 10% based on eligibility.
- 324.1 Add additional registration fee for sources of odor.
- 324.2 Add additional new source review fee of \$150 for sources as determined by the Control Officer.
- 365.14 All required continuous emission monitors shall be maintained and calibrated in accordance with 40 C.F.R. 60, Appendix F, Sections 2 through 7. All required continuous opacity monitors must meet performance specifications of 40 C.F.R. 60, Appendix B, Specification 1.
- 365.2 All sources required to perform a source emission test shall submit a test plan to the NWAPA within 20 days of the schedule test date, receive approval for any changes to the test plan, complete tests unless approval granted by the Control Officer, and submit rules within sixty days of test completion unless another date is granted by the Control Officer.
- 550 Clarify requirements for release of particulate matter.
- 580.10 Modify requirements for gasoline transport tanks to conform with federal rules.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: James Randles, 1600 South Second Street, Mt. Vernon, 98273, (360) 428-1617 ext. 208.

Name of Proponent: Northwest Air Pollution Authority, governmental.

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

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

Proposal Changes the Following Existing Rules: See Summary above.

PROPOSED

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not required.

RCW 34.05.328 does not apply to this rule adoption.

Hearing Location: NWAPA Hearing Room, 1600 South Second Street, Mount Vernon, WA 98273-5202, on November 12, 1999, at 1:30 p.m.

Assistance for Persons with Disabilities: Contact Susan Cosby by October 29, 1999, (360) 428-1617 ext. 200.

Submit Written Comments to: James Randles, 1600 South Second Street, Mount Vernon, WA 98273-5202, fax (360) 428-1620, by November 12, 1999.

Date of Intended Adoption: November 12, 1999.

October 1, 1999

James B. Randles

Assistant Control Officer

AMENDATORY SECTION

SECTION 104 - ADOPTION OF STATE AND FEDERAL LAWS AND RULES

104.1 All provisions of State Law as it now exists or may be hereafter amended, which is pertinent to the operation of the Authority, is hereby adopted by reference and made part of the Regulation of the Authority as of November 12, 1999(8)9. Specifically, there is adopted by reference the Washington State Clean Air Act (RCW 70.94), the Administrative Procedures Act (RCW 34.04) and RCW 43.21A and 43.21B and the following state rules: WAC 173-400, WAC 173-401, WAC 173-405, WAC 173-406, WAC 173-410, WAC 173-415, WAC 173-420, WAC 173-421, WAC 173-422, WAC 173-425, WAC 173-430, WAC 173-433, WAC 173-434, WAC 173-435, WAC 173-450, WAC 173-460, WAC 173-470, WAC 173-474, WAC 173-475, WAC 173-480, WAC 173-481, WAC 173-490, WAC 173-491, WAC 173-492, WAC 173-495, and WAC 173-802.

104.2 ~~((All provisions of the following federal rules are hereby adopted by reference and made part of the Regulation of the Authority as of November 12, 1998))~~ All provisions of the following federal rules that are in effect as of July 1, 1999 are hereby adopted by reference and made part of the Regulation of the Authority as of November 12, 1999: 40 CFR Part 60 (Standards of Performance For New Stationary Sources) subparts A, B, C, ~~((Ca))~~, Cb, Cc, Cd, Ce, D, Da, Db, Dc, E, Ea, Eb, Ec, F, G, H, I, J, K, Ka, Kb, L, M, N, Na, O, P, Q, R, S, T, U, V, W, X, Y, Z, AA, AAa, BB, CC, DD, EE, GG, HH, KK, LL, MM, NN, PP, QQ, RR, SS, TT, UU, VV, WW, XX, AAA, BBB, DDD, FFF, GGG, HHH, III, JJJ, KKK, LLL, NNN, OOO, PPP, QQQ, RRR, SSS, TTT, UUU, VVV, WWW; and 40 CFR Part 61 (National Emission Standards For Hazardous Air Pollutants) Subparts A, B, C, D, E, F, H, ~~((I))~~, J, ~~((K))~~, L, M, N, O, P, ~~((Q-R-T))~~, V, ~~((W))~~, Y, BB, FF and 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) Subparts A, B, C, D, F, G, H, I, L, M, N, O, Q, R, S, T, U, W, X, Y, AA, BB, CC, DD, EE, GG, HH, II, JJ, KK, LL, OO, PP, QQ, RR, SS, TT, UU, VV, WW, YY, CCC, DDD, EEE, GGG, HHH, III, ((and)) JJJ, LLL, MMM, NNN, PPP, TTT, XXX.

Amended: April 14, 1993, September 8, 1993, December 8, 1993, October 13, 1994, May 11, 1995, February 8, 1996,

May 9, 1996, March 13, 1997, May 14, 1998, November 12, 1998, November 12, 1999

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

SECTION 112 - FALSE AND MISLEADING ORAL STATEMENT: UNLAWFUL REPRODUCTION OR ALTERATION OF DOCUMENTS

112.1 No person shall willfully make a false or misleading oral statement to the NWAPA Board, Control Officer, or their duly authorized representatives as to any matter within the jurisdiction of the Board.

Passed: January 8, 1969 Amended: February 14, 1973, November 12, 1999

AMENDATORY SECTION

SECTION 133 - CIVIL PENALTY

133.1 In addition to or as an alternate to any other penalty provided by law, any person who violates any of the provisions of Chapter 70.94 RCW, chapter 70.120 RCW, any of the rules in force under such chapters, including the Regulation of the Northwest Air Pollution Authority shall be liable for a civil penalty in an amount of not more than twelve thousand five hundred dollars (\$12,500) ~~(((\$12,000)))~~ per day per violation. Each violation shall be a separate and distinct offense, and in the case of a continuing violation, each day's continuance shall be a separate and distinct violation. Any person who fails to take action as specified by an order shall be liable for a civil penalty of not more than twelve thousand five hundred dollars (\$12,500) ~~(((\$12,000)))~~ for each day of continued noncompliance.

AMENDED: November 14, 1984, April 14, 1993, September 8, 1993, October 13, 1994, February 8, 1996, November 12, 1998, November 12, 1999

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

SECTION 150 - POLLUTANT DISCLOSURE - REPORTING BY AIR CONTAMINANT SOURCES

150.1 Every person operating a ~~((Class A))~~ registered air contaminant source with actual annual emissions of 25 tons or more of a single air pollutant or a source subject to the operating permit program shall file annually at a time determined by the Authority and on forms furnished by the Authority a report setting forth:

150.2 Every person operating a registered source other than those identified in 150.1 ~~((Class A))~~ may be required by the Control Officer to submit periodic emission reports ~~((as in 150.1 if there is a significant change or increase in pollutant emissions))~~

ant emissions)) based on the nature and amount of pollutants emitted.

Passed: February 14, 1973

Amended: September 8, 1993, December 8, 1993, November 12, 1999

AMENDATORY SECTION

SECTION 300 – NEW SOURCE REVIEW

300.2 Except when part of a new major source or major modification in a nonattainment area, the following air contaminant sources do not need to submit a "Notice of Construction and Application for Approval" approved by the Authority prior to construction, installation, establishment, or modification:

a) Ventilating systems, including fume hoods, not designed to prevent or reduce air contaminant emissions.

b) A project with combined aggregate heat inputs of combustion units, less than or equal to all of the following:

(1) 500,000 Btu/hr using coal with $\leq 0.5\%$ sulfur or other fuels with $\leq 0.5\%$ sulfur;

(2) 500,000 Btu/hr used oil, per the requirements of RCW 70.94.610;

(3) 400,000 Btu/hr wood waste or paper;

(4) 1,000,000 Btu/hr using kerosene, #1, or #2 fuel oil and with $\leq 0.05\%$ sulfur;

(5) 4,000,000 Btu/hr using natural gas, propane, or LPG.

c) Insecticide, pesticide, or fertilizer spray equipment.

d) ~~((Internal combustion engines less than the size thresholds of the proposed or final United States Environmental Protection Agency (EPA) New Source Performance Standards (NSPS) 40 CFR Part 60 Subpart FF (Stationary Internal Combustion Engines, 44 FR 43152 7/23/79), or the promulgated EPA NSPS 40 CFR Part 60 Subpart GG (Stationary Gas Turbines-))~~ Stationary internal combustion engines less than 250 kw or 335 hp in size.

PASSED: November 12, 1998, November 12, 1999

AMENDATORY SECTION

SECTION 320 - REGISTRATION PROGRAM

320.4 Any registered source which ~~((ceases to operate any air contaminant source for one (1) year or more or said source leaves the jurisdiction of the Authority and))~~ does not pay the annual registration fee ~~((s, the source))~~ by the end of the registration period shall be considered a new source and shall submit a "Notice of Construction and Application for Approval" and receive approval from the Board prior to resumption of operation or re-entry into the jurisdiction of the Authority.

Passed: November 12, 1998, November 12, 1999

AMENDATORY SECTION

SECTION 322 - AIR OPERATING PERMIT PROGRAM (AOP)

322.4 Air Operating Permit Fees.

a) The Authority shall levy annual operating permit program fees as set forth in this section to cover the cost of administering its operating permit program.

b) Commencing with the effective date of the operating permit program, the Authority shall assess and collect annual air operating permit fees in its jurisdiction for any source specified in Section 7661(a) of Title V of the FCAA or Chapter 173-401-300 WAC (excluding sources regulated by the Washington State Department of Ecology Industrial Section). The total fees required by the NWAPA to administer the program shall be determined by a workload analysis conducted by the staff and approved annually by a resolution by the Board of Directors. Allocation of the fees to individual affected sources shall be based on the following:

1) ~~Ten ((Twenty)) percent (10%) (((20%)))~~ of the total fees shall be allocated equally among all affected sources.

2) ~~Ninety ((Eighty)) percent (90%) (((80%)))~~ of the total fees shall be allocated based on actual emissions of regulated pollutants identified in the most recent annual emission inventory or potential emissions if actual data are unavailable. A regulated pollutant for fee calculation shall include:

Nitrogen oxides (NO_x);

Volatile organic compounds (VOC's);

Particulate matter with an aerodynamic particle diameter less than or equal to 10 μ (PM₁₀);

Sulfur dioxide (SO₂);

Lead; and

Any pollutant subject to the requirements under Section 112(b) of the FCAA not included in any of the above categories.

PASSED: November 12, 1998, November 12, 1999

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

SECTION 324 - FEES

324.1 Annual Registration Fees

a) The Authority shall levy fees as set forth in Section 324.1(b) below for services provided in administering the registration program. Fees received under the registration program shall not exceed the cost of administering the program.

b) ~~((Fees))~~ A source shall be assessed a late penalty in the amount of twenty-five percent (25%) of the registration fee for failure to pay the registration fee within 30 days after the due date. The late penalty shall be in addition to the registration fee.

c) Fees

PROPOSED

REGISTERED SOURCES					
	1999	2000	2001	2002	2003
Wastewater treatment plants w/sludge incinerators	\$500	\$515	\$535	\$555	\$575
Portable asphalt plants and soil desorption units	\$300	\$310	\$320	\$330	\$340
Permanent asphalt plants and soil desorption units	\$600	\$620	\$640	\$660	\$680
Odor source	\$600	\$620	\$640	\$660	\$680
Petroleum coke handling facility	\$1,200	\$1,240	\$1,280	\$1,320	\$1,360
Perchloroethylene dry cleaners	\$150	\$155	\$160	\$165	\$170
Gasoline stations and Bulk plants	\$150	\$155	\$160	\$165	\$170
Chrome plating	\$150	\$155	\$160	\$165	\$170
Volatile organic compound storage tanks					
> or= 6000 gallons, < 40,000 gallons	\$200	\$210	\$220	\$230	\$240
> or= 40,000 gallons	\$500	\$515	\$535	\$555	\$575
Other sources as determined by the Control Officer	\$150	\$155	\$160	\$165	\$170
FOR SOURCES NOT LISTED ABOVE:					
ACTUAL EMISSIONS OF TOTAL CRITERIA AND TOXIC AIR POLLUTANTS					
< 10 tons per year	\$150	\$155	\$160	\$165	\$170
> or= 10 tons per year, < 25 tons per year	\$750	\$775	\$800	\$825	\$850
> or= 25 tons per year, < 50 tons per year	\$1,500	\$1,545	\$1,595	\$1,645	\$1,695
> or= 50 tons per year	\$2,500	\$2,575	\$2,655	\$2,735	\$2,820
ADDITIONAL FEES					
Source test review	\$300	\$310	\$320	\$330	\$340
Operation of a Continuous Emission or Opacity Monitor (per unit)	\$300	\$310	\$320	\$330	\$340
Source subject to NSPS or NESHAP (per subpart) except dry cleaners & chrome platers	\$500	\$515	\$535	\$555	\$575
Synthetic minor designation	\$500	\$515	\$535	\$555	\$575
Odor source	\$600	\$620	\$640	\$660	\$680

PASSED: November 12, 1998, November 12, 1999

AMENDATORY SECTION

324.2 New Source Review Fees

a) Fees

	1999	2000	2001	2002	2003
Filing fee	\$100	\$105	\$110	\$115	\$120
NSR FEES IN ADDITION TO THE FILING FEE:					
General (not classified below) for each piece of equipment or control equipment	\$500	\$515	\$535	\$555	\$575
Fuel Burning Equipment					
> or= 0.5 MM Btu/hr, but <10 MM Btu/hr	\$250	\$260	\$270	\$280	\$290
> or= 10 MM Btu/hr, but <100 MM Btu/hr	\$1,000	\$1,030	\$1,065	\$1,100	\$1,135
> or= 100 MM Btu/hr	\$10,000	\$10,300	\$10,610	\$10,930	\$11,260
Minor Notice of Construction change	\$250	\$260	\$270	\$280	\$290
Asphalt plant	\$750	\$775	\$800	\$825	\$850
Coffee roaster	\$250	\$260	\$270	\$280	\$290
Dry cleaner and Chrome plater	\$150	\$155	\$160	\$165	\$170
Gasoline stations and Bulk plants	\$300	\$310	\$320	\$330	\$340
Refuse burning equipment					
< 6 tons per day	\$1,000	\$1,030	\$1,065	\$1,100	\$1,135

> or= 6 tons per day, but < 12 tons per day	\$3,000	\$3,090	\$3,185	\$3,285	\$3,385
> or= 12 tons per day, but < 250 tons per day	\$20,000	\$20,600	\$21,220	\$21,860	\$22,520
> or= 250 tons per day	\$40,000	\$41,200	\$42,440	\$43,715	\$45,030
Paint spray booth	\$150	\$155	\$160	\$165	\$170
Volatile Organic Compounds storage tanks					
< 40,000 gallons	\$300	\$310	\$320	\$330	\$340
> or= 40,000 gallons	\$1,000	\$1,030	\$1,065	\$1,100	\$1,135
Soil thermal desorption unit	\$750	\$775	\$800	\$825	\$850
Relocation of portable plant to new address	\$300	\$310	\$320	\$330	\$340
Other sources as determined by the Control Officer	<u>\$150</u>	<u>\$155</u>	<u>\$160</u>	<u>\$165</u>	<u>\$170</u>
ADDITIONAL FEES					
Synthetic minor determination (WAC 173-400-091)	\$750	\$775	\$800	\$825	\$850
SEPA threshold determination (NWAPA lead agency)	\$250	\$260	\$270	\$280	\$290
Air toxics review	\$400	\$415	\$430	\$445	\$460
Major source, major modification, PSD thresholds	\$2,000	\$2,060	\$2,125	\$2,190	\$2,260
Emission units subject to NSPS or NESHAP's (except dry cleaners & chrome platers)	\$1,000	\$1,030	\$1,065	\$1,100	\$1,135
Public notice (plus publication fee)	\$200	\$210	\$220	\$230	\$240
Public hearing (plus publication fee)	\$500	\$515	\$535	\$555	\$575
NOC applicability determination	\$200	\$210	\$220	\$230	\$240
Each CEM or alternate monitoring device installed	\$500	\$515	\$535	\$555	\$575
Each source test required in NOC	\$500	\$515	\$535	\$555	\$575
Bubble application	\$1,000	\$1,030	\$1,065	\$1,100	\$1,135

PROPOSED

PASSED: November 12, 1998, November 12, 1999

AMENDATORY SECTION

SECTION 365 - MONITORING

365.1 Any person operating a registered air contaminant source or an air operating permit source may, at any time, be required to monitor the ambient air, process emissions or conduct emission tests as deemed necessary by the Control Officer under the following provisions:

365.11 The Board or Control Officer may require any person operating any source to conduct a monitoring program on site or adjacent off site for emissions, ambient air concentrations or any other pertinent special studies deemed necessary.

365.12 All monitoring data shall be submitted in a form which the Board or Control Officer may require. Averaging time and collection periods will be determined by the Control Officer. Failure to record and/or report data as specified in the "Guidelines for Industrial Monitoring Equipment and Data Handling" may be cause for a Notice of Violation to be issued.

365.13 All data and records shall be kept for a period of at least one year and made available to the Control Officer upon request.

365.14 (~~All instruments used to monitor compliance or for special studies must meet appropriate EPA performance specifications (40 CFR 60, Appendix B) and shall be calibrated and maintained in accordance with the "Guidelines for Industrial Monitoring Equipment and Data Handling" proce-~~

~~dures approved by the Control Officer.)) All continuous emission monitors required by the NWAPA shall meet appropriate EPA performance specifications (40 CFR 60, Appendix B), shall be calibrated and maintained in accordance with procedures described in 40 CFR 60, Appendix F, Sections 2 through 7, and follow the reporting requirements in the "Guidelines for Industrial Monitoring Equipment and Data Handling", or alternate procedures approved by the Control Officer. All required continuous opacity monitors required by NWAPA must meet the performance specifications outlined in 40 CFR 60, Appendix B, Specification 1, and shall be calibrated and maintained in accordance with the "Guidelines for Industrial Monitoring Equipment and Data Handling", or alternate procedures approved by the Control Officer.~~

365.15 The Control Officer may take such samples and make any tests and investigations deemed necessary to determine the accuracy of the monitoring reports and tests submitted to the Authority, and evaluate the validity of the data. The owner or operator may also be required by the Control Officer to take a sample using an approved procedure and submit the results thereof within a reasonable period of time.

365.16 The Board or the Control Officer may require additional reasonable monitoring be undertaken at any appropriate time to insure compliance with this Regulation.

365.2 A source required by the NWAPA to conduct source emission tests (does not include Relative Accuracy Test Audits) to assess compliance with an air emission standard shall do so under the following provisions:

365.21 A source test plan and scheduled test date shall be submitted to the NWAPA for approval by the Control Officer at least 20 days prior to the actual test date. A previous test plan may be referenced if it has not been altered.

365.22 Any change to the test plan must be approved by the Control Officer prior to the test.

365.23 All tests must be completed as described in the test plan. A source emission test shall not be terminated due to excess emissions or high pollutant concentrations unless approved by the Control Officer.

365.24 The results of each required source emission test shall be submitted to the NWAPA within sixty days of test completion unless prior approval has been granted by the Control Officer.

Passed: August 4, 1971

Amended: February 14, 1973, February 8, 1989, March 13, 1997, November 12, 1999

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

SECTION 550 - PREVENTING PARTICULATE MATTER FROM BECOMING AIRBORNE

550.2 It shall be unlawful for any person to cause or permit a building or its appurtenances ~~((or a road))~~ to be constructed, altered, repaired or demolished, or conduct sand-blasting, without using Best Available Control Technology to prevent the release of fugitive particulate matter to the ambient air.

550.3 ~~((It shall be unlawful for any person to cause or permit untreated open areas located within a private lot or roadway to be maintained without using Best Available Control Technology to prevent the release of fugitive particulate matter to the ambient air.))~~ It shall be unlawful for any person to cause or permit the release of fugitive particulate matter to the ambient air from public or private lots, roadways, or open areas without using Best Available Control Technology.

PASSED: January 8, 1969

Amended: February 14, 1973, August 9, 1978, October 14, 1987, April 14, 1993, November 12, 1999

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

580.10 Leaks From Gasoline Transport Tanks and Vapor Control Systems

580.101 Applicability This Section shall apply to all gasoline transport tanks and all facilities subject to 580.4, 580.5, and 580.6 of the Northwest Air Pollution Authority Regulation ~~((beginning January 1, 1994)).~~

580.102 Transport Tanks (also referred to as cargo tanks) It shall be unlawful for any person to cause or allow the transfer of gasoline between a facility subject to the

requirements of this Section and a gasoline transport tank unless: ~~((a current leak test certification for the transport tank is on file with the facility or a valid inspection sticker is displayed on the vehicle.))~~

580.1021 a current (within 365 days) vapor tightness test certification for the transport tank is on file with the facility or is available in the transport vehicle.

(a) The vapor tightness test shall be conducted annually in accordance with the procedures specified in 40 CFR 63.425(e) and;

(b) The complete vapor tightness certificate shall be on a form approved by the Northwest Air Pollution Authority.

~~((580.103 It shall be unlawful for any person to cause or allow the use of any transport tank for the transfer of gasoline at a facility subject to the requirements of this Section, unless the tank))~~

~~((580.1031 Is leak tested annually in accordance with 580.105; and))~~

~~((580.1032 Either displays a sticker or carries a certificate which))~~

~~((a) shows the date the tank last passed the leak test; and))~~

~~((b) shows the identification number of the tank; and))~~

580.10~~((33))~~22 It is loaded and unloaded in such a manner that the concentration of gasoline vapors is below the lower explosive limit (expressed as propane) at all points a distance of 2.5 cm (1 inch) or greater from any potential leak source. Any transport tank which fails to meet the requirements of this subparagraph shall be repaired and retested in accordance with 40 CFR 63.422(c) prior to reloading ~~((the provisions of 580.105 within 10 working days. The Control Officer shall be notified in writing within 5 days after the completion of the required leak test.))~~

580.10~~((4))~~3 Vapor Control Systems It shall be unlawful for any person to cause or allow the operation of any facility subject to this Section unless the vapor control system and the gasoline loading equipment is operated during all loading and unloading of gasoline such that:

580.10~~((4))~~31 The concentrations of gasoline vapors is below the lower explosive limit (expressed as propane) at all points a distance of 2.5 cm (1 inch) or greater from any potential leak source; and

580.10~~((42))~~32 There are no liquid leaks in excess of three drops per minute and there is no more than 10 ml of liquid drainage per disconnect.

~~((580.105 In accordance with 580.114, the annual leak test required by 580.103 shall be performed according to the procedures specified in EPA Reference Method 27. During the test each transport tank shall sustain a pressure change of no more than 0.75 Kpa (3 inches of water) in five minutes when pressurized to a gauge pressure of 4.5 Kpa (18 inches of water) and evacuated to a gauge pressure of 1.5 Kpa (6 inches of water) during the test.))~~

PASSED: December 13, 1989

Amended: November 12, 1999

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

WSR 99-20-073
PROPOSED RULES
PUBLIC DISCLOSURE COMMISSION

[Filed October 4, 1999, 12:10 p.m.]

Continuance of WSR 99-19-169, 99-19-170, 99-19-171, and 99-19-172.

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

Title of Rule: WAC 390-16-041, 390-16-032, 390-16-011, and 390-16-012.

Purpose: Change hearing date and location.

Hearing Location: Senate Hearing Room 2, Cherberg Building, Olympia, Washington, on October 28, 1999, at 9:00 a.m.

Assistance for Persons with Disabilities: Ruthann Bryant, 753-1111.

Submit Written Comments to: Vicki Rippie, Assistant Director, Public Disclosure Commission, P.O. Box 40908, Olympia, WA 98504-0908, fax (360) 753-1112.

Date of Intended Adoption: October 28, 1999.

October 1, 1999

Vicki Rippie

Acting Executive Director

WSR 99-20-077
PROPOSED RULES
DEPARTMENT OF COMMUNITY,
TRADE AND ECONOMIC DEVELOPMENT

[Filed October 4, 1999, 2:17 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-15-010.

Title of Rule: WAC 365-135-020 Definitions, bond cap allocation fees.

Purpose: Change in fees is needed to cover increasing costs of administering the bond cap allocation program.

Statutory Authority for Adoption: RCW 39.86.180.

Statute Being Implemented: RCW 39.86.170.

Summary: The bond cap allocation fee is being raised under Initiative 601 rules. The fee will increase from .00025 of an allocation request to .00026 on December 31, 1999, .000269 on July 1, 2000, and .000277 on July 1, 2001.

Reasons Supporting Proposal: An increase in the fee is needed to adequately cover the administrative costs of running the bond cap allocation program due to increasing costs for salaries and benefits as well as increased rent for space.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Bill Cole, 906 Columbia Street S.W., Olympia, WA, (360) 753-0307.

Name of Proponent: Department of Community, Trade and Economic Development, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The rule sets the fee as a percentage of the requested

allocation amount. The fee has been .00025 of the requested amount since 1987. This rule change allows the agency to increase the fee under Initiative 601 guidelines to .00026 on December 31, 1999, .000269 on July 1, 2000, and .000277 on July 1, 2001. The purpose of the change in fee is to adequately cover the administrative costs of the agency to administer the bond cap allocation program.

Proposal Changes the Following Existing Rules: The proposal changes the definition of allocation fee in the definitions section of chapter 365-135 WAC. The proposal will replace the current .00025 figure with the following figures:

December 31, 1999, through June 30, 2000	.000026
July 1, 2000, through June 30, 2001	.000269
July 1, 2001 and thereafter	.000277

No small business economic impact statement has been prepared under chapter 19.85 RCW. Under RCW 19.85.030(1), it states "...an agency shall prepare a small business economic impact statement: (a) If the proposed rule will impose more than minor costs on businesses in an industry;..." All applicants to the bond cap allocation program must pay a fee in order to receive an allocation. Almost all small businesses that apply to the program apply for allocation from the small issue category, which has a limit of \$10 million per project. Currently fees for this category range from \$500 to \$2,500. Under the proposal, the fee would range from \$500 to \$2,770, only a \$270 increase on the top end of a \$10 million project. As part of this process, representatives from issuers, including ports, economic development councils, industrial development councils, as well as the Washington Economic Development Finance Authority approved of the fee increase.

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

Hearing Location: Washington State Department of Community, Trade and Economic Development, 906 Columbia Street S.W., Room 5A, Olympia, WA 98504-8300, on November 12, 1999, at 10:00-12:00.

Assistance for Persons with Disabilities: Contact Bill Cole by November 5, 1999, TDD (360) 586-4224.

Submit Written Comments to: Bill Cole, Department of Community, Trade and Economic Development, P.O. Box 48300, Olympia, WA 98504-8300, fax (360) 753-0307, by November 10, 1999.

Date of Intended Adoption: December 31, 1999.

October 4, 1999

Jean L. Ameluxen
 Legislative Liaison

AMENDATORY SECTION (Amending WSR 97-02-093, filed 1/2/97, effective 2/2/97)

WAC 365-135-020 Definitions. The definitions in this section apply throughout this chapter unless the context clearly provides otherwise.

Allocation fee: The total fee paid by the issuer to the department for receiving allocation from the BCAP. It is assessed by the department based on ~~((the following formula: 1/40 of one percent (.00025) of the approved allocation~~

PROPOSED

amount)) multiplying the requested allocation amount by the following figures:

<u>December 31, 1999, through June 30, 2000</u>	<u>.00026</u>
<u>July 1, 2000, through June 30, 2001</u>	<u>.000269</u>
<u>July 1, 2001, and thereafter</u>	<u>.000277;</u>

or five hundred dollars, whichever is greater. The allocation fee, which includes the nonrefundable five hundred dollar filing fee, is due from the issuer upon filing an application.

Department: The Washington state department of community, trade, and economic development.

Extension fee: The fee the department may assess when an issuer requests and is granted an extension for issuing the allocation or carryforward of the allocation. The amount of the fee will not exceed two hundred fifty dollars and is non-refundable.

Filing fee: The nonrefundable five hundred dollar portion of the allocation fee.

Reallocation: The assignment of an unused portion of the state ceiling from one bond use category to another or the provision of a certificate of approval to any issuer for an allocation amount which previously had been returned to the department.

Statute: Chapter 39.86 RCW.

WSR 99-20-078
PROPOSED RULES
SECRETARY OF STATE
 (Productivity Board)
 [Filed October 4, 1999, 2:21 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-17-112.

Title of Rule: State Employees' Suggestion Awards and Incentive Pay Act, chapter 41.60 RCW, chapter 383-06 WAC.

Purpose: Changes and clarifications to the State Employees' Suggestion Awards and Incentive Pay Act, chapter 41.60 RCW.

Other Identifying Information: Amending chapter 383-06 WAC, implement amendments to chapter 41.60 RCW, chapter 50, Laws of 1999.

Statutory Authority for Adoption: Chapter 41.60 RCW.

Statute Being Implemented: Chapter 41.60 RCW, chapter 50, Laws of 1999.

Summary: This rule is needed to ensure consistency with the amendments to chapter 41.60 RCW, chapter 50, Laws of 1999, and to ensure the effective implementation of the act. Adoption of these rules will amend chapter 383-06 WAC to: Clarify rules relating to the state-wide employee suggestion "brainstorm" program and create new rules for the administration of an agency unique suggestion program; update program policy changes; and develop a new payment award scale for suggestion awards.

Reasons Supporting Proposal: To enhance the employee suggestion "brainstorm" program.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Michelle Wilson, 505 East Union, Olympia, WA 98504, (360) 664-4278.

Name of Proponent: Office of the Secretary of State, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The rules are amended pursuant to the amendment of chapter 41.60 RCW, chapter 50, Laws of 1999, to ensure the effective implementation of the State Employee Suggestion Awards and Incentive Pay Act. The amended rules will update the programs and create new rules for the administration of an agency unique suggestion program.

Proposal Changes the Following Existing Rules: Consistent with amendments of chapter 41.60 RCW, these rule changes will: Provide rules for agencies to administer an agency unique suggestion program; create a new payment award scale for suggestion awards; and update suggestion eligibility requirements.

No small business economic impact statement has been prepared under chapter 19.85 RCW. No statement is needed. There is no cost for business as a result of these actions.

RCW 34.05.328 does not apply to this rule adoption.

Hearing Location: Legislative Building, House Rules Room #149, 1st Floor, 416 14th Avenue, Olympia, WA 98504, on November 10, 1999, at 11:00 a.m.

Assistance for Persons with Disabilities: Contact Michelle Wilson by November 9, 1999, TDD (360) 586-1846.

Submit Written Comments to: Michelle Wilson, Manager of the Productivity Board, Office of the Secretary of State, 505 East Union, 2nd Floor, P.O. Box 40244, Olympia, WA 98504-0244, fax (360) 664-4250, by November 9, 1999.

Date of Intended Adoption: November 30, 1999.

October 1, 1999

Tracy Guerin

Deputy Secretary of State

AMENDATORY SECTION (Amending Order 85-1, filed 1/30/86)

WAC 383-06-010 Purpose. The purpose of this chapter is to provide guidelines for the state-wide employee suggestion program developed and administered by the productivity board and the agency unique suggestion program administered by the board's designee under the authority of chapter 41.60 RCW.

AMENDATORY SECTION (Amending Order 85-1, filed 1/30/86)

WAC 383-06-020 Definitions. As used in these rules, these definitions refer only to the employee suggestion program(s) unless the context requires otherwise:

(1) "Board" means the productivity board.

(2) "Program" means the employee suggestion "brainstorm" program(s) developed by the board under RCW 41.60.020.

(3) "State-wide employee suggestion program" means an employee suggestion program administered by the productivity board.

(4) "Agency unique suggestion program" means an employee suggestion program designed and administered by an agency head with delegated authority.

(5) "Delegated authority" means authority delegated to an agency head by the board to design and implement an agency unique program for the agency.

(6) "Board designee" means an agency head with delegated authority from the board.

(7) "The act" referred to in these rules is chapter 41.60 RCW.

~~((4))~~ (8) "Employee" ((is any person subject to chapter 41.06 or 28B.16 RCW)) means:

(a) For purposes of participation in the program, any present employees in state agencies and institutions of higher education except for:

(i) Elected officials;

(ii) Agency heads and their confidential secretaries and administrative assistants; and

(iii) Productivity board members and staff;

(b) For purposes of eligibility to receive monetary awards through the program excludes any employee made ineligible by WAC 383-06-080.

~~((5))~~ (9) "Suggestion" is a unique, useful or workable, constructive proposal offering a specific change or form of improvement which contributes to state efficiency, service, safety, economy or employee well-being.

~~((6))~~ (10) "Agency" includes every subdivision of government which is eligible to participate under chapter 41.60 RCW, including institutions of higher education and merit system agencies.

~~((7))~~ (11) "Multi-agency suggestion" meets the criteria for a suggestion, as defined in WAC 383-06-100, and requires evaluation by two or more agencies.

~~((8))~~ (12) "Award" means monetary or ~~(noncash))~~ nonmonetary recognition.

~~((9))~~ (13) Agency ("~~directors~~") "head" includes the chief executive, whether appointed or elected, of each state agency or institution of higher education.

~~((10) "Administrator"))~~ (14) "Program manager" is the executive manager of the ~~((employee suggestion))~~ productivity board and serves as staff to the productivity board.

AMENDATORY SECTION (Amending Order 85-1, filed 1/30/86)

WAC 383-06-030 Functions of the board—State-wide employee suggestion program. The responsibilities of the board shall include:

(1) ~~((Promoting))~~ Providing information about the program to agency ~~((directors))~~ heads and the legislature.

(2) Establishing policies under which the program shall be promoted and administered, including criteria for suggestion acceptability for evaluation and the granting of awards.

(3) Adopting rules and regulations necessary for the administration of the act.

(4) Making the final determination ~~((as to))~~ whether ~~((or not))~~ an award should be made and the nature and extent of any award or recognition given.

(5) Hearing of appeals pursuant to WAC 383-06-140.

(6) ~~((The board shall meet))~~ Meeting upon the call of the chairman or a majority of the board at least four times per year. Four voting members shall constitute a quorum. Ex officio members may not vote.

NEW SECTION

WAC 383-06-031 Functions of the board—Agency unique suggestion program. The responsibilities of the board shall include:

(1) Reviewing agency proposals that request delegated authority to administer an agency unique suggestion program. The board shall make the determination whether to accept or reject an agency proposal to administer an agency unique program based on current board criteria.

(2) Establishing rules, regulations, and reviewing policies under which the agency unique suggestion program shall be administered, including criteria for suggestion acceptability for evaluation and the granting of awards.

(3) Handling hearings of appeals pursuant to WAC 383-06-141, when requested by the agency or suggester(s).

(4) Reviewing agency reports submitted to the board. The board shall make the final determination whether to recertify agency unique programs contingent upon the findings in the report, and on additional information available to the board.

AMENDATORY SECTION (Amending Order 85-1, filed 1/30/86)

WAC 383-06-040 Duties of ~~((the program administrator))~~ productivity board staff. (1) The program ~~((administrator))~~ manager shall be responsible and accountable to the board for the administration of the program, and shall:

~~((1))~~ (a) Attend all meetings of the board and ensure an official record of its actions.

~~((2))~~ (b) Propose policies, rules, and regulations appropriate for the administration of the program.

~~((3))~~ (2) Productivity board staff shall:

(a) Report to agencies about implemented suggestions, indicating those requiring a post audit.

~~((4))~~ (b) Establish and maintain records showing the use and effectiveness of the system, including the participation rate and results of involved agencies.

~~((5) Interact with agency coordinators))~~ (c) Support agencies regarding program promotion and participation through such things as training, technical assistance, etc.

~~((6))~~ (d) Perform other duties as required by the board.

AMENDATORY SECTION (Amending Order 85-1, filed 1/30/86)

WAC 383-06-045 ~~((Role))~~ Responsibilities of agency ~~((management))~~—State-wide employee suggestion pro-

gram. (1) Each agency (~~(director)~~) head or his/her designee shall(~~(:~~

~~(1))~~ appoint (~~(a coordinator)~~) an individual(s) to act as liaison between the agency and the board.

(2) Encourage all levels of management to (~~(promote and participate in)~~) support the program.

(3) Promote the program and distribute forms throughout the agency.

(4) Assign an individual(s) to evaluate a suggestion recommending adoption, partial or modified adoption, or rejection of the suggestion. Facilitate evaluation of all suggestions referred by the productivity board office within forty-five days unless special circumstances exist that prohibit completion within the specified time frame. In this instance, the agency is required to notify the suggester(s) and the productivity board of the status of the suggestion and provide the suggester(s) and the productivity board with a new timeline.

(5) Maintain documentation of all agency evaluations and implementation plans.

(6) Notify the suggester(s) of the agency recommendation. Submit copies of the evaluation via hard copy, fax or on-line to the suggester and board.

(7) Make the final decision to implement a suggestion.

~~((4))~~ (8) Ensure that new employees receive orientation about the program.

NEW SECTION

WAC 383-06-046 Responsibilities of agency—Agency unique suggestion program. (1) Each agency head or his/her designee shall appoint an individual(s) to coordinate the agency unique suggestion program and act as liaison between the agency and the board.

(2) Encourage all levels of management to support the program.

(3) Promote the program and distribute forms throughout the agency.

(4) Assign an individual(s) to evaluate a suggestion recommending adoption, partial adoption, or rejection of the suggestion. Facilitate evaluation of all suggestions within forty-five days unless special circumstances exist that prohibit completion within the specified time frame. In this instance, the agency is required to notify the suggester(s) of the status of the suggestion and provide the suggester(s) with a new timeline.

(5) Maintain documentation of all agency evaluations and implementation plans.

(6) Develop a documented program with published criteria and communicate the information throughout the agency.

(7) Allow for suggestions submitted by nonagency employees to be evaluated within the agency.

(8) Review internal suggestions and determine whether the suggestion is applicable for another agency. Forward internal suggestions that apply to another agency to the productivity board for dissemination.

(9) Make the final determination on whether an award should be made, except for appeals submitted to the board. Recommend and approve an award based on the payment

award scale outlined in WAC 383-06-125 developed by the productivity board.

(10) Facilitate payment and recognition to the suggester for adopted suggestions.

(11) Notify the suggester(s) of the agency recommendation. Submit copies of the evaluation to the suggester.

(12) Notify the suggester(s) in writing of their appeal rights and the length of time they have to submit an appeal as specified in WAC 383-06-141. Inform suggesters of their right to appeal to the board if they believe the result of the internal appeal is unsatisfactory.

(13) When a suggester appeals an agency recommendation, the agency shall send the productivity board a copy of the appeal. If the suggester requests to appeal to the board after the agency evaluates the appeal, the agency shall send a complete copy of the suggestion file to the board.

(14) Provide reports to the board showing agency statistics and any informative information that would benefit the board and agencies. Reports should be submitted to the board annually, or at the board's discretion.

AMENDATORY SECTION (Amending Order 85-1, filed 1/30/86)

WAC 383-06-070 Procedures for processing multi-agency suggestions—State-wide employee suggestion program. Multiple-agency suggestions require evaluation by two or more agencies. (~~(The program administrator)~~) Productivity board staff will (~~(nominate to the board any)~~) determine if the suggestion (~~(which)~~) meets the criteria enumerated in WAC 383-06-020(~~((7))~~) (11), following processing according to procedures developed in accordance to WAC 383-06-100. (~~(The administrator)~~) Productivity board staff will coordinate (~~(investigation of the suggestion through)~~) the multi-agency evaluation processing. (~~(Such coordination may entail:~~

~~(1) Obtaining all pertinent information concerning the merits of the suggestion from representative agencies; and~~

~~(2) Making a formal report to the productivity board about the suggestion.))~~

NEW SECTION

WAC 383-06-071 Procedures for processing multi-agency suggestions—Agency unique suggestion program. Multiple-agency suggestions require evaluation by two or more agencies. The agency will determine if the suggestion meets the criteria enumerated in WAC 383-06-020(11), following processing according to procedures developed in accordance to WAC 383-06-100. An agency may advertise suggestions that are beneficial for other agencies through web sites, newsletters and other methods used for advertising by their agency. Agencies shall disseminate all suggestions to the productivity board that need review by another agency(ies). Agencies shall also disseminate suggestions to the productivity board that result in substantial savings or that could be beneficial for other agencies.

AMENDATORY SECTION (Amending Order 85-1, filed 1/30/86)

WAC 383-06-080 Eligibility for participation and monetary awards. (1) ~~((Employees of merit system and higher education system agencies under chapters 41.06 and 28B.16 RCW may submit suggestions.))~~ Any employee, as defined in WAC 383-06-020(8), may participate in the program.

(2) Employees are ineligible to receive monetary awards through the program for the following categories, except through internal recognition in accordance with RCW 41.60.150. It is up to the agency head to make the determination whether the following categories of suggestions will receive internal recognition:

(a) Suggestions that fall within the suggester's job responsibility. The following circumstances are considered to fall within this category:

(i) Employees whose normal duties involve research and planning ~~((may participate but may not receive cash awards unless the subject matter is unrelated to their routine work assignment.~~

~~Employees with the authority to make the change suggested may not receive an award.~~

~~(2) Productivity board members and staff may not participate.~~

~~(3) If a suggestion is adopted for implementation, an employee is eligible to receive an award in accordance with WAC 383-06-110), unless unrelated to their routine work assignment:~~

~~(i) The employee has the authority to implement the change;~~

~~(ii) The suggestion falls within the suggester's normal assigned job responsibilities;~~

~~(iv) The employee has been given the change as a work assignment or the suggested change has been tasked to a team that includes the suggester.~~

(b) Suggestions submitted after the idea is implemented. Implementation means the time the idea becomes fully operational.

(c) Suggestions wherein the suggester either directly or indirectly has a proprietary interest in the suggestion.

AMENDATORY SECTION (Amending Order 85-1, filed 1/30/86)

WAC 383-06-090 Suggestion format—State-wide employee suggestion program. (1) Suggestions shall be submitted via hard copy, fax or on-line:

(a) In a legible manner on the ~~((special))~~ application forms to be provided by the agency ~~((coordinators))~~ or the productivity board office.

~~((2))~~ (b) To the ~~((program administrator))~~ productivity board at the address/ mailing information indicated on the form: P.O. Box ~~((1789))~~ 40244, Mailstop: ~~((FE-11))~~ 40244, Olympia, WA 98504-0244.

~~((3))~~ (2) Submitted suggestions shall contain:

(a) A specific ~~((statement of what is suggested))~~ and concise narrative describing the solution and how it can be accomplished;

(b) A brief ~~((statement))~~ and concise narrative describing the present methods, practices or problem;

(c) A ~~cost-benefit-analysis of the anticipated savings that will result from implementing the suggestion, and the method used to determine the calculated savings. If savings are not anticipated then a statement of the ~~((savings;))~~ improved services~~((;))~~ or benefits which will accrue from adoption of the suggestion must be included.~~

(3) Suggesters shall research the suggested proposal to determine whether the proposal is practical.

(4) Suggestions must also include the suggester's signature or e-mail address, title of position, department and division, and mailing address ~~((and))~~. Social Security numbers are optional at the time of submittal, but are needed upon adoption for payment purposes.

NEW SECTION

WAC 383-06-091 Suggestion format—Agency unique suggestion program. An agency with delegated authority to administer an agency unique suggestion program may develop their own forms and submittal process, and shall share copies of their forms with productivity board staff to ensure the intent is consistent with the state-wide employee suggestion program.

AMENDATORY SECTION (Amending Order 85-1, filed 1/30/86)

WAC 383-06-100 Suggestion acceptability. Suggestions considered acceptable are those which improve the efficiency and/or the effectiveness of state government.

(1) This may include, but is not limited to:

(a) Savings in time or money;

(b) Generation of revenue;

~~((e))~~ (d) Improved service or product;

~~((d))~~ (e) Energy ~~((conservation - [conservation]))~~ conservation;

~~((e))~~ (f) Improved working conditions.

(2) Suggestions shall be considered in the order of the date by which they are officially received by the ~~((program administrator))~~ productivity board or the agency.

(3) Suggestions may be unacceptable when a remedy exists through other established administrative procedures, such as:

~~((The need for routine maintenance of buildings or grounds;~~

~~((b))~~ Personalized complaint affecting suggester only;

~~((e) Recommendation for a study, review, survey, design, audit, research, development, investigation, etc., without stating what the expected outcome should be or what solution might result from it;~~

~~((d))~~ (b) Proposing items in state stock be issued and used for their intended purpose;

~~((e))~~ (c) Changing salary, position ~~((or))~~, classification, employee benefits, state holidays, leave benefits, retirement compensation, or any other compensation to an employee;

~~((f))~~ (d) Enforcement of laws, policies, procedures, regulations, rules, etc.;

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(e) Common sense ideas;

(f) Outside purview of state government.

AMENDATORY SECTION (Amending Order 85-1, filed 1/30/86)

WAC 383-06-120 Payment of cash awards—State-wide employee suggestion program. (1) ~~((No))~~ Cash awards shall be ((for less than twenty-five dollars or for more than the maximum amount permitted by RCW 41.60.041)) based on the payment award scale developed and maintained by the productivity board and outlined in WAC 383-06-125.

(2) Awards for suggestions which will result in ~~((demonstrable))~~ actual cost savings ((of money)) shall be ((determined by)) recommended by the evaluating agency and the board shall make the final award determination in light of the agency recommendation and the payment award scale after consideration of the savings to be effected.

(3) Suggestions which will result in cost-avoidance, intangible improvements((;)) such as benefits in safety, health, welfare, morale, etc., ((may be granted cash awards in amounts to be determined by the board. The board shall set guidelines, insofar as possible, to make such awards commensurate with the benefits anticipated from the suggestion)) or when savings cannot be calculated shall receive internal recognition from the agency permitted through RCW 41.60.150. The award shall not exceed the amount permitted in RCW 41.60.150. The nature and extent of the award shall be determined by the agency in light of the payment award scale outlined in WAC 383-06-125.

(4) The board may direct incremental payment of any award.

(5) The acceptance of cash awards shall constitute an agreement that the use by the state of Washington of the suggestion for which the award is made shall not form the basis for a further claim of any nature upon the state by the employee or the employee's heirs or assignees. Upon adoption the suggested idea becomes the property of the state of Washington.

(6) When a suggestion is submitted by more than one employee, any resulting award will be shared by the cosuggesters listed on the suggestion form.

(7) Cash awards may not be used for the purpose of computing a retirement allowance under any public retirement system of the state.

NEW SECTION

WAC 383-06-121 Payment of cash awards—Agency unique suggestion program. (1) Cash awards shall be based on the payment award scale developed and maintained by the productivity board and outlined in WAC 383-06-125.

(2) Awards for suggestions which will result in actual cost savings shall be determined by the agency after consideration of the savings to be effected in accordance with the payment award scale outlined in WAC 383-06-125.

(3) Suggestions which will result in cost-avoidance, intangible improvements such as benefits in safety, health, welfare, morale, etc., or when savings cannot be calculated shall receive internal recognition from the agency permitted

through RCW 41.60.150. The award shall not exceed the amount permitted in RCW 41.60.150. The nature and extent of the award shall be determined by the agency in light of the payment award scale outlined in WAC 383-06-125.

(4) The acceptance of cash awards shall constitute an agreement that the use by the state of Washington of the suggestion for which the award is made shall not form the basis for a further claim of any nature upon the state by the employee or the employee's heirs or assignees. Upon adoption the suggested idea becomes the property of the state of Washington.

(5) When a suggestion is submitted by more than one employee, any resulting award will be shared by the cosuggesters listed on the suggestion form.

(6) Cash awards may not be used for the purpose of computing a retirement allowance under any public retirement system of the state.

NEW SECTION

WAC 383-06-125 Payment award scale. The following payment award scale shall be developed by the productivity board and shall be used by the state-wide employee suggestion and agency unique programs when determining awards.

(1) Cash awards for suggestions generating actual cost savings and/or revenue to the state shall be ten percent of the actual net savings and/or revenue generated. Savings and/or revenue shall be calculated for one full year and should be for the first year of implementation.

(2) Cash awards for suggestion teams shall be up to twenty-five percent of the actual net savings and/or revenue generated to be shared by the team in a manner approved by the agency head. In order for suggestion teams to receive a cash award they must have the approval of the agency head or designee. A suggestion team is a group of individuals involved in the suggestion and the implementation process.

(3) No award may be granted in excess of ten thousand dollars.

(4) All suggestions that result in cost-avoidance, for which benefits to the state are intangible or for which savings cannot be calculated, shall receive recognition. Internal recognition shall be given in accordance with RCW 41.60.150. Internal recognition may be monetary and/or nonmonetary recognition and may not exceed the amount permitted by RCW 41.60.150. The agency may consider additional recognition, such as a certificate of appreciation, a letter thanking the suggester for the idea, recognizing the suggester(s) for the suggestion at an agency event, meeting, etc.

(5) Awards shall be consistent and given in a timely manner.

AMENDATORY SECTION (Amending Order 85-1, filed 1/30/86)

WAC 383-06-130 Recognition of merit. The board may issue ~~((noneash))~~ nonmonetary recognition of merit in such form and manner as it determines.

AMENDATORY SECTION (Amending Order 85-1, filed 1/30/86)

WAC 383-06-140 Appeal/perfection of right to appeal—State-wide employee suggestion program. (1) A suggester, or the suggester's representative, may, by written appeal, request that either a denial of award or the amount of an award be reconsidered. To be valid, the appeal must be ~~((postmarked))~~ received by the board within thirty calendar days of ~~((notification of))~~ board action. For an appeal to be accepted, new evidence or new information must be supplied. Such appeal must state with specificity the grounds for the appeal and a statement of the relief sought.

(2) ~~((At the direction of the))~~ Productivity board ~~((;))~~ staff shall make the determination whether an appeal request is accepted or rejected based on the new information or new evidence that is submitted by the suggester. An agency shall reconsider accepted appealed suggestions based upon new information or new evidence provided in the written appeal and report its findings to the productivity board. The board shall reconsider the suggestion in light of new information and/or evidence and evaluations.

(3) If a rejected suggestion is ~~((placed in effect))~~ implemented within two years of board action, the employee may file an appeal based on the suggestion's implementation. Such appeal must be filed within ~~((sixty days of the date that the suggestion was placed into effect))~~ two years of board action.

(4) The board reserves the right to rule on cases which involve extenuating circumstances.

NEW SECTION

WAC 383-06-141 Appeal/perfection of right to appeal—Agency unique suggestion program. (1) A suggester, or the suggester's representative, may, by written appeal, request that either a denial of award or the amount of an award be reconsidered. To be valid, the appeal must be received by the agency within thirty calendar days of the agency's formal action of the suggestion. For an appeal to be accepted, new evidence or new information must be supplied. Such appeal must state with specificity the grounds for the appeal and a statement of the relief sought.

(2) If a rejected suggestion is implemented within two years of the agency's formal action of the suggestion, the employee may file an appeal based on the suggestion's implementation. Such appeal must be filed within two years of agency action.

(3) The agency shall direct all appeals to the agency head with a copy to the productivity board.

(4) The agency shall make the determination whether an appeal request is accepted or rejected based on the new information or new evidence that is submitted by the suggester. An agency shall reconsider accepted appealed suggestions based upon the new information and/or evidence provided in the written appeal and report its findings to the suggester.

(5) If the suggester believes the agency appeal process is unsatisfactory the suggester may appeal to the board. An agency head may also request the appeal be turned over to the board if he/she believes an outside party should become

involved with the appeal process. The agency shall inform all suggesters of their rights to appeal to the board if they are not satisfied with the agency appeal evaluation. When a suggester or the agency head appeals to the board, complete copies of the suggestion file must be submitted to the board.

(6) The board reserves the right to rule on cases which involve extenuating circumstances.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 383-06-050	Responsibilities of agency coordinators.
WAC 383-06-060	Responsibilities of agency evaluators.
WAC 383-06-110	Eligibility for cash awards.

WSR 99-20-079
PROPOSED RULES
SECRETARY OF STATE
 (Productivity Board)
 [Filed October 4, 1999, 2:23 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-17-113.

Title of Rule: State Employees' Suggestion Awards and Incentive Pay Act, chapter 41.60 RCW, chapter 383-07 WAC.

Purpose: Changes and clarifications to the State Employees' Suggestion Awards and Incentive Pay Act, chapter 41.60 RCW.

Other Identifying Information: Amending chapter 383-07 WAC, implement amendments to chapter 41.60 RCW, chapter 50, Laws of 1999.

Statutory Authority for Adoption: Chapter 41.60 RCW.

Statute Being Implemented: Chapter 41.60 RCW, chapter 50, Laws of 1999.

Summary: This rule is needed to ensure consistency with the amendments to chapter 41.60 RCW, chapter 50, Laws of 1999, and to ensure the effective implementation of the act. Adoption of these rules will amend chapter 383-07 WAC to: Clarify rules relating to the teamwork incentive program (TIP); update program policy changes; and develop a new payment award scale for TIP team awards.

Reasons Supporting Proposal: To enhance the teamwork incentive program.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Michelle Wilson, 505 East Union, Olympia, WA 98504, (360) 664-4278.

Name of Proponent: Office of the Secretary of State, governmental.

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

PROPOSED

Explanation of Rule, its Purpose, and Anticipated Effects: The rules are amended pursuant to the amendment of chapter 41.60 RCW, chapter 50, Laws of 1999, to ensure the effective implementation of the State Employee Suggestion Awards and Incentive Pay Act. The amended rules will update the TIP program.

Proposal Changes the Following Existing Rules: Consistent with amendments of chapter 41.60 RCW, these rule changes will change reporting requirements for TIP teams; create a new payment award scale for TIP team awards; and update TIP eligibility requirements.

No small business economic impact statement has been prepared under chapter 19.85 RCW. No statement is needed. There is no cost for business as a result of these actions.

RCW 34.05.328 does not apply to this rule adoption.

Hearing Location: Legislative Building, House Rules Room #149, 1st Floor, 416 14th Avenue, Olympia, WA 98504, on November 10, 1999, at 11:00 a.m.

Assistance for Persons with Disabilities: Contact Michelle Wilson by November 9, 1999, TDD (360) 586-1846.

Submit Written Comments to: Michelle Wilson, Manager of the Productivity Board, Office of the Secretary of State, 505 East Union, 2nd Floor, P.O. Box 40244, Olympia, WA 98504-0244, fax (360) 664-4250, by November 9, 1999.

Date of Intended Adoption: November 30, 1999.

October 1, 1999

Tracy Guerin

Deputy Secretary of State

AMENDATORY SECTION (Amending WSR 92-09-048, filed 4/10/92, effective 5/11/92)

WAC 383-07-020 Definitions. As used in this chapter, these definitions refer only to the teamwork incentive program unless the context requires otherwise:

(1) "Board" means productivity board.

(2) (~~("Executive director")~~) "Program manager" is the (~~(administrator)~~) executive manager of the (~~(programs)~~) productivity board and serves as staff to the productivity board.

(3) "Program" means teamwork incentive program developed by the productivity board under chapter 41.60 RCW, and is frequently abbreviated as TIP.

(4) (~~("Program manager" refers to the person hired by the executive director to administer the program known as TIP.~~)

(~~5~~)) "The act" referred to in this chapter is chapter 41.60 RCW.

(~~(6)~~) (5) "Agency" includes every subdivision of state government eligible to participate under chapter 41.60 RCW, including all merit system agencies and institutions of higher education.

(~~(7)~~) (6) "Team" means a subdivision with a common mission within or between agencies. (~~(A team may also be referred to as a "unit" or a "group."~~)

(~~(8) "Director"~~) (7) "Agency head" means the appointed or elected chief executive of the agency.

(~~(9)~~) (8) "Supervisor" means the person responsible for unit operations in accordance with WAC 356-05-400 or 251-

01-395. (Merit system rules and higher education personnel board rules defining supervisor.)

(~~(10) "Steering committee" means a representative group of individuals responsible for planning and implementation of TIP within an agency.~~)

(~~(11)~~) (9) "Liaison" means the individual who is the key contact from an agency to the productivity board. (~~(The TIP liaison is a member of the steering committee in agencies using them.~~)

(~~(12)~~) (10) "Award" means the percentage of savings allowed by chapter 41.60 RCW and WAC 383-07-125.

(~~(13)~~) (11) "Cost savings" (~~(refers to cost efficiencies which occurred as a result of productivity improvements. Cost savings may be reflected in budget reductions and/or cost containment)~~) means actual net savings and/or revenue generated to the state. Gains to state funds may be reflected in higher receipts or revenue recoveries as a result of improved methods used by the team.

(~~(14)~~) (12) "Outcome" refers to the accomplishments or results achieved by the (~~(unit)~~) team.

(~~(15)~~) (13) "Project (~~(year)~~) period" means the (~~(twelve month)~~) team project period during which performance and fiscal measures are monitored.

AMENDATORY SECTION (Amending WSR 92-09-048, filed 4/10/92, effective 5/11/92)

WAC 383-07-030 Functions of the board. The responsibilities of the board shall include:

(1) Promotion and marketing of the program to agency (~~(directors)~~) heads and the legislature;

(2) Establishment of policies under which the program shall be promoted and administered, including guidelines cited in WAC 383-07-045, 383-07-050, and 383-07-060 concerning the responsibilities of agency management, TIP liaisons and agency employees;

(3) Adoption of rules and regulations necessary for the administration of this act;

(4) Final determination in approving team participation in the teamwork incentive program;

(5) Final approval of any amount awarded to an eligible team;

(6) Submission of reports required by chapter 41.60 RCW.

AMENDATORY SECTION (Amending WSR 92-09-048, filed 4/10/92, effective 5/11/92)

WAC 383-07-040 Duties of (~~(the program manager)~~) productivity board staff. (1) The program manager shall report to the (~~(executive director)~~) board and be responsible and accountable to the board for the administration of the program, and shall:

(~~(1)~~) (a) Attend meetings of the board and ensure a record of its actions regarding the program is maintained.

(~~(2)~~) (b) Propose policies, rules, and regulations appropriate for the administration of the program.

(~~(3)~~) (c) Establish and maintain records and procedures necessary for the administration and maintenance of the program.

~~((4))~~ (2) Productivity board staff shall:

(a) Interact with agency managers regarding team participation and facilitate understanding and involvement in the program.

~~((5))~~ (b) Review applications and reports submitted by teams to ensure compliance with chapter 41.60 RCW and to recommend necessary changes.

~~((6))~~ (c) Interface with agency TIP liaisons and/or other agency personnel about the program.

AMENDATORY SECTION (Amending WSR 92-09-048, filed 4/10/92, effective 5/11/92)

WAC 383-07-045 Responsibilities of agency management. Under the following guidelines, agency management shall be responsible for facilitating agency involvement at all stages of the teamwork incentive program, including the following:

(1) Promotion and administration of the TIP program within the agency, offering assistance in the completion of team applications, including documentation of approval and denial of applications;

(2) Providing support throughout team participation in the TIP project through encouragement, records management and training assistance, and facilitating cooperation between shifts, other ~~((units))~~ teams, other divisions, etc.;

(3) Review of ~~((quarterly))~~ team application, mid-point and final TIP reports, verifying sustained or improved performance and quality measures, and fiscal impact;

(4) Review, approve, and verify savings identified in the team's report for a TIP award for a team that has already implemented their improvements. Teams that have already implemented their project improvements are eligible to receive a TIP award if the agency head nominates the team for a TIP award within one year of implementation of the team project. The agency head shall also support the percentage of the actual net savings and/or net revenue generated to the state that the team is entitled to receive. The TIP award cannot exceed the percentage and maximum award amount permitted in WAC 383-07-125.

(5) Cooperation and assistance in recognizing TIP teams for their efforts and achievements, including timely payment of awards.

~~((5))~~ (6) Ensurance that gains obtained during the TIP~~((year))~~ project period are sustained.

The agency head shall appoint an individual as TIP liaison to coordinate agency TIP activities with the productivity board. ~~((A group of individuals, including the agency TIP liaison, may be designated as a steering committee within the agency to implement and maintain the program.))~~

AMENDATORY SECTION (Amending WSR 92-09-048, filed 4/10/92, effective 5/11/92)

WAC 383-07-050 Responsibilities of the TIP liaison. The TIP liaison, under these guidelines, serves as the primary link between the board and the agency, and is responsible and accountable to agency management. The TIP liaison shall:

(1) Coordinate the TIP program within the agency ~~((as a key member of the agency's TIP steering committee or))~~ and act as an individual liaison between the agency and the board.

(2) Oversee the completion and submission of all TIP applications, working within agency chain of command and with productivity board staff. Ensure that all applications meet the criteria established by RCW 41.60.100, WAC 383-07-070 and 383-07-080. Ensure an executive summary for board meeting packets is prepared and submitted with the TIP application.

(3) Monitor on-going TIP activities within the agency, reviewing all ~~((quarterly))~~ reports for completeness and accuracy and transmit reports to ~~((the program manager))~~ productivity board staff in a timely manner.

(4) Represent the agency on TIP-related issues at board meetings. Attend regularly scheduled board meetings when the agenda includes TIP projects or issues relevant to the agency.

(5) Promote and market the program within the agency through on-site presentations, written communications, facilitation of meetings and other effective means to acquaint employees and supervisors with the purpose and benefits of the program. Coordinate recognition of ~~((groups completing the year-long project))~~ teams receiving a TIP award.

(6) Ensure that award authorizations are processed, and that payments are made to individuals in a timely manner.

(7) Identify and encourage use of internal resources, such as training staff and management analysts, to assist ~~((units))~~ teams participating in TIP.

(8) Identify and encourage use of other resources inside and outside state government~~((, such as the state energy office, the career executive program, and other knowledgeable experts)).~~

(9) Coordinate with agency management and the board for recognition of groups completing the ~~((year-long))~~ project period.

AMENDATORY SECTION (Amending WSR 92-09-048, filed 4/10/92, effective 5/11/92)

WAC 383-07-060 Employee responsibilities. Employees within a unit(s) form a team under these guidelines. As team members, individuals should:

(1) Understand the mission of the team and be aware of performance goals and fiscal targets identified as a baseline in the TIP application.

(2) Identify areas which the team should address as a means to improve performance outcomes.

(3) Share ideas with other team members and build upon ideas shared by others.

(4) Propose efficiencies and develop action plans designed to achieve and maintain ongoing productivity gains.

(5) Submit action plans to management as needed to implement proposals.

(6) Implement changes and evaluate their effectiveness.

PROPOSED

AMENDATORY SECTION (Amending WSR 92-09-048, filed 4/10/92, effective 5/11/92)

WAC 383-07-070 Application procedures. ~~((Units))~~ Teams interested in being considered for participation in the teamwork incentive program shall complete a TIP application form.

(1) Application forms shall be available from the productivity board office or the TIP liaison within the agency.

(2) Applications which are approved by the agency shall be submitted by the TIP liaison to ~~((the program manager))~~ productivity board staff.

(3) Applications should be submitted prior to the beginning of the project ~~((year and must be received by the board staff by the 10th of the month preceding board action))~~ period to approve a team's participation in the teamwork incentive program.

(4) An agency head may nominate a team for their outstanding achievements for a TIP award after a team has implemented their project improvements. The agency shall submit the report to the productivity board nominating the team for an award and identifying the performance measures used to determine actual savings and/or revenue within one year of implementation of the team project. The productivity board shall make the final award determination.

(5) Applications presented to the board for action shall contain authorizing signatures and outcome and fiscal information.

~~((5))~~ In accordance with RCW 41.60.110(1)(b),) (6) A team participating in the program for two or more consecutive times may choose to compare its costs or revenues during the current period of participation with its costs or revenues during for the immediately preceding period or an average of its costs or revenues for the preceding two or three comparable spans of time in the program. Teams completing a TIP project ((year)) period may reapply by the submission of an abbreviated application, including authorizing signatures, time frames and either a confirmation of the previous results and/or revised performance measures as the baseline to be used.

AMENDATORY SECTION (Amending WSR 92-09-048, filed 4/10/92, effective 5/11/92)

WAC 383-07-080 Application format—For applications submitted prior to the project period. For applications to be considered by the board, ~~((units))~~ teams interested in participating in the teamwork incentive program must meet these eligibility criteria:

(1) An identification of the baseline ~~((as specified in RCW 41.60.110(1),))~~ against which savings shall be evaluated at the end of the project ~~((year, including))~~ period. Teams shall demonstrate to the satisfaction of the board that it has operated during the period of participation at a lower cost or with an increase in revenue with no decrease in the level of services rendered.

(2) The application must also include the following:

- (a) A general description of the team and its mission;
- (b) Performance measures which quantify the workflow and outcome measures of the team;

(c) Fiscal information pertinent to outcomes;

(d) A list of participating personnel and their Social Security numbers to be used for payment purposes, with special notation of those working less than full time; ~~((and))~~

(e) A statement of how the team expects to achieve gains~~((:));~~ and

~~((2))~~ (f) Signatures of agency management authorizing the team's participation in the TIP project, including:

~~((a))~~ (i) The head of the agency in which the team is located or his ((or))/her designee. The agency head may choose to waive the requirement of having other authorizing agency signatures referenced in (f)(ii) through (iv) of this subsection;

~~((b))~~ (ii) The supervisor/manager of the participating ((unit)) team;

~~((c))~~ (iii) The appropriate fiscal/budget officer of the agency; and

~~((d))~~ (iv) Other signatures specified by the agency, such as the personnel manager and division directors.

NEW SECTION

WAC 383-07-085 Application format—For applications submitted after the project period. For applications to be considered by the board for teams that have already implemented their project improvements, teams interested in receiving a TIP award must meet these eligibility criteria:

(1) The report shall be submitted to the productivity board within one year of full implementation of the team's project.

(2) The report must be submitted to the productivity board by the agency with the agency head's approval. The agency head's approval shall be required for the team to be eligible for a TIP award.

(3) An identification of the baseline, against which savings were evaluated at the end of the project period. Teams shall demonstrate to the satisfaction of the board that the team operated at a lower cost or with an increase in revenue with no decrease in the level of services rendered.

(4) The report must also include the following:

(a) A general description of the team and its mission and when the team project was implemented;

(b) Performance measures which quantify the workflow and outcome measures of the team;

(c) The actual net savings and/or revenue derived from the team project and calculations showing how the figures were derived;

(d) Fiscal information pertinent to outcomes;

(e) A list of participating personnel and their Social Security numbers to be used for payment purposes, with special notation of those working less than full time; and

(f) Signatures of agency management authorizing the team's participation in the TIP project, including:

(i) The head of the agency in which the team is located or his or her designee. The agency head may choose to waive the requirement of having other authorizing agency signatures referenced in (f)(ii) through (iv) of this subsection;

(ii) The supervisor/manager of the participating team;

(iii) The appropriate fiscal/budget officer of the agency; and

(iv) Other signatures specified by the agency, such as the personnel manager and division directors.

(5) The report includes final report information, and therefore, shall serve as the only report needed to receive a TIP award. The board shall make the final determination whether to approve the TIP award based on the information provided in the report.

AMENDATORY SECTION (Amending WSR 92-09-048, filed 4/10/92, effective 5/11/92)

WAC 383-07-090 Approval or denial of the application. Upon receipt of the official application, ~~((the program manager))~~ productivity board staff shall:

(1) Review the application for completeness and accuracy, coordinating with the agency TIP liaison on any points needing clarification.

(2) Schedule the application for board action at the next appropriate meeting.

(3) Prepare an executive summary for applications submitted prior to implementing the team project improvements about the team, its performance measures and its TIP goals to be sent to board members prior to scheduled action.

(4) Prepare an executive summary, if needed, for applications submitted after implementing the team project improvements about the team, its accomplishments, its performance measures including actual net savings and/or net revenue, and the award information to be sent to board members prior to scheduled action.

(5) Make a recommendation to board members concerning the application, based on whether ~~((or not))~~ the application is reasonable and practical ~~((and includes program indicators which lend themselves to a judgment of success or failure))~~.

~~((5) The board may approve or deny an application based upon whether or not the proposal is deemed reasonable, practical and includes program indicators which lend themselves to a judgment of success or failure)).~~

(6) Communicate with the TIP liaison and interested others about dates for the anticipated board action on the application, the ~~((quarterly))~~ mid-point report~~((s))~~ and the anticipated final review and approval of any team award.

The board may approve or deny an application based upon whether the proposal is deemed reasonable, practical and includes program indicators which lend themselves to a judgment of success or failure.

The board shall make the final determination whether to approve TIP awards for teams that have already implemented their project improvements based on the information provided in the report(s).

AMENDATORY SECTION (Amending WSR 92-09-048, filed 4/10/92, effective 5/11/92)

WAC 383-07-100 Reports to the productivity board. Each team accepted to participate in the program prior to implementation of their project shall submit ~~((regular progress))~~ a mid-point report~~((s))~~ to the board through the agency's TIP liaison.

(1) ~~((Quarterly))~~ The mid-point report~~((s))~~ shall be submitted to the board in accordance with a schedule arranged by the program manager and shall contain, as a minimum, the following information:

(a) An update on team accomplishments relative to TIP performance measures;

(b) An update on personnel changes; and

(c) An indication of quality of outcomes.

(2) Final reports shall be submitted to the board within three months following the TIP completion date and shall include, as a minimum, the following information:

(a) ~~((Annual))~~ Project period accomplishments relative to TIP performance measures as compared to TIP baseline measures, expressed in both quantitative and qualitative terms, including the total net savings, the team award and the amount of a full award share;

(b) A list of personnel eligible to receive full award shares;

(c) A list of personnel eligible to receive partial award shares, based on the fraction of the ~~((year))~~ project period each has worked for the ~~((unit))~~ team;

(d) A statement of quality of services written by agency management; and

(e) Specific information requested by the program manager on behalf of the board.

(3) In ~~((their))~~ its final report, the team shall submit documentation which quantifies performance measures, fiscal measures, and outcome measures for the TIP project ~~((year))~~ period. Acceptable documentation may include, but is not limited to:

(a) Fiscal documents, such as budgets and accounting reports;

(b) Agency management reports quantifying outcomes;

(c) Reports from other state agencies~~((, such as the state energy office))~~ or federal agencies;

(d) Reports made to other agencies or governmental units;

(e) Personnel reports quantifying overtime hours; and

(f) Other reports relevant to TIP performance outcomes and operational costs.

(4) The program manager may extend due dates for reports.

AMENDATORY SECTION (Amending WSR 92-09-048, filed 4/10/92, effective 5/11/92)

WAC 383-07-115 Evaluation of savings. Teams must demonstrate cost efficient operations during the TIP ~~((year))~~ project period through lower costs, improved productivity, and/or higher level of receipts with no decrease in level of service. Legitimate cost efficiencies are actual cost savings or gains to the state and may be achieved in one or more of the following ways:

(1) Net cost reductions, when spending levels decrease;

~~((2) ((Cost containment or cost avoidance, when spending levels are not reduced but additional funding does not have to be requested to handle increased workloads;~~

~~((3)))~~ Revenue recoveries, when more moneys owed to the state are collected as a result of enhanced operations leading to higher yield of receipts; or

PROPOSED

~~((4))~~ (3) Other means considered by the board to represent true costs savings or enhanced generation of revenue.

AMENDATORY SECTION (Amending WSR 92-09-048, filed 4/10/92, effective 5/11/92)

WAC 383-07-120 Distribution of awards. Awards shall be distributed to employees and supervisors of the ~~((unit))~~ team identified as team members in the final report as follows:

(1) If the board determines in its judgment that a team qualifies for an award, the board shall authorize payment of the award to the team a percentage of net savings as ~~((specified in RCW 41.60.120))~~ negotiated between the team and agency management. The percentage of actual net savings and/or revenue generated shall not exceed twenty-five percent of the total net savings and/or revenue to be shared among team members.

(2) The team award shall be divided and distributed in equal shares to members of the team, except those who have worked within the team for less than ~~((twelve months of))~~ the TIP ~~((year))~~ project period or less than full time during the ~~((twelve months of the))~~ project period shall receive a pro rata share based upon the fraction of the TIP ~~((year))~~ project period worked.

(3) No individual share of the team award shall exceed ten thousand dollars per person, which is the maximum ~~((suggestion))~~ award allowed in RCW 41.60.041(2) and WAC 383-07-125(2).

(4) Funds for paying awards shall be drawn from the agency in which the team is located. Awards for generating increased revenue to a state fund or account may be paid from the benefitted fund or account. ~~((In the case of general fund revenue, the award shall be drawn from the general fund in accordance with productivity board policy.))~~ Awards may be paid to teams for process changes which generate new or additional money for the general fund or any other funds of the state. The director of the office of financial management shall distribute moneys appropriated for this purpose with the concurrence of the productivity board. Transfers shall be made from other funds of the state to the general fund in amounts equal to award payments made by the general fund, for innovations generating new or additional money for those funds. Awards may only be given for savings derived and/or revenue generated for the state.

(5) Teams not demonstrating cost efficiencies may receive special recognition of merit in the form and manner determined by the board.

NEW SECTION

WAC 383-07-125 Payment award scale. The following payment award scale shall be developed by the productivity board. TIP awards shall be based on the following:

(1) Team awards are based on a percentage of the savings and/or revenue determined by the team and agency management during the application process. The total team award shall not exceed twenty-five percent of the actual net savings and/or net revenue generated to the state for the TIP

project period. The team award shall be divided among the team members.

(2) No award may be granted in excess of ten thousand dollars.

(3) No cash awards shall be given for team projects that do not produce actual cost savings or generate revenue to the state.

AMENDATORY SECTION (Amending WSR 92-09-048, filed 4/10/92, effective 5/11/92)

WAC 383-07-130 Award authorization and payment procedures. Following approval of a teamwork incentive award by the productivity board, the ~~((executive director))~~ program manager shall submit a notice to the agency authorizing payment of awards in accordance with RCW 41.60.120 and WAC 383-07-125.

(1) The award authorization notice shall include:

(a) The total amount of savings and/or revenue;

(b) The ~~((unit))~~ team award based upon the percentage specified by ~~((RCW 41.60.120))~~ WAC 383-07-125; and

(c) A list of employees and the amount of each individual's award share.

(2) The award authorization notice shall be sent to the agency's TIP liaison for processing payments of awards and fees. A copy of the authorization shall be forwarded to the team supervisor.

(3) The award authorization notice shall be sent as soon as possible following board action.

(4) The agency shall arrange for payment of awards in a timely manner.

WSR 99-20-081

PROPOSED RULES

THE EVERGREEN STATE COLLEGE

[Filed October 5, 1999, 8:16 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-17-036.

Title of Rule: Parking fees at The Evergreen State College.

Purpose: Specific fees are deleted from the WAC (in keeping with the practice at other institutions); new language describes the process for setting new fees.

Statutory Authority for Adoption: RCW B40.120(12) [28B.40.120(12)].

Summary: New language delegates the setting of fees to the president of the college and describes a process for approval and publication of fees.

Reasons Supporting Proposal: To remove specific amounts from WAC.

Name of Agency Personnel Responsible for Drafting: Lee Hoemann, Library Building, Room 3103, 866-6000/6116; Implementation and Enforcement: Art Costantino, Library Building, Room 3236, 866-6000/6296.

Name of Proponent: The Evergreen State College, governmental.

PROPOSED

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: None.

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

Explanation of Rule, its Purpose, and Anticipated Effects: To remove the parking rate fee structure from WAC.

Explanation of Rule and Purpose: By delegation of the board of trustees, fees for parking and the effective date thereof, shall be approved by the president of the college. Approved fee schedules shall be available in the public area of the parking services office and in the *Policy and Procedures Manual*.

Proposal Changes the Following Existing Rules: Removes actual cost of parking permits from WAC; delegates setting of fees to the president, with approved schedules available at campus locations:

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not applicable.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Evergreen is not a listed agency in section 201.

Hearing Location: The Evergreen State College Campus, 2700 Evergreen Parkway, Library Building, Room 1612, Olympia, WA 98505, on November 10, 1999, at 4-5 p.m.

Assistance for Persons with Disabilities: Contact Linda Pickering by November 8, 1999, TTY 866-6834.

Submit Written Comments to: Art Costantino, Vice-President for Student Affairs and Interim Director of College Advancement, The Evergreen State College, Olympia, WA 98505, fax (360) 866-6823, by November 8, 1999.

Date of Intended Adoption: November 12, 1999.

September 30, 1999

D. Lee Hoemann
Rules Coordinator

AMENDATORY SECTION (Amending WSR 95-16-093, filed 7/31/95, effective 9/1/95)

WAC 174-116-040 Parking permits—General information. ((+)) Parking permits are issued by the parking office following application and the payment of the appropriate fees. All privately-owned motor vehicles parked or left standing unattended on college property are required to display a currently valid Evergreen parking permit during the hours of 7:00 a.m. to 9:00 p.m., Monday through Friday throughout the calendar year. The college maintains the authority to sell and require the display of special event parking permits during times and days established by the college. Vehicles parked on campus pursuant to these regulations are required to display valid parking permits at all times and days of the week as established by these rules.

((2)) Fees for parking permits are as follows:

	Automobile	Motoreycle
Quarterly	25.00	12.50
	75.00	37.00
Academic year	65.00	35.00

Daily	1.00	1.00
Special event parking	1.00	1.00))

By delegation of the board of trustees, fees for parking and the effective date thereof, shall be approved by the president of the college. Prior to approval by the president, the college shall, after notice, hold a hearing on the proposed schedule. The hearing shall be open to the public, and shall be presided over by a presiding officer designated by the president. The presiding officer shall prepare a memorandum for consideration by the president, summarizing the contents of the presentations made at the hearing. Approved fee schedules shall be available in the public area of the parking services office and in the *Policy and Procedures Manual*.

WSR 99-20-087

**WITHDRAWAL OF PROPOSED RULES
STATE BOARD OF EDUCATION**

(By the Code Reviser's Office)

[Filed October 5, 1999, 9:43 a.m.]

WAC 180-16-215, 180-22-150, 180-29-095, 180-40-215, 180-41-035, 180-51-110, 180-55-085, 180-56-245, 180-78-155, 180-78-207, 180-78-210 and 180-79A-380, proposed by the State Board of Education in WSR 99-07-064, 99-07-065, 99-07-066, 99-07-067, 99-07-068, 99-07-069, 99-07-070, 99-07-071, 99-07-072 and 99-07-073 appearing in issue 99-07 of the State Register, which was distributed on April 7, 1999, is withdrawn by the code reviser's office under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor
Washington State Register

WSR 99-20-088

**WITHDRAWAL OF PROPOSED RULES
UTILITIES AND TRANSPORTATION
COMMISSION**

(By the Code Reviser's Office)

[Filed October 5, 1999, 9:44 a.m.]

WAC 480-121-080, 480-121-090 and 480-121-100, proposed by the Utilities and Transportation Commission in WSR 99-07-106 appearing in issue 99-07 of the State Register, which was distributed on April 7, 1999, is withdrawn by the code reviser's office under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor
Washington State Register

PROPOSED

WSR 99-20-089

**WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF HEALTH
(By the Code Reviser's Office)
[Filed October 5, 1999, 9:44 a.m.]**

WAC 246-918-115, 246-918-116, 246-919-630 and 246-919-640, proposed by the Department of Health in WSR 99-07-121 appearing in issue 99-07 of the State Register, which was distributed on April 7, 1999, is withdrawn by the code reviser's office under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor
Washington State Register

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

Hearing Location: Department of Health, Target Plaza, Hearing Room, 2725 Harrison Avenue, Olympia, WA 98502, on November 9, 1999, at 2:00 p.m.

Assistance for Persons with Disabilities: Contact Jennell Prentice by October 26, 1999, (800) 833-6388, or (360) 705-6661.

Submit Written Comments to: Jennell Prentice, Rules Coordinator, Facilities and Services Licensing, P.O. Box 47852, Olympia, WA 98504-7852, Internet JZP0303@doh.wa.gov, fax (360) 705-6654, by November 9, 1999.

Date of Intended Adoption: November 15, 1999.

October 4, 1999

Eric Slagle

for Mary Selecky

Secretary

WSR 99-20-090

**PROPOSED RULES
DEPARTMENT OF HEALTH
[Filed October 5, 1999, 10:58 a.m.]**

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-05-011.

Title of Rule: Certificate of need fees.

Purpose: Increase certificate of need fees sufficient to cover full operating costs as approved by the 1999 legislature.

Statutory Authority for Adoption: RCW 70.38.105(5).

Statute Being Implemented: RCW 70.38.105.

Summary: The amendments increase certificate of need fees, combine some fee categories and create new fee categories.

Reasons Supporting Proposal: The 1999 legislature approved an increase in the certificate of need fees sufficient to cover program operating costs.

Name of Agency Personnel Responsible for Drafting and Implementation: Janis Sigman, 2725 Harrison Avenue, Olympia, 98502, (360) 705-6631; and Enforcement: Gary Bennett, 2725 Harrison Avenue, Olympia, 98502, (360) 705-6652.

Name of Proponent: Department of Health, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Amends fees for certificate of need program. Purpose is to provide for supplemental budget as approved by the legislature. The increase is anticipated to fully program operations as required by statute.

Proposal Changes the Following Existing Rules: Increases and amends certificate of need fees.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This proposal is exempt under RCW 34.05.310(4) and therefore does not require a small business economic impact statement. However, the department prepared a fee study which provides documentation of the need for the fee increase.

AMENDATORY SECTION (Amending WSR 96-24-052, filed 11/27/96, effective 12/28/96)

WAC 246-310-990 Certificate of need review fees. (1) An application for a certificate of need under chapter 246-310 WAC shall include payment of a fee consisting of the following:

- (a) ~~((A nonrefundable application processing fee in the amount of seven hundred fifty dollars;~~
- (b)) A review fee based on the facility/project ~~((description and the total capital expenditure))~~ type;
- (b) When more than one facility/project type applies to an application, the review fee for each type of facility/project must be included.

<u>((Project Description</u>	<u>Capital Expenditure Range</u>	<u>Review Fee</u>
Additional kidney disease treatment center stations	\$ 0 - 100,000+ 250,000+ or more	\$ 4,300 5,700 7,600
Administrative or emergency review	0 - 250,000 250,000+ or more	5,400 8,100
Amendment to a certificate of need		5,000
Bed addition of less than 10 beds	0 - 100,000 100,000+ - 5,000,000 5,000,000+ or more	4,300 5,700 7,600
Bed addition of 10 beds or more	0 - 500,000 500,000+ - 5,000,000 5,000,000+ or more	8,100 11,900 15,700
Bed redistribution or bed relocation	0 - 100,000 100,000+ - 2,000,000 2,000,000+ or more	7,000 10,600 13,200

PROPOSED

(Project Description	Capital Expenditure Range	Review Fee
Capital expenditure over the minimum expenditure	Exp. min. - 5,000,000 5,000,001 - 10,000,000 10,000,001 or more	7,600 9,600 13,600
Establishment of a new hospital, nursing home, or continuing care retirement community	0 - 2,000,000 2,000,001 or more	10,600 15,700
Establishment of a new home health agency, hospice, ambulatory surgery facility, or kidney disease treatment center	0 - 100,000 100,001 or more	3,700 5,700 7,600
Extension of the certificate of need validity period (projects involving plans review by construction review unit) or extension of nursing home bed banking		150
Extension of the certificate of need validity period (other projects)		900
Replacement of an existing health care facility	+ - 2,000,000 2,000,001 - 5,000,000 5,000,001 or more	5,400 8,100 9,600
Sale, purchase, or lease of part or all of an existing hospital	+ - 5,000,000 5,000,001 or more	7,600 11,500
Substantial change in services, or offering a new tertiary health service	0 - 100,000 100,001 - 2,000,000 2,000,001 or more	8,100 10,600 15,700
Transfer of a certificate of need		2,700

- (a) Legal fees;
- (b) Feasibility studies;
- (c) Site development;
- (d) Soil survey and investigation;
- (e) Consulting fees;
- (f) Interest expenses during construction;
- (g) Temporary relocation;
- (h) Architect and engineering fees;
- (i) Construction, renovation, or alteration;
- (j) Total costs of leases of capital assets;
- (k) Labor;
- (l) Materials;
- (m) Equipment;
- (n) Sales taxes;
- (o) Equipment delivery; and
- (p) Equipment installation.

(3) Where more than one project description under subsection (1)(b) of this section applies to an application, the applicant shall use the project description and capital expenditure range with the highest review fee in calculating the payment to accompany the application submittal.

(4) The applicant shall accompany the submittal of an amendment to))

Facility/Project Type	Review Fee
<u>Ambulatory Surgical Centers/Facilities</u>	<u>\$10,600</u>
<u>Amendments to Issued Certificates of Need</u>	<u>\$6,700</u>
<u>Emergency Review</u>	<u>\$4,300</u>
<u>Exemption Requests</u>	
• <u>Continuing Care Retirement Communities (CCRCs)/Health Maintenance Organization (HMOs)</u>	<u>\$4,300</u>
• <u>Bed Banking/Conversions</u>	<u>\$ 700</u>
• <u>Determinations of Nonreviewability</u>	<u>\$1,000</u>
• <u>Hospice Care Center</u>	<u>\$ 900</u>
• <u>Nursing Home Replacement/Renovation Authorizations</u>	<u>\$ 900</u>
• <u>Nursing Home Capital Threshold under RCW 70.38.105 (4)(e) (Excluding Replacement/Renovation Authorizations)</u>	<u>\$ 900</u>
• <u>Rural Hospital/Rural Health Care Facility</u>	<u>\$ 900</u>
<u>Extensions</u>	
• <u>Bed Banking</u>	<u>\$ 400</u>
• <u>Certificate of Need/Replacement Renovation Authorization Validity Period</u>	<u>\$ 400</u>
<u>Home Health Agency</u>	<u>\$12,800</u>
<u>Hospice Agency</u>	<u>\$11,400</u>
<u>Hospital (Excluding Transitional Care Units-TCUs)</u>	<u>\$21,000</u>
<u>Kidney Disease Treatment Centers</u>	<u>\$13,000</u>
<u>Nursing Homes (Including CCRCs and TCUs)</u>	<u>\$24,000</u>

~~(c) A nonrefundable two thousand dollar actuarial review fee surcharge for an application sponsored by an existing or proposed continuing care retirement community (CCRC) as defined in WAC 246-310-130 (3)(b).~~

(2) For purposes of subsection (1)(b) of this section, "total capital expenditure" means the total project costs to be capitalized according to generally accepted accounting principles consistently applied, and includes, but is not limited to, the following:

(2) The fee for amending a certificate of need application ((with a fee consisting of the following)) shall be as follows:

(a) ((A nonrefundable processing fee of five hundred dollars;

(b)) When ((the)) an amendment ((increases the capital expenditure, or)) to a pending certificate of need application

results in ~~((a)) the addition of one or more facility/project ((description with a larger review fee, an additional review fee based on the difference between the review fee previously paid when the application was submitted and the review fee applicable to the greater capital expenditure or new project description; and~~

~~(e)) types, the review fee for each additional facility/project type must accompany the amendment application;~~

~~(b) When ((the)) an amendment ((decreases the capital expenditure, or)) to a pending certificate of need application results in ((a)) the removal of one or more facility/project ((description with a smaller review fee)) types, the department shall refund to the applicant the difference between the review fee previously paid ((when the application was submitted)) and the review fee applicable to the ((smaller capital expenditure or)) new facility/project ((description)) type; or~~

~~(c) When an amendment to a pending certificate of need application results in any other change as identified in WAC 246-310-100, a fee of one thousand one hundred dollars must accompany the amendment application.~~

~~((5)) (3) When ((an application for)) a certificate of need application is returned by the department in accordance with the provisions of WAC 246-310-090 (2)(b) or (e), the department shall refund ((a)) seventy-five percent of the review fees paid.~~

~~((6)) (4) When an applicant submits a written request to withdraw ((a)) a certificate of need application before the beginning of review, the department shall refund ((a)) seventy-five percent of the review fees paid by the applicant.~~

~~((7)) (5) When an applicant submits a written request to withdraw ((a)) a certificate of need application after the beginning of review, but before the beginning of the ex parte period ((as determined by the department consistent with WAC 246-310-190)), the department shall refund one-half of all review fees paid.~~

~~((8)) (6) When an applicant submits a written request to withdraw ((a)) a certificate of need application after the beginning of the ex parte period ((as determined by the department consistent with WAC 246-310-190,)) the department shall not refund any of the review fees paid.~~

~~((9) Other certificate of need program fees are:~~

~~(a) A nonrefundable two hundred fifty dollar processing fee for each request for an exemption from certificate of need review submitted under the provisions of WAC 246-310-040, 246-310-041, 246-310-042, 246-310-043; and~~

~~(b) A nonrefundable two hundred fifty dollar processing fee for each request for an exemption from certificate of need review submitted under the provisions of RCW 70.38.105 (4)(d-)) (7) Review fees for exemptions and extensions shall be nonrefundable.~~

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

Title of Rule: WAC 246-322-990 Private psychiatric hospital licensing fees and 246-324-990 Private alcohol and chemical dependency hospital licensing fees.

Purpose: The proposed changes adjust the licensing fees for private psychiatric hospitals, and private alcohol and chemical dependency hospitals.

Statutory Authority for Adoption: RCW 43.70.250 and 43.20B.020.

Statute Being Implemented: RCW 43.70.250.

Summary: Licensing fees will increase by 3.3%.

Reasons Supporting Proposal: The proposed rule allows providers to recoup the inflationary costs of providing this service. This adjustment is mandated [to] set the fees for each program at a sufficient level to defray the costs of administering that program.

Name of Agency Personnel Responsible for Drafting and Implementation: Byron Plan, 2725 Harrison Avenue, Olympia, 98504-7852, (360) 705-6780; and Enforcement: Gary Bennett, 2725 Harrison Avenue, Olympia, 98504-7852, (360) 705-6652.

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

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

Explanation of Rule, its Purpose, and Anticipated Effects: The rule increases the licensing fees for private psychiatric hospitals and private alcohol and chemical dependency hospitals by 3.3%. The new fees will assist the department in defraying the costs of administering the licensing programs.

Proposal Changes the Following Existing Rules: The existing fee rules are amended to reflect the increase in licensing fees.

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

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

Hearing Location: Department of Health, Target Plaza, Training Room, 2725 Harrison Avenue N.W., Olympia, WA 98502, on November 18, 1999, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Theresa Phillips by November 4, 1999, TDD (800) 833-6388, or (360) 705-6652.

Submit Written Comments to: Theresa Phillips, Facilities and Services Licensing, P.O. Box 47852, Olympia, WA 98504-7852, e-mail REGMAIL@doh.wa.gov, fax (360) 705-6654, by November 18, 1999.

Date of Intended Adoption: November 19, 1999.

October 4, 1999

Eric Slagle
for Mary Selecky
Secretary

WSR 99-20-091

PROPOSED RULES

DEPARTMENT OF HEALTH

[Filed October 5, 1999, 10:59 a.m.]

Original Notice.

PROPOSED

AMENDATORY SECTION (Amending WSR 95-12-097, filed 6/7/95, effective 7/8/95)

WAC 246-322-990 Private psychiatric hospital fees. Private psychiatric hospitals licensed under chapter 71.12 RCW shall:

- (1) Submit an annual fee of ~~((forty-seven))~~ forty-eight dollars and ~~((thirty))~~ eighty-five cents for each bed space within the licensed bed capacity of the hospital to the department;
- (2) Include all bed spaces and rooms complying with physical plant and movable equipment requirements of this chapter for twenty-four-hour assigned patient rooms;
- (3) Include bed spaces assigned for less than twenty-four-hour patient use as part of the licensed bed capacity when:
 - (a) Physical plant requirements of this chapter are met without movable equipment; and
 - (b) The private psychiatric hospital currently possesses the required movable equipment and certifies this fact to the department;
- (4) Limit licensed bed spaces as required under chapter 70.38 RCW;
- (5) Submit applications for bed additions to the department for review and approval under chapter 70.38 RCW subsequent to department establishment of the private psychiatric hospital's licensed bed capacity; and
- (6) Set up twenty-four-hour assigned patient beds only within the licensed bed capacity approved by the department.

AMENDATORY SECTION (Amending WSR 95-22-013, filed 10/20/95, effective 11/20/95)

WAC 246-324-990 Fees. The licensee shall submit:

- (1) An initial fee of ~~((forty-seven))~~ forty-eight dollars and ~~((thirty))~~ eighty-five cents for each bed space within the proposed licensed bed capacity; and
- (2) An annual renewal fee of forty-seven dollars and thirty cents for each licensed bed space.

WSR 99-20-092
PROPOSED RULES
DEPARTMENT OF HEALTH
 [Filed October 5, 1999, 11:00 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-01-157.

Title of Rule: WAC 246-843-010 General definitions.

Purpose: Defines terms used in chapter 18.52 RCW and chapter 246-843 WAC. Includes reference to the nursing home licensure law, chapter 18.51 RCW. Creates a separate rule on homes temporarily without an administrator and increases the time a facility may have an administrator designate when an administrator position is vacant.

Other Identifying Information: When a licensed administrator leaves employment, it creates a void that can only be filled by another licensed administrator. Nursing home facilities need a reasonable amount of time to recruit and hire a

licensed administrator. DSHS may grant exceptions to licensed nursing homes under their statute, chapter 18.51 RCW.

Statutory Authority for Adoption: Chapters 18.52, 34.05 RCW.

Statute Being Implemented: Chapter 18.52 RCW.

Summary: Amendment to reorganize, make housekeeping changes, clarify existing language and define "recognized institution of higher learning" used in chapter 18.52 RCW. Separate rule provides guidance to nursing home facilities when a licensed administrator leaves employment.

Reasons Supporting Proposal: Amendments clarify existing language and inform users that the Department of Social and Health Services (DSHS) may grant exception under chapter 18.51 RCW.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Barbara Hayes, Department of Health, (360) 236-4921.

Name of Proponent: Board of Nursing Home Administrators, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Amended rule defines terms used in statute and rule relating to nursing home administrator licensure and new rule allows a nursing home business more time to hire a licensed administrator.

Proposal Changes the Following Existing Rules: Clarify existing rule for easier understanding and implementation of law relating to nursing home administrators. Adding reference to DSHS statute reinforces DSHS authority over the nursing home facility and removes the likelihood of reader confusion.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Cost does not exceed minor cost threshold.

RCW 34.05.328 does not apply to this rule adoption. These rules do not subject a person to a penalty or sanction; does not establish, alter or revoke a qualification or standard for nursing home administrator license, and does not make significant amendment to a policy or regulatory program.

Hearing Location: Wesley Gardens Board Room, 815 South 216th, Des Moines, WA 98198, on November 19, 1999, at 3:00 p.m.

Assistance for Persons with Disabilities: Contact Erin Obenland, (360) 236-4920, by November 12, 1999, TDD (800) 525-0127, or (800) 833-6388.

Submit Written Comments to: Barbara Hayes, fax (360) 236-4922, by November 12, 1999.

Date of Intended Adoption: November 19, 1999.

September 10, 1999

Barbara A. Hayes
 Program Manager

AMENDATORY SECTION (Amending WSR 95-07-128, filed 3/22/95, effective 4/22/95)

WAC 246-843-010 General definitions. ~~((Whenever))~~ Terms used in these rules ~~((and regulations, unless expressly~~

otherwise stated, or unless the context or subject matter requires a different meaning, the following terms shall)) have the following meanings:

((1) "Nursing home administrator in training" means an individual registered as such with the board, under and pursuant to these rules and regulations:

(2) "Person" or "individual" means an individual and does not include the terms firm, institution, public body, joint stock association or any other group of individuals.

(3) "Secretary" means the secretary of the department of health or the secretary's designee.

(4) "Active administrative charge" is the ongoing direct participation in the operating concerns of a nursing home. Operating concerns shall include, but not be limited to, interaction with staff and residents, liaison with the community, liaison with regulatory agencies, pertinent business and financial responsibilities, planning and other activities as identified in the most current role delineation study of the National Association of Boards of Examiners for Nursing Home Administrators. The role delineation study is available from National Association of Boards of Examiners for Nursing Home Administrators, 808 17th Street NW #200, Washington, DC 20006.

(5) "On-site, full-time administrator" shall be defined as an individual in active administrative charge at the premises of only one nursing home facility, a minimum of four days and an average of forty hours per week, except: "On-site, full-time administrator with small resident populations," or in "rural areas," shall be defined as an individual in active administrative charge at the premises of only one nursing home facility:

(a) A minimum of four days and an average of twenty hours per week at facilities with one to thirty beds; or

(b) A minimum of four days and an average of thirty hours per week at facilities with thirty-one to forty-nine beds.

(6) "Collocated facilities" means that more than one licensed nursing facility is situated on a single contiguous piece of property, intersecting streets or roads allowing pedestrian crossing notwithstanding.

(7) "Nursing homes temporarily without an administrator." Upon the administrator's position becoming vacant, a nursing home may operate up to two continuous weeks under a responsible person authorized to act as administrator designee. Such person shall be qualified by experience to assume delegated duties. The nursing home shall have a written agreement with a Washington licensed administrator who shall be available to consult with such person.)) (1) "On-site, full-time administrator" is an individual in active administrative charge of one nursing home facility or collocated facilities, as licensed under chapter 18.51 RCW, a minimum of four days and an average of forty hours per week. Exception: "On-site, full-time administrator" in nursing homes with small resident populations, or in rural areas is an individual in active administrative charge of one nursing home facility, or collocated facilities, as licensed under chapter 18.51 RCW:

(a) A minimum of four days and an average of twenty hours per week at facilities with one to thirty beds; or

(b) A minimum of four days and an average of thirty hours per week at facilities with thirty-one to forty-nine beds.

(2) "Active administrative charge" is direct participation in the operating concerns of a nursing home. Operating concerns include, but are not limited to, interaction with staff and residents, liaison with the community, liaison with regulatory agencies, pertinent business and financial responsibilities, planning and other activities as identified in the most current job analysis published by the National Association of Boards of Examiners for Long-Term Care Administrators.

(3) "Person" means an individual and does not include the terms firm, corporation, institutions, public bodies, joint stock associations, and other such entities.

(4) "Nursing home administrator-in-training" means an individual in an administrator-in-training program approved by the board.

(5) "Secretary" means the secretary of the department of health or the secretary's designee.

(6) "Collocated facilities" means more than one licensed nursing facility situated on a contiguous or adjacent property, whether or not there are intersecting streets. Other criteria to qualify as a collocated facility would be determined by the nursing home licensing agency under chapter 18.51 RCW.

(7) "Recognized institution of higher learning" means an accredited degree granting institution in the United States or outside the United States that is listed in the directory of accredited institutions of postsecondary education published by the American Council on Education.

NEW SECTION

WAC 246-843-015 Nursing homes temporarily without an administrator. After an administrator's position becomes vacant, a nursing home may operate under a responsible person authorized to act as administrator designee. The administrator designee may act for four continuous weeks unless an exception is granted by the nursing home licensing agency under chapter 18.51 RCW.

The administrator designee shall be qualified by experience to assume delegated duties. A Washington licensed administrator shall sign an agreement to be available to consult with the administrator designee.

WSR 99-20-093

PROPOSED RULES

DEPARTMENT OF HEALTH

[Filed October 5, 1999, 11:01 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-01-158.

Title of Rule: WAC 246-843-070 Scheduling of examinations and reexaminations, 246-843-071 Application, 246-843-072 Examination candidate procedures, 246-843-073 Examination score, 246-873-074 Examination review and appeal, 246-843-080 Application for examination, 246-843-100 Disqualification—Reexamination, 246-843-110 Subjects for examination, 246-843-115 Examination procedures, 246-843-120 Grading examination, 246-843-122 Examination review procedures, 246-843-170 Temporary permits,

PROPOSED

246-843-230 Reciprocity, and 246-843-231 Temporary practice permits.

Purpose: Amended and new rules describe required national examination, endorsement requirements and issuance of temporary practice permit.

Statutory Authority for Adoption: Chapters 18.52, 34.05 RCW.

Statute Being Implemented: Chapter 18.52 RCW.

Summary: Remove requirement for two part exam by deleting requirement for Washington state rules and regulations examination, add certification by American College of Health Care Administrator (ACHCA) as exemption from submission of college transcript and passing current national examination, specifically exempt other state licensees who previously passed the national exam from passing the current national examination, consolidate and reorganize for easier reading and comprehension and repeal rule sections replaced by new sections.

Reasons Supporting Proposal: Clarifies existing language, reorganizes sections for easier reading, recognize ACHCA certification.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Barbara Hayes, Department of Health, (360) 236-4921.

Name of Proponent: Board of Nursing Home Administrators, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Rules on examination are necessary to prevent unqualified people from obtaining a license to administer a nursing home in Washington. Rule on endorsement is needed to explain the board's implementation of RCW 18.52.130. Rule on temporary permit is needed to explain the board's implementation of RCW 18.130.075.

Proposal Changes the Following Existing Rules: The board eliminated the state law portion of its examination requirement and these changes bring the rules up to date. The rule on endorsement recognizes professional certification and clarifies that a person who has passed the national examination for licensure in another state does not need to take it again for licensure in Washington.

A small business economic impact statement has been prepared under chapter 19.85 RCW.

Small Business Economic Impact Statement

There are approximately 485 active and 152 inactive licensed nursing home administrators (NHA) in Washington state. Active licensed NHAs are employed in approximately 280 DSHS licensed nursing homes in Washington state, which require one licensed NHA in "administrative charge." Approximately 57% of the active licensed NHAs are employed in nursing homes. Some of these nursing homes are for profit businesses.

There is no significant increase or reduction of cost to comply with these rules. The standard industrial code classifications used to determine the threshold for more than minor impact was:

STANDARD INDUSTRIAL CODE	MINOR COST THRESHOLD
Miscellaneous Health	\$53.00

The cost of complying with the rules does not exceed the minor cost threshold; therefore mitigation is not necessary.

Opportunity for public involvement and written comment was provided during different stages of the development of the rules. A preproposal [statement] of inquiry, CR-101, was filed with the Code Reviser's Office December 22, 1997, for publication in the Washington State Register. A preliminary public input meeting notice for meetings on April 21 and 23, 1997, was mailed to 700 individuals (interested persons mailing list, active and inactive NHA licensees, candidates for NHA license). Board meeting agendas for meetings at which rules were a topic were mailed to the program's interested persons mailing list (approximately twenty-five individuals and organizations) for meetings on May 22, 1997, August 21, 1997, February 18-19, 1998, May 7-8, 1998, November 6, 1998, February 26, 1999, May 21, 1999, and August 20, 1999.

A copy of the statement may be obtained by writing to Barbara Hayes, P.O. Box 47868, Olympia, WA 98504-7868, phone (360) 236-4921, fax (360) 236-4922.

RCW 34.05.328 applies to this rule adoption. These rules are significant because they amend qualifications or standards for issuance of a license or permit. The agency has conducted the economic impact analysis required.

Hearing Location: Wesley Gardens Board Room, 815 South 216th, Des Moines, WA 98198, on November 19, 1999, at 3:00 p.m.

Assistance for Persons with Disabilities: Contact Erin Obenland, (360) 236-4920, by November 12, 1999, TDD (800) 525-0127, or (800) 833-6388.

Submit Written Comments to: Barbara Hayes, fax (360) 236-4922, by November 12, 1999.

Date of Intended Adoption: November 19, 1999.

September 10, 1999

Barbara A. Hayes

Program Manager

AMENDATORY SECTION (Amending Order 141B, filed 3/1/91, effective 4/1/91)

WAC 246-843-070 ((Scheduling of) Examination((s and reexaminations)). (1) The board ((shall determine the subjects of examination of applicants for license as a nursing home administrator, and the scope, content, form, and character of such examinations which in any examination shall be the same for all candidates.

(2) Examination shall be held not less than semiannually and at such times and places as shall be designated by the board.

(3) Following the close of every examination, a permanent record stating in detail the result of the examination for each candidate shall be kept by the board.)) approves subjects of examination for license. The scope, content, form, and character of examination shall be the same for all candidates taking the examination.

(2) The examination consists of the National Association of Boards of Examiners for Long-Term Care Administrators (NAB) national examination.

(3) Subjects for examination may include, but not be limited to: Resident care management, personnel management, financial management, environmental management, and governance and management.

(4) Examinations shall be given at least semiannually at times and places designated by the department.

NEW SECTION

WAC 246-843-071 Application. (1) An applicant must pay applicable fees and submit an application for initial credential on forms approved by the secretary. Refer to chapter 246-12 WAC, Part 2.

(2) Applications shall be completed in every respect prior to the examination date.

NEW SECTION

WAC 246-843-072 Examination candidate procedures. (1) Failure to follow written or oral instructions relative to the conduct of an examination, including ending time of the examination, is ground for disqualification from the examination.

(2) Disqualified candidates shall be notified of the reasons for disqualification.

(3) Disqualified candidates may request an adjudicative proceeding. Refer to chapter 246-11 WAC.

(4) Disqualified candidates may submit a new application, provided the candidate meets current requirements.

(5) Candidates who fail an examination may update their application, pay the appropriate fee and retake the examination until obtaining a passing score.

NEW SECTION

WAC 246-843-073 Examination score. (1) An applicant for a nursing home administrator license is required to pass the national examination with a passing score established by the National Association of Boards of Examiners for Long-Term Care Administrators (NAB).

(2) The candidate shall be notified about their examination score in writing.

(3) The board and the department shall not disclose the candidate's score to anyone other than the candidate, unless requested to do so in writing by the candidate.

(4) The NAB examination is scored using a criterion-referenced method.

(5) A permanent record of the result of examination for each candidate shall be kept by the board.

NEW SECTION

WAC 246-843-074 Examination review and appeal.

(1) Each individual candidate who does not pass the examination may request informal review of failed examination questions. The request must be in writing and postmarked within thirty days of notification of the examination result.

The request must state the reasons the candidate feels the result of the examination should be changed. The board will allow review of failed questions only if the potentially revised score would be a passing score. The board will consider the following to be adequate reasons for review of failed examination questions:

(a) A showing of a significant procedural error in the examination process;

(b) Evidence of bias, prejudice, or discrimination in the examination process; or

(c) Other significant errors which result in substantial disadvantage to the candidate.

(2) In addition to the written request the candidate must contact the department to make an appointment to appear personally to review the failed examination questions.

(a) The candidate's incorrect answers will be available during the review. The candidate must identify the specific questions and state the specific reason why the candidate believes his or her answers are correct on a form provided by the department during the review.

(b) The candidate will be allowed one half the time originally allotted for examination to complete the review.

(c) The candidate may not use any resource materials while completing the review.

(d) The candidate may not remove any notes or materials from the site of the review.

(e) The candidate will be notified in writing of the board's decision on the review documentation.

(3) A candidate who is not satisfied with the board's decision may request a formal hearing. Such request must be postmarked within twenty days of service of the board's decision on the review of the failed examination questions. Refer to chapter 246-11 WAC, Section V.

AMENDATORY SECTION (Amending WSR 98-05-060, filed 2/13/98, effective 3/16/98)

WAC 246-843-230 (~~Reciprocity~~) Endorsement. (1) The board (~~at its discretion, and otherwise subject to the law pertaining to the licensing of nursing home administrators prescribing the qualifications for a nursing home administrator license~~) may endorse a nursing home administrator (~~license issued by the proper authorities of any other~~) currently licensed in another state (~~upon payment of the original license fee and the application fee, and upon submission of evidence satisfactory to the board:~~

~~(1) That such other state maintains a system and standard of qualification and examination for a nursing home administrator license, which are substantially equivalent to those required in this state;~~

~~(2) That such applicant for endorsement is examined and successfully passes the test related to Washington state local health and safety nursing home regulations; and~~

~~(3) That such applicant has not had a nursing home administrator license revoked or suspended in any state~~) if that state requires qualifications substantially equivalent to qualifications required by RCW 18.52.071. To obtain a license by endorsement the applicant must:

(a) Pay applicable application fee;

(b) Submit an application on forms approved by the secretary;

(c) Submit a verification form from all states in which currently or previously licensed that verifies the applicant:

(i) Was or is currently licensed;

(ii) Has not had a nursing home administrator license revoked or suspended; and

(iii) Has passed the national examination;

(d) Submit a certified transcript of baccalaureate or higher degree, mailed to the department directly from the college or university;

(e) Have completed seven clock hours of AIDS education and training. Refer to chapter 246-12 WAC, Part 8.

(2) Applicants who are:

(a) Certified by the American College of Health Care Administrators (ACHCA) may submit verification of ACHCA certification in lieu of college degree transcript.

(b) Currently certified by ACHCA are exempt from taking the current NAB national examination.

(c) Licensed as a nursing home administrator in another state and who have previously passed the national examination are exempt from taking the current NAB national examination.

NEW SECTION

WAC 246-843-231 Temporary practice permits. (1)

A temporary practice permit may be issued for a period up to six months. A temporary practice permit holder is not eligible for a subsequent permit. A temporary practice permit shall be valid only for the specific nursing home for which it is issued and shall terminate upon the permit holder's departure from the nursing home, unless otherwise approved by the board. An applicant shall meet the following criteria:

(a) Submit temporary permit fee and application form approved by the secretary for initial credential;

(b) Submit verification from each state in which currently licensed that applicant is currently licensed and in good standing as a nursing home administrator in that state;

(c) Have a written agreement for consultation with a Washington state licensed nursing home administrator.

(2) Subsection (1)(b) of this section does not apply if the applicant is an administrator of a religious care facility acting under a limited license described in RCW 18.52.071.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 246-843-080	Application for examination.
WAC 246-843-100	Disqualification—Reexamination.
WAC 246-843-110	Subjects for examination.
WAC 246-843-115	Examination procedures.
WAC 246-843-120	Grading examinations.

WAC 246-843-122

Examination review procedures.

WAC 246-843-170

Temporary permits.

WSR 99-20-094

PROPOSED RULES

DEPARTMENT OF HEALTH

[Filed October 5, 1999, 11:02 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-01-159.

Title of Rule: WAC 246-843-090 Preexamination requirements, 246-843-093 Exemption, and 246-843-095 Preceptors for administrator-in-training programs.

Purpose: Rules describe administrator-in-training (AIT) program requirements, who is exempt from AIT program and AIT preceptor qualifications.

Statutory Authority for Adoption: Chapters 18.52, 34.05 RCW.

Statute Being Implemented: Chapter 18.52 RCW.

Summary: Amended and new rules clarify existing language and incorporate board policy.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Barbara Hayes, Department of Health, (360) 236-4921.

Name of Proponent: Board of Nursing Home Administrators, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Rules explain to readers that an AIT program is required for those who are new to the profession and provides exemption from an AIT program for persons who have acquired sufficient and comparable experience. Housekeeping changes to preceptor rule clarifies the board's intent.

Proposal Changes the Following Existing Rules: Exemption is provided for graduates of a long-term care program approved by the National Association of Boards of Examiners for Long-Term Care Administrators.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Cost does not exceed minor cost threshold.

RCW 34.05.328 applies to this rule adoption. This rule is legislatively significant because it amends standards that relate to the qualification of a permit or license.

Hearing Location: Wesley Gardens Board Room, 815 South 216th, Des Moines, WA 98198, on November 19, 1999, at 3:00 p.m.

Assistance for Persons with Disabilities: Contact Erin Obenland, (360) 236-4920, by November 12, 1999, TDD (800) 525-0127, or (800) 833-6388.

Submit Written Comments to: Barbara Hayes, fax (360) 236-4922, by November 12, 1999.

PROPOSED

Date of Intended Adoption: November 19, 1999.

September 10, 1999

Barbara A. Hayes

Program Manager

AMENDATORY SECTION (Amending WSR 95-07-128, filed 3/22/95, effective 4/22/95)

WAC 246-843-090 (~~(Preexamination requirements.)~~)

Administrator-in-training. ~~((No person))~~ An applicant shall be ((admitted to or permitted)) approved to take an examination for licensure as a nursing home administrator ((without having first submitted)) after submitting evidence satisfactory to the board that the applicant meets the following requirements:

(1) ~~((All applicants shall))~~ Be at least twenty-one years ((of age, and in addition, shall otherwise meet the requirements of suitability and character set forth in WAC 246-843-200)) old.

(2) ~~((All applicants shall))~~ Complete an application for licensure provided by the division of health professions quality assurance, department of health((-and shall)) that includes all information and fees requested ((in said application)). Refer to chapter 246-12 WAC, Part 2.

(3) ~~((All applicants shall))~~ Submit documentation ((demonstrating that they meet the)) of a minimum ((requirements set forth in RCW 18.52.071)) of a baccalaureate degree from a recognized institution of higher learning.

(4) ~~((Applicants not having))~~ Completed ((at least a one thousand hour practical experience requirement in a nursing home included in a degree program from a recognized educational institution, shall undertake and complete the following)) an administrator-in-training (AIT) program as described below:

(a) A one thousand five hundred hour ~~((administrator in training))~~ AIT program in a nursing home ((for individuals who have no experience in health care)); or

(b) A one thousand hour ~~((administrator in training))~~ AIT program ((in a nursing home)) for individuals with a minimum of two years experience as a department manager in a ((health care facility)) state licensed nursing home or hospital with supervisory and budgetary responsibility; or

(c) A five hundred hour ~~((administrator in training))~~ AIT program in a nursing home for individuals with a minimum of two years experience in the last five years with supervisory and budgetary responsibility in one of the following positions or their equivalent:

Hospital administrator;

Assistant administrator in a ~~((hospital or large health care facility))~~ state licensed nursing home or hospital;

Director of a hospital based skilled nursing facility;

Director of a subacute or transitional care unit;

Director of the department of nursing in a state licensed nursing home;

Health care consultant to the long-term care industry;

Director of community-based long-term care service(;

or

~~((d) No administrator in training program is required for individuals with a minimum of five years experience in the~~

~~last seven years with extensive supervisory and budgetary responsibility in one of the following positions or their equivalent:~~

~~Hospital administrator;~~

~~Assistant administrator in a hospital or large health care facility or agency;~~

~~Director of a hospital based skilled nursing facility;~~

~~Director of a subacute or transitional care unit; or~~

~~An individual who worked as a licensed nursing home administrator for a minimum of five years, in the past ten years, and whose license did not expire more than three years prior to application date).~~

(5) The AIT program ~~((if required, shall include without limitations, the following))~~ shall be:

(a) ~~((The program shall be))~~ Under the guidance and supervision of a qualified preceptor((-and shall be conducted for a period of one thousand five hundred hours, one thousand hours, or five hundred hours));

(b) ~~((The program shall be))~~ Designed to provide for individual learning experiences and instruction based upon the person's academic background((s)), training, and experience;

(c) ~~((The))~~ Described in a prospectus ((for the program shall be)) signed by the preceptor((-submitted and approved by the board prior to its commencement. Any)). The prospectus shall include a description of the rotation through departments and is to be submitted to the board for approval before beginning an AIT program. Changes in the AIT program shall be immediately reported in writing to the board((-and)). The board may withdraw ((the)) approval ((given;)) or alter ((the)) conditions under which approval was given((-;)) if the board finds that the approved program ((as originally submitted and approved)) has not been or is not being followed((-;)).

~~((d))~~ (6) The AIT program prospectus shall include the following components:

~~((i))~~ (a) A minimum of ninety percent of the required ((administrator in training)) AIT program hours are spent in a ((planned systematic)) rotation through each department of a resident occupied nursing home licensed under chapter 18.51 RCW;

~~((ii))~~ Planned reading and writing assignments;

~~((iii))~~ (b) Project assignment including at least one problem-solving assignment to improve the nursing home or nursing home procedures. A description of the project is to be submitted in writing to the board ((or a designated board member. Problem-solving)) for approval before beginning the AIT program. The description of the project should indicate the definition of ((an acknowledged problem;)) the project and method of approach ((to the problem)) such as data gathering((-the listing of)). A project report that includes possible alternatives, ((the)) conclusions, and final recommendations to improve the facility or procedure is to be submitted to the board for approval at least ten days before the scheduled end date of the AIT program;

~~((iv))~~ (c) Planned reading and writing assignments as designated by the preceptor; and

(d) Other planned learning experiences including ((acquisition of knowledge)) learning about other health and

~~((welfare)) social services agencies in the community((; and)).~~

~~((v-A)) (7) Quarterly written reports to the board ((by the applicant including)) shall include a detailed outline of AIT activities ((and learning experiences of)) during the reporting period. Reports shall be submitted by both the AIT and preceptor.~~

~~((e)) (8) The program shall provide for a broad range of experience with a close working relationship between preceptor and trainee. Toward that end, ((as a general rule,)) no program shall be approved ((which would result in an individual preceptor supervising more than two trainees, or)) if the facility ((in which the program is to be implemented)) has a capacity of fewer than 50 beds. Exceptions to this general rule may be granted by the board in unusual circumstances.~~

NEW SECTION

WAC 246-843-093 Exemption. No AIT program is required for:

(1) An individual with a minimum of five years experience in the last seven years with extensive supervisory and budgetary responsibility in one of the following positions or their equivalent:

Hospital administrator;

Assistant administrator in a hospital or state licensed nursing home;

Director of a hospital based skilled nursing facility; or

Director of a subacute or transitional care unit.

(2) An individual who worked as a licensed nursing home administrator for a minimum of five years, in the past ten years, and whose license did not expire more than three years prior to application date.

(3) An individual who graduated from a long-term care program in a college approved by the National Association of Boards of Examiners for Long-Term Care Administrators.

(4) An individual who graduated from a degree program in a recognized educational institution that included a one thousand hour practical experience (practicum) in a nursing home. This practical experience shall be structured to allow a student a majority of time in a systematic rotation through each department of a resident-occupied nursing home. The practical experience shall include planned readings, writing, and project assignments. The practical experience shall include regular contact with the administrator of the facility in which the practical experience was completed.

AMENDATORY SECTION (Amending Order 217B, filed 11/27/91, effective 12/28/91)

WAC 246-843-095 Preceptors for administrator-in-training programs. ~~((In reviewing proposed administrator-in-training programs, the board shall utilize the following criteria in determining the qualifications and duties of))~~ The preceptor ~~((for such program:))~~ shall submit a statement describing his or her qualifications and an agreement to perform the duties of a preceptor.

(1) Qualifications of preceptor:

(a) The preceptor shall be employed as a licensed nursing home administrator for an accumulation of at least three years.

(b) The preceptor shall be employed full time as the nursing home administrator in the facility where the administrator-in-training is trained.

~~((c) The preceptor shall have ((demonstrated the ability and skills to provide quality care.~~

~~((d) The preceptor shall have demonstrated his or her continued interest in the broadening of his or her professional horizons beyond the requirements of licensure.~~

~~((e) The preceptor shall submit, in writing, the preceptor's qualifications as described in subsection (1)(a) through (d) of this section and an agreement to perform the duties in subsection (2)(a) and (b) of this section with the administrator-in-training's application.~~

~~((f)) an unrestricted license.~~

(d) The preceptor shall participate in and successfully complete any preceptor workshop or other training deemed necessary by the board.

(2) Duties of the preceptor:

(a) The preceptor shall take the time necessary and have at least a weekly ~~((supervisory))~~ face-to-face conference ~~((between himself or herself and the trainee in the facility to adequately monitor the education and))~~ with the AIT about the activities of the ~~((administrator-in-training))~~ AIT relative to the training program and the ~~((facility))~~ nursing home.

(b) The preceptor shall evaluate the AIT and submit quarterly reports to the board on ~~((a quarterly basis as to))~~ the progress of the ~~((administrator-in-training))~~ AIT program.

(3) A preceptor shall supervise no more than two AITs at the same time.

WSR 99-20-095

PROPOSED RULES

DEPARTMENT OF HEALTH

[Filed October 5, 1999, 11:03 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-01-160.

Title of Rule: WAC 246-843-130 Courses of study, 246-843-150 Continuing education requirements to meet the conditions of reregistration for license, and 246-843-125 Continuing education credit for preceptors for administrators-in-training programs.

Purpose: Continuing education is the tool available to the Board of Nursing Home Administrators (BNHA) to assure minimum competency among licensed nursing home administrators.

Other Identifying Information: The BNHA eliminated a requirement for examination on state law and the mandatory course on state law replaces that part of the exam for licensure. The mandatory CE course was developed in resolution of conflict with the long-term care ombudsman, Department of Social and Health Services residential care services and the legislature.

PROPOSED

Statutory Authority for Adoption: Chapters 18.52, 34.05 RCW.

Statute Being Implemented: Chapter 18.52 RCW.

Summary: The rule on courses was amended to include a mandatory course on state law for newly licensed NHAs and provides for retroactive credit for AITs. A description of the state law CE is included to assist potential providers of the course. Amended language updates the topics of possible CE courses to match topics covered in the national examination. Rules clarify BNHA intent on approval of courses and moves existing language on CE credit for preceptors to a more appropriate section of WAC.

Reasons Supporting Proposal: The rule to require state law training is the result of work among people representing DSHS, long-term care ombudsman program, professional associations, associations that are advocates for residents of nursing homes, BNHA and DOH. The multi-dimensional viewpoints were considered and agreement was reached by the workgroup and approved by the BNHA.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Barbara Hayes, Department of Health, (360) 236-4921.

Name of Proponent: Board of Nursing Home Administrators, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Rules on CE set a standard to assure the minimum continuing competency of licensed nursing home administrators.

Proposal Changes the Following Existing Rules: The BNHA eliminated the state law portion of its examination requirement and these rule changes impose a mandatory CE course for new licensees as a negotiated replacement of that second part of the examination for license.

A small business economic impact statement has been prepared under chapter 19.85 RCW.

Small Business Economic Impact Statement

There are approximately 485 active and 152 inactive licensed nursing home administrators (NHA) in Washington state. Active licensed NHAs are employed in approximately 280 DSHS licensed nursing homes in Washington state, which require one licensed NHA in "administrative charge." Approximately 57% of the active licensed NHAs are employed in nursing homes. Some of these nursing homes are for profit businesses.

There is no significant increase or reduction of cost to comply with these rules. The standard industrial code classifications used to determine the threshold for more than minor impact was:

STANDARD INDUSTRIAL CODE	MINOR COST THRESHOLD
Miscellaneous Health	\$53.00

The cost of complying with the rules does not exceed the minor cost threshold; therefore mitigation is not necessary.

Opportunity for public involvement and written comment was provided during different stages of the development of the rules. A preproposal [statement] of inquiry, CR-

101, was filed with the Code Reviser's Office December 22, 1997, for publication in the Washington State Register. A preliminary public input meeting notice for meetings on April 21 and 23, 1997, was mailed to 700 individuals (interested persons mailing list, active and inactive NHA licensees, candidates for NHA license). Board meeting agendas for meetings at which rules were a topic were mailed to the program's interested persons mailing list (approximately twenty-five individuals and organizations) for meetings on May 22, 1997, August 21, 1997, February 18-19, 1998, May 7-8, 1998, November 6, 1998, February 26, 1999, May 21, 1999, and August 20, 1999.

A copy of the statement may be obtained by writing to Barbara Hayes, P.O. Box 47868, Olympia, WA 98504-7868, phone (360) 236-4921, fax (360) 236-4922.

RCW 34.05.328 applies to this rule adoption. These rules are significant because they adopt new or make significant amendments to a regulatory program.

Hearing Location: Wesley Gardens Board Room, 815 South 216th, Des Moines, WA 98198, on November 19, 1999, at 3:00 p.m.

Assistance for Persons with Disabilities: Contact Erin Obenland, (360) 236-4920, by November 12, 1999, TDD (800) 525-0127, or (800) 833-6388.

Submit Written Comments to: Barbara Hayes, fax (360) 236-4922, by November 12, 1999.

Date of Intended Adoption: November 19, 1999.

September 30, 1999

Barbara A. Hayes

Program Manager

AMENDATORY SECTION (Amending Order 217B, filed 11/27/91, effective 12/28/91)

WAC 246-843-130 Continuing education courses ((of study)). A course ((of study)) provided to satisfy the continuing education requirement of licensed nursing home administrators shall meet the following conditions before ((approval)) being approved by the board ((will be considered)):

(1) ((Such course of study)) A request for approval shall be ((registered before being offered)) submitted on forms provided by the department at least one day prior to the start of the course;

(2) Such course of study shall consist of a minimum of one hour of organized instruction with the exception of board-approved ((correspondence courses of)) self-study courses;

(3) Such course of study may include the following general subject areas or their equivalents, and shall be oriented to the nursing home administrator and reasonably related to the ((administrator)) administration of nursing homes:

(a) ((Applicable standards of environmental health and safety

(b) Local health and safety regulations

(c) General administration

(d) Psychology of patient care

(e) Principles of medical care

(f) Personal and social care

PROPOSED

~~(g) Therapeutic and supportive care and services in long-term care~~

~~(h) Departmental organization and management~~

~~(i) Community inter-relationships;)) Resident management;~~

~~(b) Personnel management;~~

~~(c) Financial management;~~

~~(d) Environmental management;~~

~~(e) Governance and management;~~

~~(f) Laws relating to Washington state nursing homes;~~

(4) Within one hundred eighty days after becoming licensed, nursing home administrators shall attend an approved course on laws relating to nursing homes in Washington. The board will grant retroactive credit to those licensees who obtain the required training as administrators-in-training under WAC 246-843-090. The board will approve state law training courses based on the following criteria.

A minimum of a six-hour program, with formal training objectives, that covers the following subjects: The requirements of chapter 18.52 RCW and essential areas of laws that apply to nursing homes regulated by the department of social and health services under chapter 388-97 WAC:

• Resident services, medical and social;

• Resident rights, including resident decision making, informed consent, advance directives and notices to residents;

• Enforcement;

• Criminal history inquiries;

• Differences between federal and state law.

(5) Such course of study shall issue certificates of attendance or other evidence satisfactory to the board(~~and~~

(5) All courses of study for continuing education are subject to board approval)).

AMENDATORY SECTION (Amending WSR 98-05-060, filed 2/13/98, effective 3/16/98)

WAC 246-843-150 Continuing education requirements ~~((to meet the conditions of reregistration))~~ **for renewal of license.** (1) Licensed nursing home administrators must demonstrate completion of fifty-four hours of continuing education every three years as provided in chapter 246-12 WAC, Part 7.

(2) ~~((Practitioners))~~ Licensees practicing ((only)) solely out of ((the state of)) Washington ((may petition the board for full recognition of the continuing education requirement through fulfillment of their state of practice's licensing and continuing education requirements with the condition that their state has equal hours of continuing education requirements)) state are exempt from WAC 246-843-130(1) and must meet all other requirements.

(3) A preceptor for an administrator-in-training program may be granted continuing education credit of one hour per month of the AIT program. Credit as a preceptor is limited to twenty-four hours of continuing education in any three-year period.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 246-843-125

Continuing education credit for preceptors for administrators-in-training programs.

WSR 99-20-097

PROPOSED RULES

LAKE WASHINGTON TECHNICAL COLLEGE

[Filed October 5, 1999, 11:13 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-15-006.

Title of Rule: Student conduct and misconduct definition.

Purpose: To provide the college with adequately comprehensive definitions of student conduct and misconduct.

Statutory Authority for Adoption: RCW 28B.50.140.

Statute Being Implemented: Chapter 42.30 RCW.

Reasons Supporting Proposal: Limitations of present college's policies and procedures definitions of student conduct and misconduct.

Name of Agency Personnel Responsible for Drafting: Dennis Long, 11605 132nd Avenue N.E., Kirkland, (425) 739-8313; Implementation: Gary Cohn, 11605 132nd Avenue N.E., Kirkland, (425) 739-8201; and Enforcement: Mike Metke, 11605 132nd Avenue N.E., Kirkland, (425) 739-8200.

Name of Proponent: Lake Washington Technical College

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

Explanation of Rule, its Purpose, and Anticipated Effects: The college's definitions of student conduct and misconduct are too narrow and this change would allow for a more comprehensive set of definitions. This will assist students, staff, and faculty to more clearly understand the college's commitment to and responsibility for reasonable conduct by members of the campus community.

Proposal Changes the Following Existing Rules: It increases breadth of definitions of student misconduct.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not necessary

RCW 34.05.328 does not apply to this rule adoption.

Hearing Location: Lake Washington Technical College, 11605 132nd Avenue N.E., Kirkland, WA 98034, on December 6, 1999, at 7:30 p.m.

Assistance for Persons with Disabilities: Contact Karla Preuett by November 27, 1999, TDD (425) 739-8109, or (425) 739-8100.

Submit Written Comments to: Karla Preuett, fax (425) 738-8299 by November 27, 1999.

PROPOSED

Date of Intended Adoption: January 6, 2000.

September 30, 1999

L. Michael Metke, Ed.D
President

WSR 99-20-098

PROPOSED RULES

LAKE WASHINGTON
TECHNICAL COLLEGE

[Filed October 5, 1999, 11:15 a.m.]

AMENDATORY SECTION (Amending WSR 92-15-081, filed 7/16/92, effective 8/16/92)

WAC 495D-120-040 Student misconduct. Disciplinary action may be taken for a violation of any provision of this student code, for a violation of other college rules which may from time to time be properly adopted, or for any of the following types of misconduct:

(1) Smoking is prohibited in all enclosed college facilities and other areas so posted by college officials;

(2) The possession, use, sale, or distribution of any alcoholic beverage or illegal drug on the college campus is prohibited, except as specifically provided for by board policy. The use of illegal drugs by any student attending a college-sponsored event is also prohibited, even though the event does not take place at the college. The use of alcohol by any student attending such events on non-college property shall conform to state law;

(3) Engaging in lewd, indecent, or obscene behavior;

(4) Where the student presents an imminent danger to college property or to himself or herself or other students or persons in college facilities on or off campus, or to the education process of the college;

(5) Academic dishonesty, including cheating, plagiarism, or knowingly furnishing false information to the college;

(6) The intentional making of false statements or filing of false charges against the college and members of the college community;

(7) Forgery, alteration, or misuse of college documents, records, funds, or instruments of identification with the intent to defraud;

(8) Theft from or damage to college premises or property, or theft of or damage to property of a member of the college community or college premises;

(9) Failure to comply with the direction of college officials acting in the legitimate performance of their duties;

(10) Possession of firearms, licensed or unlicensed, except where possessed by commissioned police officers as prescribed by law;

(11) Failure to comply with a college rule or policy, as set forth in the *Lake Washington Technical College Policies and Procedures Manual*;

(12) Failure to comply with college attendance policy as published in the current edition of the *Student Handbook*;

(13) Retaliation upon witnesses or accusers under this chapter.

The *Lake Washington Technical College Policies and Procedures Manual* and *Student Handbook* are available during normal business hours for review in the college's library.

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.

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-15-007.

Title of Rule: To amend WAC 495D-135-040.

Purpose: To comply with federal and state provisions for calculations and payment of student refunds.

Statutory Authority for Adoption: RCW 28B.50.140.

Statute Being Implemented: Chapter 42.30 RCW.

Reasons Supporting Proposal: To meet state and federal provisions.

Name of Agency Personnel Responsible for Drafting and Implementation: Gary Cohn, Lake Washington Technical College, 11605 132nd Avenue N.E., Kirkland, WA 98034, (425) 739-8201; and Enforcement: Mike Metke, Lake Washington Technical College, 11605 132nd Avenue N.E., Kirkland, WA 98034, (425) 739-8200.

Name of Proponent: Lake Washington Technical College

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

Explanation of Rule, its Purpose, and Anticipated Effects: Revision of refund policy to accommodate changes in federal rules for refunds to financial aid recipients. This will allow the college to develop an equitable refund policy.

Proposal Changes the Following Existing Rules: It enables the college to address student refunds in an equitable manner.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not necessary.

RCW 34.05.328 does not apply to this rule adoption.

Hearing Location: Lake Washington Technical College, 11605 132nd Avenue N.E., Kirkland, WA 98034, on December 6, 1999, at 7:30 p.m.

Assistance for Persons with Disabilities: Contact Karla Preuett by November 27, 1999, TDD (425) 739-8109, or (425) 739-8100.

Submit Written Comments to: Karla Preuett, fax (425) 739-8299, by November 27, 1999.

Date of Intended Adoption: January 6, 2000.

September 30, 1999

L. Michael Metke, Ed.D

President

AMENDATORY SECTION (Amending WSR 93-19-075 [95-17-052], filed 9/14/93 [8/14/95], effective 10/15/93 [9/14/95])

WAC 485D-135-040 Tuition and special course/program connected fees refund policy. Upon withdrawal from college or reduction in class load and the completion of all applicable fee refund forms, the student may receive a tuition and/or fee refund under the following conditions:

(1) A full refund of general tuition fees, operating fees, special course/program connected fees, and services and

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activities fees will be made if the student has properly withdrawn prior to the first class session.

(2) A full refund will be made when courses or programs are cancelled by the college.

(3) Upon withdrawal or termination from a state-supported course on or after the first day of instruction and prior to the sixth day of instruction of the regular quarter or registration period for which the tuition and fees have been paid or are due, an eighty percent refund will be made. When a registration is for a first-time federally funded student, his or her refund will be calculated on a pro rata basis consistent with applicable federal rules.

(4) Upon withdrawal or termination from a state-supported course after the fifth day of instruction and up to the twentieth calendar day of the regular quarter or registration period for which the tuition and fees have been paid or are due, a fifty percent refund will be made. When a registration is for a first-time federally funded student, his or her refund will be calculated on a pro rata basis consistent with applicable federal rules.

(5) Refunds for withdrawals or terminations from state-supported courses that start after the regular quarter begins, or from state-supported short courses, shall be made in proportion to the amounts prescribed in subsections (3) and (4) of this section. However, the college will use the start date of the student's longest course or registration period during the regular quarter when calculating refunds upon the student's withdrawal from all courses. Refunds will be made prior to the second scheduled class meeting for self-supported courses, except that refunds will be made only prior to a single-session self-supported course.

(6) Refund requests must be made in person or in writing. Refund requests may not be made by telephone.

(7) Refund processing procedures shall be established by the president.

(8) Exceptions may be made at the president's discretion for students who withdraw for bona fide medical reasons or when called into the military service.

(9) The college may charge a registration or transfer fee set by the president for registration or transfer processing.

(10) Refunds of less than five dollars will not be made.

(11) Students who have paid fees for equipment or material which have a return/refund value must obtain written verification and approval on an appropriate form from the instructor or staff person who is responsible for the return/refund.

(12) Fees which are nonrefundable and not subject to this policy will be set by the president and identified as such in the quarterly course schedule and/or course announcement.

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

WSR 99-20-100
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)
[Filed October 5, 1999, 1:07 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-22-056.

Title of Rule: WAC 388-406-0020 Destitute household definition and 388-450-0230 Treatment of income in the month of application for destitute food assistance households.

Purpose: Repeal WAC 388-406-0020, this WAC is duplicative of WAC 388-406-0021 How the department decides if you are a migrant or seasonal farmworker and if you are destitute. Amend WAC 388-450-0230 to correct WAC cross-reference.

Statutory Authority for Adoption: RCW 74.08.090 and 74.04.510.

Statute Being Implemented: RCW 74.08.090 and 74.04.510.

Summary: See Purpose above.

Reasons Supporting Proposal: RCW 74.08.090 gives the department authority to make rules and regulations to ensure uniform administration of programs throughout the state. RCW 74.04.510 requires the department to adopt rules consistent with federal laws, rules and regulations relating to the food stamp program.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Veronica Barnes, Division of Assistance Programs, P.O. Box 45480, Olympia, WA 98504-5480, (360) 413-3071.

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: Changes rules to reflect department's choice of prospective budgeting as the sole method for budgeting income and deductions.

Proposal Changes the Following Existing Rules: WAC 388-406-0020 Destitute household definition and 388-450-0230 Treatment of income in the month of application for destitute food assistance households.

Repeal WAC 388-406-0020, this WAC is duplicative of WAC 388-406-0021 How the department decides if you are a migrant or seasonal farmworker and if you are destitute. Amend WAC 388-450-0230 to correct WAC cross-reference.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The changes as a result of this rule do not affect small businesses.

RCW 34.05.328 does not apply to this rule adoption. These rules do not meet the definition of significant legislative rule.

Hearing Location: Lacey Government Center (behind Tokyo Bento Restaurant), 1009 College Street S.E., Room

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104-B, Lacey, WA 98503, on November 9, 1999, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Paige Wall by October 26, 1999, phone (360) 664-6094, TTY (360) 664-6178, e-mail wallpg@dshs.wa.gov.

Submit Written Comments to: Paige Wall, DSHS Rules Coordinator, Rules and Policies Assistance Unit, P.O. Box 45850, Olympia, WA 98504-5850, fax (360) 664-6185, by November 9, 1999.

Date of Intended Adoption: No earlier than November 10, 1999.

September 30, 1999
Marie Myerchin-Redifer
Manager

AMENDATORY SECTION (Amending WSR 98-16-044, filed 7/31/98, effective 9/1/98)

WAC 388-450-0230 Treatment of income in the month of application for destitute food assistance households. (1) When a migrant or seasonal farm worker is determined destitute under WAC (~~(388-406-0020)~~) 388-406-0021, eligibility and benefit amount for the month of application is determined by:

(a) Counting the household's income that is received from the first of the month through the date of application; and

(b) Excluding income from a new source that the household expects to receive during the ten days after the date of application.

(2) A household member changing jobs but continuing to work for the same employer is considered to be receiving income from the same source.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 388-406-0020	Destitute household definition.
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**WSR 99-20-101
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES**

(Economic Services Division)

[Filed October 5, 1999, 1:09 p.m.]

Original Notice.

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

Title of Rule: WAC 388-478-0060 Income eligibility standards for food assistance and 388-450-0195 Utility allowances for food assistance programs.

Purpose: The federal government requires Washington state to update the deductions and standards once a year to be effective October 1, 1999.

Other Identifying Information: The amounts are supplied by federal food nutrition services.

Statutory Authority for Adoption: RCW 74.04.510.

Statute Being Implemented: RCW 74.04.510.

Summary: Updates standards and deductions to determine benefit amount for food assistance recipients.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Betty Brinkman, 1009 College Street S.E., Lacey, WA, (360) 413-3091.

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

Rule is necessary because of federal law, 7 C.F.R. 273.9 (d)(1) and 7 C.F.R. 273.9 (d)(6).

Explanation of Rule, its Purpose, and Anticipated Effects: Updates standards and deductions used to determine food assistance benefit amounts.

Proposal Changes the Following Existing Rules: Amends WAC 388-478-0060 and 388-450-0195 to change amounts.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Change affects only recipients of food assistance benefits and has no direct economic impact on small business.

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 November 9, 1999, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Paige Wall by October 26, 1999, phone (360) 664-6094, TTY (360) 664-6178, e-mail wallpg@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) 664-6185, by November 9, 1999.

Date of Intended Adoption: No sooner than November 10, 1999.

September 30, 1999
Marie Myerchin-Redifer, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 99-16-024, filed 7/26/99, effective 9/1/99)

WAC 388-478-0060 Income eligibility standards for food assistance. (1) When all household members receive cash benefits (TANF, GA-U, GA-S, etc.) or Supplemental Security Income (SSI), they do not have to meet the income standard.

(2) All households, based on their size, must have income at or below the limits shown in column B to be eligible for food assistance, except as follows:

(a) Column C is to be used when a household includes a person sixty years or older, or with disabilities;

(b) Column E is to be used when determining separate household status for an elderly person and a person with permanent disability, as described in WAC 388-408-0035 (1)(d).

PROPOSED

EFFECTIVE ((10-1-98)) 10-1-99

Column A Household Size	Column B Maximum Gross Monthly Income	Column C Maximum Net Monthly Income	Column D Maximum Allotment	Column E 165% of Poverty Level
1	\$ ((873)) 893	\$ ((674)) 687	\$((125)) 127	\$((1,107)) 1,133
2	((1,176)) 1,199	((905)) 922	((230)) 234	((1,492)) 1,521
3	((1,479)) 1,504	((1,138)) 1,157	((329)) 335	((1,877)) 1,909
4	((1,783)) 1,810	((1,371)) 1,392	((419)) 426	((2,262)) 2,297
5	((2,086)) 2,115	((1,605)) 1,627	((497)) 506	((2,647)) 2,684
6	((2,389)) 2,421	((1,838)) 1,862	((597)) 607	((3,032)) 3,072
7	((2,693)) 2,726	((2,071)) 2,097	((659)) 671	((3,417)) 3,460
8	((2,996)) 3,032	((2,305)) 2,332	((754)) 767	((3,802)) 3,848
9	((3,300)) 3,338	((2,539)) 2,567	((848)) 863	((4,187)) 4,236
10	((3,604)) 3,644	((2,773)) 2,802	((942)) 959	((4,572)) 4,624
Each Additional Member	+((304)) 306	+((234)) 235	+((94)) 96	+((385)) 388

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AMENDATORY SECTION (Amending WSR 99-09-055, filed 7/31/98 [4/19/99], effective 9/1/98 [5/20/99])

WAC 388-450-0195 Utility allowances for food assistance programs. You can use the amounts in the chart below to calculate total shelter costs. Total shelter costs are used in calculating your food assistance benefits.

If you have to pay:	Then, you can use the:
Separate heating or cooling costs	Standard utility allowance (SUA) of \$((211)) 228
Separate utility costs, but no heating or cooling costs	Limited utility allowance (LUA) of \$((158)) 155.12
Separate costs for phone service only	Telephone utility allowance (TUA) of \$((29)) 30

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

**WSR 99-20-102
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES**
(Economic Services Administration)
(Division of Assistance Programs)
[Filed October 5, 1999, 1:11 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-01-113.

Title of Rule: WAC 388-436-0030 Eligibility for CEAP depends on other possible cash benefits.

Purpose: Funding previously available to DSHS for this program has been significantly modified. The funds for emergency housing will be made available through other housing programs. This rule change will restrict payments to clients who can not receive funds from alternative housing programs.

Other Identifying Information: This rule was adopted under emergency procedures effective July 1, 1999, to respond to the budget allotment provided by the legislative budget although a preproposal statement of inquiry was filed as WSR 99-01-113.

Statutory Authority for Adoption: RCW 74.04.660.

Statute Being Implemented: RCW 74.04.660.

Summary: Adoption of this rule clarifies that consolidated emergency assistance program funds may not be autho-

rized to clients who qualify for housing assistance from other sources.

Reasons Supporting Proposal: The 1999 budget adopted by the legislature significantly changed the funding level for this program.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Michael Thomas, Program Manager, Lacey Government Center, 1009 College Street S.E., Lacey, WA 98503, (360) 413-3240.

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

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

Explanation of Rule, its Purpose, and Anticipated Effects: The CEAP program provides brief emergency assistance to families with short term needs when they do not qualify for other assistance benefits.

Proposal Changes the Following Existing Rules: The changes to WAC 388-436-0030 establish that eligibility for other DSHS programs must be determined before benefits are authorized under the CEAP and that clients who can receive benefits from other sources are not eligible to receive CEAP.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Small businesses are not affected by this rule filing.

RCW 34.05.328 does not apply to this rule adoption. This rule does not fit 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 November 9, 1999, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Paige Wall by October 26, 1999, phone (360) 664-6094, TTY (360) 664-6178, 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) 664-6185, by November 9, 1999.

Date of Intended Adoption: December 1, 1999.

September 30, 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 388-436-0030 Eligibility ~~((conditions))~~ for CEAP~~((—))~~ depends on other possible ~~((resources))~~ cash benefits. (1) ~~((As a condition of eligibility for CEAP, applicants must take all necessary steps to establish eligibility for the following programs))~~ Before the department approves CEAP benefits, we must determine that all household members are ineligible for benefits from any of the following programs:

- (a) Temporary assistance for needy families (TANF);
- (b) State family assistance (SFA);
- (c) Refugee cash assistance (RCA);
- (d) Diversion cash assistance (DCA).

(2) To receive CEAP, the applicant must take all necessary steps to receive benefits from the following programs:

(a) TANF, SFA, and RCA;

(b) Supplemental security income (SSI);

~~((e))~~ (c) Medical assistance for those applicants ~~((requesting emergency))~~ declaring a medical ~~((eare))~~ need;

~~((f))~~ (d) Food assistance for those applicants declaring ~~((an emergency))~~ a food need; ~~((and~~

~~((g))~~ (e) Housing assistance from any available source for those applicants declaring a housing need;

(f) Unemployment compensation, ~~((f))~~ veteran's benefits, industrial insurance benefits, Social Security benefits, pension benefits, or any other source of financial benefits the applicant is potentially eligible to receive.

~~((2))~~ CEAP applicants under a grant penalty for failure to comply with program requirements of TANF/SFA, WorkFirst under chapter 388-310 WAC, refugee cash assistance, general assistance or SSI are treated as follows:

(a) All members are ineligible and the CEAP application is denied if compliance could have prevented the need for emergency assistance.

(b) Only the member responsible for the grant penalty is ineligible for CEAP if the compliance could not have prevented the need for emergency assistance.)

(3) The department may not authorize CEAP benefits to any household containing a member who is under a grant penalty for failure to comply with program requirements of TANF/SFA, RCA, or WorkFirst under chapter 388-310 WAC.

WSR 99-20-105

WITHDRAWAL OF PROPOSED RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

[Filed October 6, 1999, 8:02 a.m.]

Please withdraw the proposed rules filed as WSR 99-18-072 on August 31, 1999.

Edith M. Rice

for Marie Myerchin-Redifer, Manager
Rules and Policies Assistance Unit

WSR 99-20-106

PROPOSED RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Medical Assistance Administration)

[Filed October 6, 1999, 8:03 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-11-084.

Title of Rule: Repealing WAC 388-86-090 Physical therapy and 388-87-090 Payment—Physical therapy and related services; and new section WAC 388-545-500 Physical therapy.

Purpose: The department is establishing new chapter 388-545 WAC to combine all medical therapy rules. Therefore, WAC 388-86-090 Physical therapy and 388-87-090 Payment—Physical therapy and related services, are being repealed and WAC 388-545-500 Physical therapy is being established. The new chapter reorganizes rule sections and updates the language to comply with the Governor's Executive Order 97-02.

Statutory Authority for Adoption: RCW 74.08.090 and 74.09.520.

Statute Being Implemented: RCW 74.08.090 and 74.09.520.

Summary: The department is establishing new chapter 388-545 WAC to combine all medical therapy rules. Therefore, WAC 388-86-090 Physical therapy and 388-87-090 Payment—Physical therapy and related services, are being repealed and WAC 388-545-500 Physical therapy is being established. The new chapter reorganizes rule sections and updates the language to comply with the Governor's Executive Order 97-02.

Reasons Supporting Proposal: To comply with the Governor's Executive Order 97-02. To combine all medical therapies into one chapter.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Patty Balestra, DOSS, 623 8th Avenue S.E., Olympia, WA 98501, (360) 586-3745.

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

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

Explanation of Rule, its Purpose, and Anticipated Effects: New chapter 388-545 WAC is being established to combine all medical therapies into one chapter, necessitating the repeal of WAC 388-86-090 and 388-87-090. The new rule reorganizes sections and uses clear writing standards to clarify program requirements.

Proposal Changes the Following Existing Rules: The proposed rule combines physical therapy rules with other therapies (occupational therapy and speech/audiology services) into one new chapter, and repeals duplicative chapter sections.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The department has analyzed the proposed rule amendments and concludes that no new costs will be imposed on the small businesses that are affected by them.

RCW 34.05.328 does not apply to this rule adoption. The rule does not fit 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 November 9, 1999, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Paige Wall by October 26, 1999, phone (360) 664-6094, TTY (360) 664-6178, e-mail wallpg@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) 664-6185, by November 9, 1999.

Date of Intended Adoption: November 10, 1999.

September 30, 1999

Marie Myerchin-Redifer, Manager
Rules and Policies Assistance Unit

NEW SECTION

WAC 388-545-500 Physical therapy. (1) The following providers are eligible to enroll with the medical assistance administration (MAA) to provide physical therapy services:

- (a) A licensed physical therapist or physiatrist;
- (b) A physical therapy assistant supervised by a licensed physical therapist; or
- (c) A physical therapy aide, in schools, trained and supervised by a licensed physical therapist.

(2) Clients in the following MAA programs are eligible to receive physical therapy services described in this chapter:

- (a) Categorically needy (CN);
- (b) Children's health;
- (c) General assistance-unemployable (GA-U) (within Washington state or border areas only);
- (d) Alcoholism and drug addiction treatment and support act (ADATSA) (within Washington state or border areas only);
- (e) Medically indigent program (MIP) for emergency hospital-based services only; or
- (f) Medically needy program (MNP) only when the client is either:

- (i) Twenty years of age or younger and referred under the early and periodic screening, diagnosis and treatment program (EPSDT/healthy kids program) as described in WAC 388-86-027; or
- (ii) Receiving home health care services as described in chapter 388-551 WAC.

(3) Physical therapy services that MAA eligible clients receive must be provided as part of an outpatient treatment program:

- (a) In an office, home, or outpatient hospital setting;
- (b) By a home health agency as described in chapter 388-551 WAC;
- (c) As part of the acute physical medicine and rehabilitation (acute PM&R) program as described in the acute PM&R subchapter under chapter 388-550 WAC;
- (d) By a neurodevelopmental center; or
- (e) By a school district or educational service district as part of an individual education or individualized family service plan as described in WAC 388-86-022.

(4) MAA pays only for covered physical therapy services listed in this section when they are:

- (a) Within the scope of an eligible client's medical care program;
- (b) Medically necessary and prescribed by a physician, physician's assistant (PA), or an advanced registered nurse practitioner (ARNP);
- (c) Begun within thirty days of the date prescribed;
- (d) For conditions which are the result of injuries and/or medically recognized diseases and defects; and
- (e) Within accepted medical physical therapy standards.

(5) Physical therapy for clients age twenty-one and older when prescribed by a physician, PA, or an ARNP must:

- (i) Prevent the need for hospitalization or nursing home care;
- (ii) Assist a client in becoming employable;
- (iii) Assist a client who suffers from severe motor disabilities to obtain a greater degree of self-care or independence; or
- (iv) Be a part of a treatment program intended to restore normal function of a body part following injury, surgery, or prolonged immobilization.

(6) MAA determines physical therapy program units as follows:

- (a) Each fifteen minutes of timed procedure code equals one unit; and
- (b) Each nontimed procedure code equals one unit, regardless of how long the procedure takes.

(7) MAA does not limit coverage for physical therapy services listed in subsections (8) through (10) of this section if the client is twenty years of age or younger.

(8) MAA covers, without requiring prior authorization, the following prescribed physical therapy services per client, per diagnosis, per calendar year, for clients twenty-one years of age and older:

- (a) One physical therapy evaluation. The evaluation is in addition to the forty-eight program units allowed per year;
- (b) Forty-eight physical therapy program units;
- (c) Ninety-six additional outpatient physical therapy program units when the diagnosis is any of the following:
 - (i) A medically necessary condition for developmentally delayed clients;
 - (ii) Surgeries involving extremities, including:
 - (A) Fractures; or
 - (B) Open wounds with tendon involvement.
 - (iii) Intracranial injuries;
 - (iv) Burns;
 - (v) Traumatic injuries;
 - (vi) Meningomyelocele;
 - (vii) Down's syndrome;
 - (viii) Cerebral palsy; or
 - (ix) Symptoms involving nervous and musculoskeletal systems and lack of coordination;
- (d) Two durable medical equipment (DME) needs assessments. The assessments are in addition to the forty-eight physical therapy program units allowed per year. Two program units are allowed per DME needs assessment; and
- (e) One wheelchair needs assessment in addition to the two durable medical needs assessments. The assessment is in addition to the forty-eight physical therapy program units allowed per year. Four program units are allowed per wheelchair needs assessment.

(f) The following services are allowed, per day, in addition to the forty-eight physical therapy program units allowed per year:

- (i) Two program units for orthotics fitting and training of upper and/or lower extremities.
- (ii) Two program units for checkout for orthotic/prosthetic use.
- (iii) One muscle testing procedure. Muscle testing procedures cannot be billed in combination with each other.

(g) Ninety-six additional physical therapy program units are allowed following a completed and approved inpatient acute PM&R program. In this case, the client no longer needs nursing services but continues to require specialized outpatient physical therapy for any of the following:

- (i) Traumatic brain injury (TBI);
- (ii) Spinal cord injury (paraplegia and quadriplegia);
- (iii) Recent or recurrent stroke;
- (iv) Restoration of the levels of functions due to secondary illness or loss from multiple sclerosis (MS);
- (v) Amyotrophic lateral sclerosis (ALS);
- (vi) Cerebral palsy (CP);
- (vii) Extensive severe burns;
- (viii) Skin flaps for sacral decubitus for quadriplegics only;
- (ix) Bilateral limb loss;
- (x) Open wound of lower limb; or
- (xi) Acute, infective polyneuritis (Guillain-Barre's syndrome).

(9) Additional medically necessary physical therapy services, regardless of the diagnosis, require prior authorization for clients twenty-one years of age and older.

(10) MAA will pay for one visit to instruct in the application of transcutaneous neurostimulator (TENS) per client, per lifetime.

(11) Duplicate services for occupational therapy and physical therapy are not allowed for the same client when both providers are performing the same or similar procedure(s).

(12) MAA does not cover physical therapy services that are included as part of the reimbursement for other treatment programs. This includes, but is not limited to, hospital inpatient and nursing facility services.

(13) MAA does not cover physical therapy services performed by a physical therapist in an outpatient hospital setting when the physical therapist is not employed by the hospital. Reimbursement for services must be billed by the hospital.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 388-86-090	Physical therapy.
WAC 388-87-090	Payment—Physical therapy and related services.

**WSR 99-20-107
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Medical Assistance Administration)**

[Filed October 6, 1999, 8:04 a.m.]

Original Notice.
Preproposal statement of inquiry was filed as WSR 99-08-040 and 99-08-041.

PROPOSED

Title of Rule: Amending WAC 388-501-0165 Approval process for medical equipment and medical or dental services and 388-501-0160 Exception to rule—Request for a noncovered medical or dental service; and repealing WAC 388-200-1160 Notification of exception to rule request and decision.

Purpose: To rewrite and clarify the approval process for MAA services or equipment that require prior approval, and the process for requesting an exception to rule for medical or dental services or equipment.

Statutory Authority for Adoption: RCW 74.08.090.

Statute Being Implemented: RCW 74.08.090.

Summary: These rules are being rewritten to comply with the principles in the Governor's Executive Order 97-02, and to provide clear directions for requesting prior authorization for a covered medical or dental service or equipment, and for requesting a noncovered service or equipment.

Reasons Supporting Proposal: To comply with the Governor's Executive Order 97-02.

Name of Agency Personnel Responsible for Drafting: Leslie Saeger, P.O. Box 45530, Olympia, WA 98504, (360) 664-2315; Implementation and Enforcement: Sharon Morrison, P.O. Box 45506, Olympia, WA 98504, (360) 586-5398.

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

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

Explanation of Rule, its Purpose, and Anticipated Effects: The rule is being rewritten to clarify language and department policy. No change in the processes currently used has been made.

Proposal Changes the Following Existing Rules: WAC 388-200-1160 is proposed for repeal; and WAC 388-501-0160 and 388-501-0165 are being amended.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The department has analyzed the proposed amendments and repeal and concludes that no new costs will be imposed on small business affected by them.

RCW 34.05.328 does not apply to this rule adoption. These amendments do not meet the definition of a significant legislative rule; the amendments do not change the effect of current rules.

Hearing Location: Lacey Government Center (behind Tokyo Bento Restaurant), 1009 College Street S.E., Room 104-B, Lacey, WA 98503, on November 9, 1999, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Paige Wall by October 26, 1999, phone (360) 664-6094, TTY (360) 664-6178, e-mail wallpg@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) 664-6185, by November 9, 1999.

Date of Intended Adoption: November 10, 1999.

September 30, 1999

Marie Myerchin-Redifer, Manager
Rules and Policies Assistance Unit

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

WAC 388-501-0165 ((Medical services request))
Approval process for medical equipment and medical or dental services. This section applies to fee for service (FFS) requests for covered medical equipment and medical or dental services that require prior authorization.

~~(1) ((The department shall evaluate the request for medical services as described under chapter 388-86 WAC.~~

~~(2) The department shall base a decision to approve or deny a service on obtainable evidence that establishes whether the service is "medically necessary" as defined under WAC 388-500-0005.~~

~~(a) In each case, the department shall:~~

~~(i) Make an individualized decision whether a requested service is "medically necessary"; and~~

~~(ii) Base such decision only on information contained in the client's file.~~

~~(b) The evidence must be sufficient to determine that the requested service is or is not "medically necessary," and may include:~~

~~(i) A physiological description of the disease, injury, impairment, or other ailment;~~

~~(ii) Pertinent laboratory findings;~~

~~(iii) X-ray reports;~~

~~(iv) Patient profiles; and~~

~~(v) Other objective medical information, including but not limited to medically acceptable clinical findings and diagnoses resulting from physical or mental examinations.~~

~~(3) In deciding to approve or deny a durable medical equipment or prosthetic device request, the department shall give substantial weight to objective medical information, and conclusions based thereon, from an examining physician responsible for the client's diagnosis or treatment or both when:~~

~~(a) There is an uncontradicted and adequately substantiated conclusion of an examining physician that the requested service is "medically necessary." The department shall accept the examining physician's conclusion unless the department presents specific detailed reasons for rejecting that conclusion that are consistent with sound medical practice and supported by objective medical information in the client's file.~~

~~(b) Two or more examining physicians provide conflicting medical information on conclusions about whether the requested durable medical equipment or a prosthetic device is "medically necessary," the department may conclude the durable medical equipment or a prosthetic device is not "medically necessary" only if the department enumerates specific reasons for its conclusion that are supported by objective medical information in the client's file.~~

~~(4) The department shall deny a requested service when the service is:~~

~~(a) Not medically necessary as defined under WAC 388-500-0005;~~

~~(b) Generally regarded by the medical profession as experimental in nature or as unacceptable treatment; or~~

~~(c) Unless the client demonstrates through sufficient objective clinical evidence the existence of particular circum-~~

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~~stances rendering the requested service medically necessary; or~~

~~(d) Not a covered service;~~

~~(5) The department shall:~~

~~(a) Approve or deny all requests for medical services within fifteen days of the receipt of the request; or~~

~~(b) Return a request to the requesting provider when the information submitted is insufficient for a determination of medical necessity and the requested service is a covered service. The department shall make a request for justifying additional information from the requesting provider within fifteen calendar days of the original receipt. If additional information is:~~

~~(i) Not received by the department within thirty days of the date requested, the department shall deny the original request within five days after the thirty day period on the basis of insufficient justification of medical necessity;~~

~~(ii) Received by the department, the department shall make a final determination on the request within five working days of the receipt of the additional information.~~

~~(c) Send to the client a copy of the request for additional information justifying medical necessity for durable medical equipment or a prosthetic device)) MAA evaluates requests on an individual basis, and bases the decision to approve or deny on submitted and obtainable evidence. Requests are approved when MAA determines that the service or equipment is medically necessary as defined in WAC 388-500-0005 or dentally necessary as defined in WAC 388-535-1050.~~

~~(2) The examining physician/dentist responsible for the client's diagnosis and/or treatment must submit specific evidence sufficient to determine if the request is medically/dentally necessary. Such evidence may include, but is not limited to:~~

~~(a) A client specific physiological description of the disease, injury, impairment, or other ailment;~~

~~(b) Pertinent laboratory findings;~~

~~(c) X-ray and/or imaging reports;~~

~~(d) Individual patient records pertinent to the case or request;~~

~~(e) Photographs and/or videos when requested by MAA;~~

~~(f) Dental x-rays; and~~

~~(g) Objective medical/dental information, including but not limited to medically/dentally acceptable clinical findings and diagnoses resulting from physical or mental examinations.~~

~~(3) MAA gives substantial weight to objective medical/dental information and resulting conclusions from an examining physician/dentist responsible for the client's diagnosis and/or treatment.~~

~~(a) MAA accepts the examining physician's/dentist's uncontradicted and adequately substantiated conclusion with respect to medical/dental necessity, unless MAA presents specific detailed reasons for rejecting that conclusion. MAA's reasons will be consistent with sound medical/dental practice and supported by objective medical/dental information in the client's file.~~

~~(b) If two or more examining physicians/dentists provide conflicting medical/dental information or conclusions about medical/dental necessity for the request under review, MAA~~

will use all information submitted to reach a decision. If MAA concludes the request is not medically/dentally necessary, MAA will enumerate specific reasons, supported by objective medical/dental information in the client's file, for that decision.

(4) MAA denies a request when the service or equipment:

(a) Is determined not to be medically/dentally necessary;

(b) Is noncovered; or

(c) Is not generally considered as acceptable treatment by the medical/dental profession based on the community standard of practice, or is experimental in nature. However, MAA may approve such a request if the provider submits sufficient objective clinical evidence demonstrating that a client's particular circumstances make the request medically/dentally necessary.

(5) Within fifteen calendar days of receiving a request:

(a) MAA approves or denies the request; or

(b) Requests additional justifying information from the prescribing physician, dentist, specialty therapist, and/or service vendor if the documentation submitted is insufficient to reasonably determine medical or dental necessity. Examples of information that MAA may request are shown in subsection (2) of this section. MAA sends a copy of the request to the client at the same time.

(i) If MAA does not receive the information within thirty days of the date requested, MAA denies the original request within the next five working days on the basis of insufficient justification of medical/dental necessity;

(ii) If MAA receives the information within thirty days, MAA makes a final determination on the request within five working days of the receipt of that additional information.

(6) When ((the department)) MAA denies all or part of a request ((for medical services, including all or part of a requested service, the department shall)), MAA sends ((; within five working days of the decision, give)) the client and the provider written notice of the denial((-The department shall ensure the notice states)) within five working days of the decision. The notice includes:

(a) The WAC references used as a basis for the decision;

(b) A summary statement of the specific facts ((the department)) MAA relied upon for the decision;

(c) An explanation of the reasons for the denial, including the reasons why the specific facts relied ((on)) upon did not meet the requirements for approval;

(d) When required ((under)) by subsection (3) of this section, a specific statement of the reasons and supporting facts for rejecting any medical/dental information or conclusions of an examining physician/dentist;

(e) Notice of the client's right to a fair hearing ((if the request is made within ninety days of the receipt of the denial)) and filing deadlines;

(f) ((The)) Instructions ((on)) about how to request the hearing;

(g) A statement that the client may be represented at the hearing by legal counsel or other representative; and

(h) Upon the client's request, the name and address of the nearest legal services office((-and

~~(i) If a fair hearing is requested, a medical assessment from other than the person involved in making the original decision may be obtained at the department's expense).~~

(7) MAA may request an independent medical/dental assessment. MAA will pay for the independent assessment when MAA:

- (a) Requests it; or
- (b) Agrees that it is necessary.

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

WAC 388-501-0160 Exception to ((policy)) rule— Request for a noncovered medical or dental service, or related equipment. A client ~~((request for an exception to policy for medical care services denied by strict application of a rule or regulation shall require approval by medical assistance administration. See WAC 388-200-1150 for exception to policy procedures))~~ or their provider may request prior authorization for MAA to pay for a noncovered medical or dental service, or related equipment. This is called an exception to rule.

(1) MAA cannot approve an exception to rule if the exception violates state or federal law or federal regulation.

(2) For MAA to consider the request, sufficient client-specific information and documentation must be included by the provider for the MAA medical director or designee to determine if:

(a) The client's clinical condition is so different from the majority that there is no equally effective, less costly covered service or equipment that meets the client's need(s); and

(b) The requested service or equipment will result in lower overall costs of care for the client.

(3) The MAA medical director or designee evaluates and considers requests on a case-by-case basis according to the information and documentation submitted by the provider.

(4) Within fifteen working days of MAA's receipt of the request, MAA notifies the provider and the client, in writing, of MAA's decision to grant or deny the exception to rule.

(5) Clients do not have a right to a fair hearing on exception to rule decisions.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 388-200-1160 Notification of exception to rule request and decision.

WSR 99-20-108
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Medical Assistance Administration)
[Filed October 6, 1999, 8:05 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-08-120.

Title of Rule: Chapter 388-440 WAC, Exception to rule.

Purpose: To clarify that this chapter does not apply to requests for noncovered medical or dental services or equipment

Statutory Authority for Adoption: RCW 74.04.050, [74.04.]055, [74.04.]057, and 74.08.090.

Statute Being Implemented: RCW 74.04.050, [74.04.]055, [74.04.]057, and 74.08.090.

Summary: The only change is to clarify that these rules do not apply to exceptions to rules that pertain to medical or dental services or related equipment.

Name of Agency Personnel Responsible for Drafting: Leslie Saeger, P.O. Box 45530, Olympia, WA 98504, (360) 664-2315; Implementation and Enforcement: B. J. Bailey, Lacey, Washington, (360) 413-3120.

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: Will not change the exception to rule process currently used. The only change is to clarify that these rules do not apply to exceptions to rules that pertain to medical or dental services or related equipment.

Proposal Changes the Following Existing Rules: WAC 388-440-0001 and 388-440-0005, this proposed change clarifies that chapter 388-440 WAC does not apply to requests for MAA services or equipment. WAC 388-501-0160 is being proposed separately to explain the process for requesting an exception to rule for a noncovered medical or dental service and equipment.

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

RCW 34.05.328 applies to this rule adoption. These amendments do fit the definition of a significant legislative rule but DSHS is exempt from preparing further analysis under RCW 34.05.328 (5)(b)(iv) (does not change the effect of current rules).

Hearing Location: Lacey Government Center (behind Tokyo Bento Restaurant), 1009 College Street S.E., Room 104-B, Lacey, WA 98503, on November 9, 1999, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Paige Wall by October 26, 1999, phone (360) 664-6094, TTY (360) 664-6178, e-mail wallpg@dshs.wa.gov.

Submit Written Comments to: Identify WAC Numbers, Paige Wall, DSHS Rules Coordinator, Rules and Policies Assistance Unit, P.O. Box 45850, Olympia, WA 98504-5850, fax (360) 664-6185, by November 9, 1999.

Date of Intended Adoption: No earlier than November 10, 1999.

October 1, 1999

Marie Myerchin-Redifer, Manager
Rules and Policies Assistance Unit

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AMENDATORY SECTION (Amending WSR 98-16-044, filed 7/31/98, effective 9/1/98)

WAC 388-440-0001 Exceptions to rule. (1) The secretary of the department, or designee, authorizes department staff to request an exception to a rule in the Washington Administrative Code (WAC) for individual cases, except as noted in subsection (5) of this section, when:

- (a) The exception would not contradict a specific provision of federal law or state statute; and
- (b) The client's situation differs from the majority; and
- (c) It is in the interest of overall economy and the client's welfare; and
- (d) It increases opportunities for the client to function effectively; or

(e) A client has an impairment or limitation that significantly interferes with the usual procedures required to determine eligibility and payment.

(2) The secretary or the secretary's designee makes the final decision on all requests for exceptions to a rule.

(3) Clients have no fair hearing rights as defined under chapter 388-08 WAC regarding exception to rule decisions by department staff.

(4) Clients who do not agree with a decision on an exception to rule may file a complaint according to chapter 388-426 WAC.

(5) This section does not apply to requests for noncovered medical or dental services or related equipment. See WAC 388-501-0160.

AMENDATORY SECTION (Amending WSR 98-16-044, filed 7/31/98, effective 9/1/98)

WAC 388-440-0005 Exception to rule—Notification requirement. (1) Clients are notified in writing within ten days of:

- (a) The department staff's decision to file an exception to rule request; and
- (b) The department's decision to approve or deny an exception to rule request.

(2) The notice will include the complaint procedures as specified in chapter 388-426 WAC.

(3) This section does not apply to notification requirements for exceptions to rules concerning noncovered medical or dental services or related equipment. See WAC 388-501-0160.

WSR 99-20-109
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Medical Assistance Administration)
 [Filed October 6, 1999, 8:06 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-01-167.

Title of Rule: Chapter 388-538 WAC, Managed care.

Purpose: To clarify changes made by the ESA/MAA review of all rules that possibly relate to TANF (temporary assistance to needy families) and CSOs (community service offices). To review the rules for compliance with the Governor's Executive Order 97-02.

Statutory Authority for Adoption: RCW 74.08.090, 74.09.510, and [74.09.]522, 1115 Federal Waiver, 42 U.S.C. 1396 (a), (e) and (p), 1396r-6(b), 1396u-2.

Statute Being Implemented: RCW 74.08.090, 74.09.510, and [74.09.]522, 1115 Federal Waiver, 42 U.S.C. 1396 (a), (e) and (p), 1396r-6(b), 1396u-2.

Summary: The rules have been rewritten to clarify changes made by the ESA/MAA review of all rules that possibly relate to TANF (temporary assistance to needy families) and CSOs (community service offices). The rewritten rules clarify healthy options enrollment criteria, payment methodology, the scope of care, and ending enrollment. New sections are added that establish eligibility criteria for basic health plan enrollees and cross-reference the children's health insurance program (CHIP). The rules have also been reviewed and rewritten to reflect current department policy and to clarify and simplify the language to meet the criteria in the Governor's Executive Order 97-02.

Reasons Supporting Proposal: To comply with the Governor's Executive Order 97-02. To ensure that current department policy and practice is reflected in rule.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: D. Andrea Davis, DPS/MCCM, 619 8th Avenue S.E., Olympia, WA 98501, (360) 586-4877.

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

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

Explanation of Rule, its Purpose, and Anticipated Effects: The rule as rewritten clarifies healthy options enrollment criteria, payment methodology, the scope of care, and ending enrollment. New sections are added that establish eligibility criteria for basic health plan enrollees and that cross-reference the children's health insurance program (CHIP). The amended rules clarify department policy, organizing and simplifying sections for clarity and ease of use.

Proposal Changes the Following Existing Rules: Amends rule listed in Title of Rule above to reflect current department policy and to clarify the language.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The department has analyzed the proposed amendments and concludes that no new costs will be imposed on the small businesses affected by them.

RCW 34.05.328 applies to this rule adoption. The rule does meet the definition of a significant legislative rule, and the department has prepared a cost benefit analysis that can be obtained by contacting the person listed in Name of Agency Personnel above.

Hearing Location: Lacey Government Center (behind Tokyo Bento Restaurant), 1009 College Street S.E.; Room 104-B, Lacey, WA 98503, on November 23, 1999, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Paige Wall by November 12, 1999, phone (360) 664-6094, TTY (360) 664-6178, e-mail wallpg@dshs.wa.gov.

Submit Written Comments to: Identify WAC Numbers, Paige Wall, DSHS Rules Coordinator, Rules and Policies Assistance Unit, P.O. Box 45850, Olympia, WA 98504-5850, fax (360) 664-6185, by November 23, 1999.

Date of Intended Adoption: November 24, 1999.

October 1, 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 99-21 issue of the Register.

WSR 99-20-110
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

(Medical Assistance Administration)

[Filed October 6, 1999, 8:08 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-10-047.

Title of Rule: WAC 388-438-0110 The alien emergency medical (AEM) program.

Purpose: Implements administrative simplification of the alien emergency medical program.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.057, 74.08.090, and 74.09.530.

Statute Being Implemented: 42 C.F.R. 435.139 and 42 C.F.R. 440.255.

Summary: This proposed amendment explains the alien emergency medical program in clearer terms and removes language prohibiting organ transplants.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Joanie Scotson, Medical Assistance Administration, Mailstop 45530, Olympia, Washington 98504-5534, (360) 753-7462.

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

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

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

Proposal Changes the Following Existing Rules: See Summary above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This proposed rule has no impact on small businesses. It effects eligibility for medical assistance programs.

RCW 34.05.328 applies to this rule adoption. RCW 34.05.328 (5)(b)(vii) exempts DSHS rules that apply to eligibility.

Hearing Location: Lacey Government Center (behind Tokyo Bento Restaurant), 1009 College Street S.E., Room

104-B, Lacey, WA 98503, on November 9, 1999, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Paige Wall by October 26, 1999, phone (360) 664-6094, TTY (360) 664-6178, e-mail wallpg@dshs.wa.gov.

Submit Written Comments to: Identify WAC Numbers, Paige Wall, DSHS Rules Coordinator, Rules and Policies Assistance Unit, P.O. Box 45850, Olympia, WA 98504-5850, fax (360) 664-6185, by November 9, 1999.

Date of Intended Adoption: No sooner than November 10, 1999.

September 30, 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 388-438-0110 The alien emergency medical (AEM) program. ((An alien who is not eligible for other medical programs, is eligible for emergency medical care and services:

(1) ~~Regardless of their date of arrival in the United States;~~

(2) ~~Except for citizenship, meets Medicaid eligibility requirements as described in WAC 388-505-0210, 388-505-0220 or WAC 388-505-0110; and~~

(3) ~~Limited to the necessary treatment of an alien's emergency medical condition as defined in WAC 388-500-0005, except that organ transplants and related medical care services are not covered)~~

(1) The alien emergency medical (AEM) program is a federally-funded program. It is for aliens who are ineligible for other Medicaid programs, due to citizenship or alien status requirements described in WAC 388-424-0005 and 388-424-0010.

(2) Except for the Social Security Number, citizenship, or alien status requirements, the alien must meet categorical Medicaid eligibility requirements as described in:

(a) WAC 388-505-0110, for an SSI-related person;

(b) WAC 388-505-0220, for family medical programs;

(c) WAC 388-505-0210, for a child under the age of nineteen; or

(d) WAC 388-523-0100, for medical extensions.

(3) When an alien has monthly income which exceeds the CN medical standards, the department will consider AEM medically needy coverage for children or for adults who meet SSI disability criteria. See WAC 388-519-0100.

(4) To qualify for the AEM program, the alien must have an emergency medical condition as described in WAC 388-500-0005.

(5) The alien's date of arrival in the United States is not used when determining eligibility for the AEM program.

PROPOSED

WSR 99-20-111
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Medical Assistance Administration)

[Filed October 6, 1999, 8:08 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-05-044.

Title of Rule:

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Title of Rule	Summary	Proposed Action
388-86-022 School medical services for special education students.	Describes covered services, providers, and approved locations for services provided to eligible students. Incorporate into new WAC 388-537-0100.	Repeal
388-87-020 Subrogation.	Defines subrogation as it applies to the department, eligible clients, and recovery of medical care costs from liable third parties. Incorporate into new WAC 388-501-0100.	Repeal
388-87-025 Services requiring approval.	Explains that reimbursement for medical services is subject to review and approval. Incorporate into new WAC 388-501-0050.	Repeal
388-87-105 Payment—Medical care outside the state of Washington.	Describes requirements for out-of-state medical care for eligible clients and providers. Incorporate into new WAC 388-557-0100.	Repeal
388-87-250 Third party resources.	Describes when MAA requires a liable third party to reimburse a provider or MAA. Incorporate into new WAC 388-501-0200.	Repeal
388-501-0050 Services requiring approval.	Explains that reimbursement for medical services is subject to review and approval.	New
388-501-0100 Subrogation.	Defines subrogation as it applies to the department, eligible clients, and recovery of medical care costs from liable third parties.	New
388-501-0175 Medical care provided in bordering cities.	Lists certain bordering cities where a Washington resident may receive services.	Amend
388-501-0200 Third party resources.	Describes when MAA requires a liable third party to reimburse a provider or MAA.	New
388-502-0250 Interest penalties—Providers.	Describes when interest penalties may be assessed on providers who receive excess or inappropriate payments.	Amend
388-530-1800 Requirements for pharmacy. Claim payments.	Describes how pharmacies must bill for claims.	Amend
388-530-2050 Out-of-state prescriptions.	Describes when MAA pays for out-of-state prescriptions.	Amend

388-537-0100 School medical services for special education students.	Describes covered services, providers, and approved locations for services to eligible students.	New
388-540-001 Kidney centers—Purpose.	Describes the department's purpose for this program.	Amend
388-540-005 Definitions.	Defines terms used in the kidney centers chapter.	Amend
388-540-010 Services.	Describes the services that must be provided in a kidney center.	Amend
388-540-020 Reimbursement.	Explains the requirements that kidney centers must meet to be reimbursed for services provided to eligible clients.	Amend
388-540-030 KDP Eligibility requirements.	Describes the requirements that an eligible client must meet in order to receive services at a kidney center.	Amend
388-540-040 Transfer of resources without adequate consideration.	Describes what may happen if a client knowingly transfers nonexempt resources at less than fair market value in order to be eligible to receive services.	Amend
388-540-050 Fiscal information.	Describes what fiscal information MAA requires from kidney centers.	Amend
388-540-060 KDP Eligibility determination.	Describes eligibility requirements for kidney centers and clients of the program.	Amend
388-557-0100 Payment for medical care outside the state of Washington.	Describes requirements for out-of-state medical care to eligible clients and providers.	New

Purpose: The department is reviewing the rule for compliance with the clear writing principles in the Governor's Executive Order 97-02. The rules have been rewritten for clarity and simplification without making any policy changes. In some cases, current versions of rules are being repealed and the revised versions are being proposed as part of a new chapter. Again, there are no policy changes in the revised versions of these rules. This review is essentially a "housekeeping" action.

Statutory Authority for Adoption: RCW 74.04.050, 74.08.090.

Statute Being Implemented: RCW 74.04.050, 74.08.090.

Summary: The department has reviewed the rules in order to comply with the Governor's Executive Order 97-02. The rules have been rewritten in order to clarify and simplify the language, without making any changes to policy. Some rules are being repealed in order to consolidate those policies in proposed new chapters; the revised versions of the repealed rules do not change existing policy.

Reasons Supporting Proposal: To comply with the Governor's Executive Order 97-02.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Ann Myers, MAA Rules Coordinator, 617 8th Avenue S.E., Olympia, WA 98501, (360) 586-2337.

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

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

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

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

No small business economic impact statement has been prepared under chapter 19.85 RCW. The department has reviewed the proposed rule amendments and repeals and concludes that no new costs will be imposed on the businesses affected by them.

RCW 34.05.328 does not apply to this rule adoption. The proposed amendments do not make "significant amendments to a policy or regulatory program" since no policy changes have been made. Therefore, the department concludes that the proposed amendments are not significant legislative rules.

Hearing Location: Lacey Government Center (behind Tokyo Bento Restaurant), 1009 College Street S.E., Room 104-B, Lacey, WA 98503, on November 23, 1999, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Paige Wall by November 12, 1999, phone (360) 664-6094, TTY (360) 664-6178, e-mail wallpg@dshs.wa.gov.

Submit Written Comments to: Identify WAC Numbers, Paige Wall, DSHS Rules Coordinator, Rules and Policies Assistance Unit, P.O. Box 45850, Olympia, WA 98504-5850, fax (360) 664-6185, by November 23, 1999.

Date of Intended Adoption: November 24, 1999.

September 30, 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 99-21 issue of the Register.

WSR 99-20-113
PROPOSED RULES
DEPARTMENT OF AGRICULTURE

[Filed October 6, 1999, 9:09 a.m.]

Original Notice.

Title of Rule: Proposed repeal of the Washington Asparagus Commission marketing order, chapter 16-557 WAC.

Purpose: To terminate the Washington Asparagus Commission, effective December 31, 2000.

Statutory Authority for Adoption: Chapter 15.65 RCW.

Statute Being Implemented: RCW 15.65.050 through 15.65.200 and applicable provisions of chapter 34.05 RCW, Part III.

Summary: Pursuant to a petition the Washington State Department of Agriculture (WSDA) received from a portion of the asparagus growers industry requesting that WSDA terminate the Washington Asparagus Commission, WSDA has scheduled a hearing on the matter pursuant to commodity commission termination procedures set forth in chapter 15.65 RCW and the Administrative Procedure Act, chapter 34.05 RCW.

Name of Agency Personnel Responsible for Drafting and Implementation: Dannie McQueen, P.O. Box 42560, Olympia, WA 98504-2560, (360) 902-1809; and Enforcement: William Brookreson, P.O. Box 42560, Olympia, WA 98504-2560, (360) 902-1800.

Name of Proponent: Names of proponents are contained in petitions filed with the director of WSDA and are available for public inspection, private.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The repeal of chapter 16-557 WAC would terminate the Washington Asparagus Commission, effective December 31, 2000.

Proposal Changes the Following Existing Rules: Repeals chapter 16-557 WAC.

No small business economic impact statement has been prepared under chapter 19.85 RCW. RCW 19.85.030 requires a small business economic impact statement for the adoption of a rule. This proposal repeals a chapter of rules.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The Department of Agriculture is not a named agency.

Hearing Location: Cavanaugh's Gateway, 9 North 9th, Yakima, WA 98901, on November 16, at 1:00; and at TRAC, 6600 Burden Boulevard, Pasco, WA 99301, on November 17, at 9:00.

Assistance for Persons with Disabilities: Contact Lou Jones by November 10, 1999, TDD (360) 902-1996, or (360) 902-1976.

Submit Written Comments to: Dannie McQueen, Washington State Department of Agriculture, P.O. Box 42560, Olympia, WA 98504-2560, fax (360) 902-2092, by November 30, 1999, at 5:00 p.m.

Date of Intended Adoption: February 18, 2000.

October 6, 1999

William Brookreson
Deputy Director

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 16-557-010	Definition of terms.
WAC 16-557-020	Asparagus commodity board.
WAC 16-557-025	Rules for implementation of promotional hosting by the Washington asparagus commission.
WAC 16-557-030	Marketing order purposes.
WAC 16-557-040	Assessments and collections.
WAC 16-557-041	Time—Place—Method for payment and collection of assessments.
WAC 16-557-050	Obligations of the board.

PROPOSED

WAC 16-557-060 Termination of the order.
 WAC 16-557-070 Effective time.
 WAC 16-557-080 Separability.

Date of Intended Adoption: December 3, 1999.
 October 6, 1999
 David Akana
 Executive Director

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 99-21 issue of the Register.

WSR 99-20-114
PROPOSED RULES
COMMISSION ON
JUDICIAL CONDUCT

[R.D. #99-03—Filed October 6, 1999, 9:24 a.m.]

Original Notice.

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

Title of Rule: Commission on Judicial Conduct rules of procedure (CJCRP).

Purpose: To amend and clarify existing rules of procedure, Rules 6, 17, and 28.

Other Identifying Information: Commission on Judicial Conduct rules of procedure (WSR 96-17-025 and 99-17-050).

Statutory Authority for Adoption: Article IV, Section 31, Washington State Constitution.

Statute Being Implemented: Chapter 2.64 RCW and Article IV, Section 31, State Constitution.

Summary: The proposed action would modify and clarify existing rules of procedure, Rules 6, 17, and 28.

Reasons Supporting Proposal: The commission is directed to provide for rules of procedure and for confidentiality.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: David Akana, P.O. Box 1817, Olympia, WA 98507, (360) 753-4585.

Name of Proponent: Commission on Judicial Conduct, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The amendments to the existing rules would clarify procedures used in proceedings before the commission.

Proposal Changes the Following Existing Rules: The changes proposed to existing rules would clarify procedures used in proceedings before the commission.

No small business economic impact statement has been prepared under chapter 19.85 RCW. No small business impact statement is required for this proposal by chapter 19.85 RCW. The rules are procedural in nature.

RCW 34.05.328 does not apply to this rule adoption. The action would amend procedural rules.

Hearing Location: SeaTac Holiday Inn, 17338 International Boulevard, SeaTac, WA 98188, on December 3, 1999, at 11:00 a.m.

Assistance for Persons with Disabilities: Contact Kathy Sullivan by November 29, 1999, TDD (360) 753-4585.

Submit Written Comments to: Commission on Judicial Conduct, P.O. Box 1817, Olympia, WA 98507, fax (360) 586-2918, by November 24, 1999.

WSR 99-20-135

PROPOSED RULES
DEPARTMENT OF AGRICULTURE

[Filed October 6, 1999, 9:52 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-17-106.

Title of Rule: Hops—Certification analysis—Fees.

Purpose: Establishment of a fee for hop oil constituent analysis, a new service to be offered by the Washington State Department of Agriculture chemical and hop laboratory in Yakima.

Statutory Authority for Adoption: RCW 22.09.790.

Statute Being Implemented: Chapter 22.09 RCW.

Summary: Addition of a new analytical service, analysis for specific hop oil components, which is not currently a service offered by the lab, was proposed by the hop industry. A new fee is needed to implement this proposal. In addition, a review of the existing services and fee schedule indicates changes in format are needed to clarify existing provisions and an obsolete fee should be repealed.

Reasons Supporting Proposal: Implementation of this fee would allow the laboratory to furnish hop oil constituent analysis to members of the industry, if they wished to obtain it. It is anticipated that an industry organization (Hop Growers of America) will offer voluntary varietal certification based on analytical results as a marketing tool. If this is an effective marketing tool, Washington hop growers should benefit.

Name of Agency Personnel Responsible for Drafting: Mary Toohey, 1111 Washington Street, Olympia, WA 98504-2560, (360) 902-1907; Implementation: Royal Schoen, 21 North 1st Avenue, Yakima, WA 98902, (509) 225-2621; and Enforcement: Gary Meyers, 21 North 1st Avenue, Yakima, WA 98902, (509) 225-2626.

Name of Proponent: Hop Growers of America, a non-governmental hop industry organization, private.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The rule establishes a fee schedule for services performed in grading and determining the condition of hops. By provision of statute, the hops program is funded entirely by fees-for-service. Chemistry analytical services are voluntary and are not mandated for any hops.

The proposed change adds a fee for a new service requested by Hop Growers of America (HGA). The service - hop oil constituent analysis - is necessary in order for HGA to implement its proposed program to certify hops as to variety.

PROPOSED

Varietal certification (which is anticipated to be performed by the industry organization, based on chemical characteristics of hops submitted to a laboratory for testing) would be utilized as an international marketing tool. The analysis and any certification HGA may perform is anticipated to be entirely voluntary and would have no regulatory impact.

Other proposed changes would eliminate an obsolete fee for typing additional copies of certificates and clarifies the existing text by converting it into clear and readable format.

Proposal Changes the Following Existing Rules: Augments the existing fee schedule for specialized analytical services for the hop industry by adding a fee for a new service - oil constituent analysis. Also clarifies the existing text by converting it into clear and readable format, repeals an obsolete fee and deletes an obsolete provision.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Use of the service for which the fee is proposed - hop oil constituent analysis - is entirely voluntary. This test is envisioned as a marketing tool, and no regulatory requirement mandates that it be performed. If a member of the hop industry chooses to obtain this analysis, it will presumably be intended to create a marketing advantage and increased sales, a benefit to the industry. Choosing not to authorize the test incurs no penalty or risk. There is no negative economic impact and a potential positive impact on small businesses.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The Washington State Department of Agriculture is not a listed agency in section 201.

Hearing Location: Washington State Department of Agriculture, 21 North 1st Avenue, Room 238, Conference Room B, Yakima, WA 98902, on November 10, 1999, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Mary Frazee by November 3, 1999, TDD (360) 902-1996, or (360) 902-1976.

Submit Written Comments to: Mary Toohey, Assistant Director, Washington State Department of Agriculture, Lab Services Division, P.O. Box 42560, Olympia, WA 98504-2560, fax (360) 902-2094, by November 10, 1999, at 5:00 p.m.

Date of Intended Adoption: November 16, 1999.

October 6, 1999

Mary A. Martin Toohey
Assistant Director

AMENDATORY SECTION (Amending WSR 93-15-069, filed 7/16/93, effective 8/16/93)

WAC 16-218-010 Schedule of fees for physical grading. The schedule of fees, payable to the department for certification of hops pursuant to the standards established by the Federal Grain Inspection Service of the United States Department of Agriculture shall be as follows:

- (1) Lot inspection. One dollar and twenty-five cents per bale in each lot, minimum charge shall be thirty dollars.
- (2) Sample inspection. Thirty-five dollars per unofficial sample submitted.
- (3) Supplemental certificates. Five dollars per certificate.

(4) Appeal inspection. Charges for appeal inspections shall be made by the Federal Grain Inspection Service, Portland, Oregon, and payment for appeal inspections shall be made to them.

~~(5) ((Extra copies. A charge of two dollars per set shall be made for typing extra copies of a certificate when requested by the original applicant or other financially interested party.~~

(6)) Extra time and mileage charges. If through no fault of the inspection service, lots of hops cannot be sampled at the time such sampling has been requested by the applicant or there is an undue delay in making a lot of hops available for sampling, extra time and mileage charges shall be assessed. Fees for hourly wages shall be charged at the current established sampler hourly rate and mileage shall be charged at the rate established by the state office of financial management.

To be considered available for sampling and certification, each and every bale in the lot of hops shall be readily accessible so that each bale may be properly stenciled and samples drawn from those bales selected by the inspector.

AMENDATORY SECTION (Amending WSR 97-05-003, filed 2/5/97, effective 3/8/97)

WAC 16-218-02001 Schedule of charges for chemical analyses of hops, hop extract, hop pellets or hop powder. The following is the schedule of charges for chemical analyses of hops, hop extract, hop pellets or hop powder:

(1) Official samples of hops drawn by department personnel shall be composited either from the cores drawn for grade analysis, or from cores specifically drawn on a schedule for brewing value only. ~~((Charges for analysis are: Thirty five cents per bale, with a minimum charge of thirty dollars for the ASBC spectrophotometric with moisture, thirty cents per bale, with a minimum charge of thirty dollars for the ASBC spectrophotometric without moisture, and ASBC or EBC conductometric methods.))~~ A minimum charge of \$30.00 per sample is established for each of the analyses listed in this subsection:

- (a) ASBC spectrophotometric with moisture \$0.35/bale
- (b) ASBC spectrophotometric without moisture \$0.30/bale
- (c) ASBC conductometric \$0.30/bale
- (d) EBC conductometric \$0.30/bale

An official brewing value certificate shall be used.

(2) Extra time and mileage charges. If through no fault of the inspection service, lots of hops cannot be sampled at the time such sampling has been requested by the applicant or there is an undue delay in making a lot of hops available for sampling, extra time and mileage charges shall be assessed. Fees for hourly wages shall be charged at the current established sampler hourly rate and mileage shall be charged at the rate established by the state office of financial management.

To be considered available for sampling and certification, each and every bale in the lot of hops shall be readily accessible so that each bale may be properly stenciled and samples drawn from those bales selected by the inspector.

PROPOSED

(3) The following fees shall be charged by the department for samples submitted to the chemical and hop laboratory for analysis:

- (a) ASBC (~~(spectro)~~) spectrophotometric . . . \$30.00
- (b) ASBC (~~(condueto)~~) conductometric \$30.00
- (c) EBC (~~(condueto)~~) conductometric \$30.00
- (d) EBC (~~(condueto)~~) conductometric (Wollmer, Zurich, Mebak, Verzele, Ganzlin and hard and/or soft resins) \$60.00
- (e) (~~(Spectro)~~) Spectrophotometric of tannins, Wollmer, etc \$55.00
- (f) Methylene chloride \$80.00
- (g) Tannin \$55.00
- (h) Ash \$20.00
- (i) SO₂ \$25.00
- (j) H₂O \$10.00
- (k) HPLC \$100.00
- (l) Total oil \$25.00
- (m) Oil constituents analysis \$145.00
- (n) Wort test, particle size \$10.00

(4) A fee shall be charged by the department for any other analysis not listed in this section such as isoconversion products from alpha and beta resins and possible adulterants such as residues. Fees shall be based on labor costs, laboratory equipment costs, chemical and material costs, administrative and overhead costs.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 16-218-001 Promulgation.

**WSR 99-20-137
PROPOSED RULES
NOXIOUS WEED CONTROL BOARD**

[Filed October 6, 1999, 10:10 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-13-039.

Title of Rule: Chapter 16-750 WAC, State noxious weed list and schedule of monetary penalties.

Purpose: The state Noxious Weed Control Board proposes amending the state noxious weed list to add species determined to be noxious, to change areas designated for control of some noxious weeds and to delete certain noxious weeds from the list. The board also proposes a board meeting attendance policy. In addition, the board proposes several minor changes to improve clarity and readability of the WAC.

Statutory Authority for Adoption: Chapter 17.10 RCW.
Statute Being Implemented: Chapter 17.10 RCW.

Summary: Proposed changes to the state noxious weed list include the addition of two new Class A noxious weeds, and one new Class B noxious weed and two new Class C noxious weeds; the deletion of one species; and classification and designation area changes for twelve species. The proposal adds a board member attendance policy. In addition, it includes several minor changes throughout the WAC to improve clarity and readability.

Reasons Supporting Proposal: New nonnative species were found to be highly destructive, competitive or difficult to control. Distribution data indicated some listed species should be reclassified or deleted.

Name of Agency Personnel Responsible for Drafting: Lisa E. Lantz, Kent, Washington, (253) 872-2972; Implementation: Ray Fann, Kent, Washington, (253) 872-2972; and Enforcement: Mary A. Martin Toohey, Olympia, Washington, (360) 902-1907.

Name of Proponent: Washington State Noxious Weed Control Board, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The state noxious weed list provides the basis for noxious weed control efforts by county noxious weed control boards, weed districts, the state weed board and the Washington State Department of Agriculture, under the auspices of chapter 17.10 RCW. The effect of the state noxious weed list is to prioritize control of noxious weed species state-wide, concentrating on prevention and early detection, while still allowing for local program flexibility.

Proposal Changes the Following Existing Rules: See amendatory sections shown below. The proposal adds two new Class A weeds, one new Class B weed, and two new Class C weeds. It also deletes one species and changes the classification or designation area for twelve listed species. The proposal adds a board member attendance policy. In addition, it includes several minor changes throughout the WAC to improve clarity and readability.

A small business economic impact statement has been prepared under chapter 19.85 RCW.

Small Business Economic Impact Statement

Background: The Washington State Noxious Weed Control Board (WSNWCB) is charged with annually reviewing and updating the state noxious weed list, found in chapter 16-750 WAC, to ensure it accurately reflects and prioritizes the noxious weeds threatening Washington.

The WSNWCB issued a call for suggestions and recommendations on the content of the state noxious weed list in January 1999 to all county noxious weed control boards and an extensive mailing list of agricultural and environmental organizations, state and federal agencies, county governments, and other parties who have asked to be notified of such opportunities. This comment period was open until the end of April 1999. An additional reminder notice was sent during the comment period. A handout was also provided, which included tips for making a successful recommendation.

The WSNWCB Noxious Weed Committee, which is composed of scientific advisors, county representatives, WSNWCB representatives, and a public interest representative, first met in May of 1999 to review the suggestions received to date. Committee meetings are open to the public and suggestions can be presented in person or in writing. The committee then used the next few months to gather additional information needed to evaluate suggestions. This process includes field investigations, literature searches, interviews with scientists and weed specialists in other areas of the country or world, and additional interviews with persons making recommendations.

The committee held additional public meetings in June and July 1999 to finish evaluation of suggestions and to review additional suggestions that had been submitted outside of the formal comment period. The committee then developed a draft set of recommendations for changes to the state noxious weed list. The preproposal statement was filed in June and the draft amendments were sent out for comment in August 1999.

The Noxious Weed Committee met a fourth time in September to consider public input and to finalize its recommendations to the WSNWCB. After discussion and review of the committee's recommendations, the WSNWCB adopted the recommended changes to the State Weed List as their formal proposal in September 1999.

Summary of Amendments: The following changes are proposed:

Chapter 16-750 WAC, the entire rule has undergone review and several minor changes are proposed throughout the WAC to improve clarity and readability.

WAC 16-750-005 State noxious weed list - Class A noxious weeds, Class A noxious weeds are required to be eradicated by all landowners under the authority of chapter 17.10 RCW.

Add two new nonnative species that are of extremely limited distribution and are highly destructive, competitive, or difficult to control (*Alliaria petiolata* and *Galega officinalis*).

Delete one nonnative species (*Peganum harmala*). This species has been eradicated from Washington.

WAC 16-750-011 State noxious weed list - Class B noxious weeds, Class B noxious weeds are required to be controlled by all landowners in the areas where they are designated, under the authority of chapter 17.10 RCW. In the areas where they are not designated, landowners are only required to control Class B noxious weeds if they are placed on the county noxious weed control list, as a local priority for control.

Designate new areas for the mandatory control of nine previously listed species, each in only two counties or a smaller area (*Anthriscus sylvestris*, *Cenchrus longispinus*, *Egeria densa*, *Hieracium aurantiacum*, *Hieracium laevigatum*, *Impatiens glandulifera*, *Tribulus terrestris*, and *Ulex europaeus*). These species have been found to have only limited distribution in the areas where they are proposed for designation, making control and containment feasible. The areas required for control of *Anthriscus sylvestris* and *Impatiens glandulifera* would actually be made smaller.

Move three species from the Class C list to the Class B list (*Cynoglossum officinale*, *Polygonum cuspidatum*, and *Polygonum sachalinense*). These species have been found to have only limited distribution in the areas where they are proposed for designation, making control and containment feasible.

Add one new nonnative species that is highly destructive, competitive, or difficult to control (*Ludwigia hexapetala*). The species is designated for control where it is unknown or of limited distribution.

WAC 16-750-015 State noxious weed list - Class C noxious weeds, Class C noxious weeds are widespread species that are not state-mandated for control under the authority of chapter 17.10 RCW. Landowners are only required to control Class C noxious weeds if they are placed on a county noxious weed control list, as a local priority for control.

Add two nonnative species that is highly destructive, competitive, or difficult to control (*Cirsium vulgare* and *Clematis vitalba*).

Move three species from the Class C list to the Class B list (*Cynoglossum officinale*, *Polygonum cuspidatum*, and *Polygonum sachalinense*). These species have been found to have only limited distribution in the areas where they are proposed for designation, making control and containment feasible.

WAC 16-750-135 State noxious weed control board—Meetings, add a board meeting attendance policy for state noxious weed control board members.

Costs of Compliance: Improving the readability of the rule, adding an attendance policy, and deleting species from the state noxious weed list should have very little economic impact to businesses. The addition of new noxious weeds to the state noxious weed list or the designation of noxious weeds in new areas of the state impose potential costs on all businesses that own or manage infested property. These costs are only incurred if the listed species occur on the property. By definition, the noxious weeds for which the state requires control are of limited distribution and, therefore, only a relatively small number of businesses will actually incur noxious weed control costs in any one season.

The control of noxious weeds involves costs for the actual control strategy selected, as well as some administrative time for recordkeeping, compliance correspondence, training, and safety education for some control strategies. The state's noxious weed law, chapter 17.10 RCW, does not mandate a specific method of control; it mandates a result. The landowner can select the method he/she feels is most appropriate, after considering site characteristics, cost, time, and effectiveness. Technical assistance in choosing a control strategy is available to all landowners at no cost from the local county noxious weed control board or weed district, Washington State University Cooperative Extension, the Washington State Department of Agriculture, and the WSNWCB. Control costs will vary widely, based on the noxious weed, the site's environmental characteristics, weather, the extent of the vegetation, the surrounding land use, and the control strategy used.

Chemical control strategies involve costs for the following items. These control cost ranges capture the majority of

control situations, but some sites may have higher or lower costs:

- Herbicides - \$15 to \$100 per acre.
- Application equipment - spot spray with a premixed chemical \$0, hand held sprayer \$15 to \$45, backpack sprayer \$60 to \$100 new (may be available for loan from county weed board), truck mounted spray rig and boom \$500 to \$5,000 (not including vehicle).
- Labor - in-house or contracted with a licensed applicator (who would handle equipment, licensing, permitting, and recordkeeping) \$20 to \$100 per hour contracted applicator; aerial application \$150 to \$250 per hour.
- Protective equipment - goggles \$3 to \$10, chemical-resistant gloves \$5 to \$40, chemical-resistant boots \$20 to \$60, Tyvek coveralls \$3 to \$12. Personal protective equipment costs will vary depending on the type of herbicide and the frequency and duration of use.
- Licensing and permitting - application of many herbicides requires the applicator to be licensed and permits may be required for some types of sites (mainly those in or near water) - \$21 to \$40 for license and study materials, \$20 to \$500 for permit notices and signage.
- Recordkeeping - fifteen minutes to two hours of labor time, depending on the extent and variability of the application. Hand-pulling or mowing costs include:
 - Labor - hand methods may require two to ten times more labor time than chemical strategies.
 - Equipment - hand tools \$5 to \$40 each for shovels, hoes, weed whip; \$35 to \$250 for hand-held trimmers.
- Disposal - bags 50 cents to \$4 each, landfilling \$15 to \$100/ton.

Other strategies like burning, solarization, tillage, etc. may be appropriate for some sites, but the previous two methods are the most commonly used.

Comparison of Cost - Small versus Large Employers: Administrative and control costs vary only with the control strategy selected, the site characteristics, and the type and extent of the infestation. These costs on a per acre basis would be the same for small and large employers, but could be proportionally more per employee for small employers. The cost to outfit, train, and equip one employee for noxious weed control work would depend on the number of employees needed to conduct the control work, but this may represent a larger percentage of employees for small businesses. Contracting for control work could cost more per hour of labor or per \$100 of sales for a small employer. Larger businesses would be expected, in general, to own or manage more land, thus potentially incurring a higher total cost.

The proposed amendments affect a small percentage of landowners in Washington. It is highly unlikely they would affect more than 20% of all industries or more than 10% of any one industry. The species proposed for the Class A list are all presently known from four or fewer sites in the state. The proposed changes to the B list would also affect limited numbers of landowners; these changes are proposed because the species are present in limited areas or present at very small levels of infestation.

Mitigation of Disproportionate Costs to Small Employers: The state noxious weed law recognizes that the

immediate prevention, control, and eradication of noxious weeds is practical on some lands and that these activities should be extended over a period of time on other lands. RCW 17.10.154 allows county noxious weed control boards, at their discretion, to enter into agreements with local landowners. These agreements allow for gradual containment and control of noxious weeds over a period of years on appropriate sites. This flexibility allows small businesses to spread noxious weed control costs over time in some cases.

Due to site conditions and infestation patterns, mitigation of control requirements for small businesses may not always be possible. Noxious weeds do not recognize human political and ownership boundaries. Effective control statewide requires that all landowners fulfill the requirements to control and contain noxious weeds. This is an inherent part of all pest control programs. Through the state noxious weed list, the state has prioritized control efforts in Washington, concentrating landowner efforts on new infestations. Control of infestations when they are small provides the most protection for the least cost. County noxious weed control boards limit landowner costs by conducting regular surveys so that infestations can be caught when small. Technical assistance is also available through several sources to assist landowners in devising the most effective and cost-efficient control program possible.

Hearing Location: The public hearing on this proposed rule making will be held on November 16, 1999, at the Mt. Baker-Snoqualmie National Forest Office, 42404 S.E. North Bend Way, North Bend, WA, from 9:00 a.m. to 10:00 a.m.

Submit Written Comments to: Lisa Lantz, Executive Secretary, Washington State Noxious Weed Control Board, 1851 South Central Place, Suite 211, Kent, WA 98031, (253) 872-2972, fax (253) 872-6320.

Date of Intended Adoption: November 16, 1999.

A copy of the statement may be obtained by writing to Lisa E. Lantz, Washington State Noxious Weed Control Board, 1851 South Central Place, Suite 211, Kent, WA 98031, phone (253) 872-2972, fax (253) 872-6320.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The Washington State Noxious Weed Control Board is not one of the agencies listed in this section.

Hearing Location: Mt. Baker-Snoqualmie National Forest Office, 42404 S.E. North Bend Way, North Bend, WA, on November 16, 1999, at 9:00 a.m. to 10:00 a.m.

Assistance for Persons with Disabilities: Contact Lisa E. Lantz by November 12, 1999, TDD (360) 902-1996, or (253) 872-2972.

Submit Written Comments to: Lisa E. Lantz, 1851 South Central Place, Suite 211, Kent, WA 98031, fax (253) 872-6320, by November 12, 1999.

Date of Intended Adoption: November 16, 1999.

October 5, 1999

Lisa E. Lantz
Executive Secretary

AMENDATORY SECTION (Amending WSR 91-24-072, filed 12/2/91, effective 1/2/92)

WAC 16-750-001 State noxious weed list—Purpose.

In accordance with RCW 17.10.080 a state noxious weed list (~~(comprising)~~) of the names of those plants which the state noxious weed control board finds to be highly destructive, competitive, or difficult to control by cultural or chemical practices is (~~(hereby)~~) adopted (~~(in this chapter)~~).

AMENDATORY SECTION (Amending WSR 97-06-108, filed 3/5/97, effective 4/5/97)

WAC 16-750-003 Definitions. (1) The definitions (~~(set forth)~~) in this section shall apply throughout this chapter, unless the context (~~(otherwise)~~) plainly requires otherwise:

(a) "Action" means the transaction of the official business of the Washington state noxious weed control board including but not limited to receipt of public testimony, deliberations, discussions, considerations, reviews, and final actions.

(b) "Board" means the Washington state noxious weed control board, or a duly authorized representative.

(c) "Director" means the director of the department of agriculture, or the director's appointed representative.

(d) "Executive secretary" means the executive secretary of the Washington state noxious weed control board.

(e) "Department" means the department of agriculture of this state.

(f) (~~"Person" means any individual, partnership, corporation, firm, or any other entity.~~)

(~~(g)~~) "Final action" means a collective positive or negative decision, or an actual vote by a majority of board members when sitting as a body or entity, upon a motion, proposal, resolution, or order.

(~~(h)~~) (~~(g)~~) "Meeting" means meetings at which action is taken.

(~~(i)~~) (~~(h)~~) "Regular meetings" means recurring meetings held in accordance with a periodic schedule (~~(declared by)~~) in compliance with applicable statute or rule.

(2) The definitions (~~(set forth)~~) in this subsection (~~(shall)~~) apply throughout this chapter, chapter 17.10 RCW, and any rules adopted thereunder unless the context (~~(otherwise)~~) plainly requires otherwise:

(a) "Control" means to prevent all seed production and to prevent the dispersal of the following propagules of aquatic noxious weeds - turions, fragments, tubers, and nutlets.

(b) "Contain" means to confine a noxious weed and its propagules to an identified area of infestation.

(c) "Eradicate" means to eliminate a noxious weed within an area of infestation.

(d) "Prevent the spread of noxious weeds" means to contain noxious weeds.

(e) Class A noxious weeds are those noxious weeds not native to the state that are of limited distribution or are unrecorded in the state and that pose a serious threat to the state.

(f) Class B noxious weeds are those noxious weeds not native to the state that are of limited distribution or are unrecorded in a region of the state and that pose a serious threat to that region.

(g) "Class B designate" means those Class B noxious weeds whose populations in a region or area are such that all seed production can be prevented within a calendar year.

(h) Class C are any other noxious weeds.

(3) Any county noxious weed control board may enhance the clarity of any definition contained in subsection (2) of this section, making that definition more specific, but shall not change its general meaning.

AMENDATORY SECTION (Amending WSR 91-24-072, filed 12/2/91, effective 1/2/92)

WAC 16-750-004 Noxious weed region descriptions.

The state of Washington is divided into ten regions for the purpose of designating Class B noxious weeds.

(1) Region 1 description. A region consisting of all lands lying within the boundaries of Clallam and Jefferson counties.

(2) Region 2 description. A region consisting of all lands lying within the boundaries of Whatcom, Skagit, Snohomish, San Juan, and Island counties.

(3) Region 3 description. A region consisting of:

(a) All lands lying within the boundaries of Okanogan County.

(b) All lands lying within the boundaries of Chelan and Douglas counties and north of Highway 2.

(4) Region 4 description. A region consisting of:

(a) All lands lying within the boundaries of Ferry, Stevens, and Pend Oreille counties.

(b) All lands lying within the boundaries of Spokane County and north of the Spokane River.

(5) Region 5 description. A region consisting of all lands lying within the boundaries of Grays Harbor, Mason, Kitsap, Thurston, Pierce, and King counties.

(6) Region 6 description. A region consisting of:

(a) All lands lying within the boundaries of Kittitas and Grant counties.

(b) All lands lying within the boundaries of Chelan and Douglas counties and south of Highway 2.

(c) All lands lying within the boundaries of Yakima County and north of Highway 12 from the Yakima — Lewis County line to Yakima and north of Highway 82 from Yakima to the Yakima — Kittitas County line.

(d) All lands lying within the boundaries of Ranges 28E, 29E, and 30E of Adams County.

(7) Region 7 description. A region consisting of:

(a) All lands lying within the boundaries of Lincoln and Whitman counties.

(b) All lands lying within the boundaries of Spokane County and south of the Spokane River.

(c) All lands lying (~~(with)~~) within the boundaries of Ranges 31E, 32E, 33E, 34E, 35E, 36E, 37E, and 38E of Adams County.

(8) Region 8 description. A region consisting of all lands lying within the boundaries of Pacific, Lewis, Wahkiakum, Cowlitz, Skamania, and Clark counties.

(9) Region 9 description. A region consisting of:

(a) All lands lying within the boundaries of Benton and Klickitat counties.

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(b) All lands lying within the boundaries of Yakima County and south of Highway 12 from the Yakima — Lewis County line to Yakima and south of Highway 82 from Yakima to the Yakima — Kittitas County line.

(c) All lands lying within the boundaries of Franklin County and west of Highway 395.

(10) Region 10 description. A region consisting of:

(a) All lands lying within the boundaries of Asotin, Garfield, Columbia, and Walla Walla counties.

(b) All lands lying within the boundaries of Franklin County and east of Highway 395.

AMENDATORY SECTION (Amending WSR 98-24-026, filed 11/23/98, effective 1/2/99)

WAC 16-750-005 State noxious weed list—Class A noxious weeds.

Common Name	Scientific Name
bean-caper, Syrian	<i>Zygophyllum fabago</i>
blueweed, Texas	<i>Helianthus ciliaris</i>
broom, Spanish	<i>Spartium junceum</i>
buffalobur	<i>Solanum rostratum</i>
clary, meadow	<i>Salvia pratensis</i>
cordgrass, salt meadow	<i>Spartina patens</i>
crupina, common	<i>Crupina vulgaris</i>
flax, spurge	<i>Thymelaea passerina</i>
four o'clock, wild	<i>Mirabilis nyctaginea</i>
<u>goatsrue</u>	<u><i>Galega officinalis</i></u>
hawkweed, yellow devil	<i>Hieracium floribundum</i>
hogweed, giant	<i>Heracleum mantegazzianum</i>
hydrilla	<i>Hydrilla verticillata</i>
johnsongrass	<i>Sorghum halepense</i>
knapweed, bighead	<i>Centaurea macrocephala</i>
knapweed, Vochin	<i>Centaurea nigrescens</i>
lawnweed	<i>Soliva sessilis</i>
<u>mustard, garlic</u>	<u><i>Alliaria petiolata</i></u>
nightshade, silverleaf	<i>Solanum elaeagnifolium</i>
((peganum	<i>Peganum harmala</i>))
sage, clary	<i>Salvia sclarea</i>
sage, Mediterranean	<i>Salvia aethiopsis</i>
saltcedar	<i>Tamarix ramosissima</i>
spurge, eggleaf	<i>Euphorbia oblongata</i>
starthistle, purple	<i>Centaurea calcitrapa</i>
thistle, Italian	<i>Carduus pycnocephalus</i>
thistle, milk	<i>Silybum marianum</i>
thistle, slenderflower	<i>Carduus tenuiflorus</i>
velvetleaf	<i>Abutilon theophrasti</i>
woad, dyers	<i>Isatis tinctoria</i>

AMENDATORY SECTION (Amending WSR 98-24-026, filed 11/23/98, effective 1/2/99)

WAC 16-750-011 State noxious weed list—Class B noxious weeds.

Name	Will be a "Class B designate" in all lands lying within:
(1) blackgrass <i>Alopecurus myosuroides</i>	(a) regions 1, 2, 3, 5, 6, 8, 9, 10 (b) Ferry, Stevens, Pend Oreille counties of region 4 (c) Adams County of region 7.
(2) blueweed <i>Echium vulgare</i>	(a) regions 1, 2, 3, 4, 5, 6, 8, 9, 10 (b) region 7 except for an area starting at the Stevens County line on SR 291 south to the SR 291 bridge over the Little Spokane River, thence upstream along the Little Spokane River to the first Rutter Parkway Bridge; thence south along the Rutter Parkway to the intersection of Rutter Parkway and Indian Trail Road; thence southerly along Indian Trail Road to a point three miles south (on section line between sections 22 and 27, T-26N, R-42E); thence due west to a point intersecting the line between Ranges 41 and 42; thence north along this line to a point 1/4 mile south of Charles Road; thence northwesterly parallel to Charles Road to a point 1/4 miles south of the intersection of Charles Road and West Shore Road; thence northerly along West Shore Road to the Spokane River (Long Lake); thence southeasterly along the Spokane River to the point of beginning.
(3) broom, Scotch <i>Cytisus scoparius</i>	(a) regions 3, 4, 6, 7, 9, 10.
(4) bryony, white <i>Bryonia alba</i>	(a) regions 1, 2, 3, 4, 5, 6, 8, 9 (b) region 7 except Whitman County (c) Franklin County of region 10.
(5) bugloss, common <i>Anchusa officinalis</i>	(a) regions 1, 2, 3, 5, 6, 8, 9, 10 (b) region 4 except Stevens and Spokane counties (c) Lincoln, Adams, and Whitman counties of region 7.
(6) bugloss, annual <i>Anchusa arvensis</i>	(a) regions 1, 2, 3, 4, 5, 6, 8, 9

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Name	Will be a "Class B designate" in all lands lying within:	Name	Will be a "Class B designate" in all lands lying within:
(7) camelthorn <i>Alhagi maurorum</i>	(b) Lincoln and Adams counties (c) Whitman County except ranges 43 through 46 East of Townships 16 through 20 North. (a) regions 1, 2, 3, 4, 5, 7, 8, 9 (b) region 6 except those portions of Sections 23, 24, 25, and 29 through 36, T16N, R27E, W.M. lying outside Intercounty Weed District No. 52 and except Sections 1 through 12, T15N, R27E, W.M. in Grant County and except the area west of Highway 17 and north of Highway 26 in Adams County (c) Franklin, Columbia, Garfield, and Asotin counties of region 10 (d) an area beginning at the Washington — Oregon border at the southwest portion of section 5, R32E, T6N, then north to the northwest corner of section 3, R32E, T7N, then east to the northeast corner of section 3, R36E, T7N, then south to southeast portion of section 15, R36E, T6N, at the Washington — Oregon border, then west along the Washington — Oregon border to the point of beginning.	(11) cinquefoil, sulfur <i>Potentilla recta</i>	(c) <u>region 2 except Guemes Island in Skagit County</u> (d) <u>region 8 except Clark County.</u> (a) regions 1, 3, 8, 10 (b) region 2 except Skagit County (c) region 4 except Stevens, Ferry, and Pend Oreille counties (d) region 5 except Thurston County (e) region 6 except Yakima County (f) region 7 except Spokane County (g) region 8 except Lewis County (h) region 9 except Klickitat County.
(8) carrot, wild <i>Daucus carota</i>	(a) regions 3, 7, 10 (except where intentionally cultivated) (b) Spokane and Ferry counties of region 4 (except where intentionally cultivated) (c) region 6, except Yakima County (except where intentionally cultivated) (d) region 9, except Yakima County (except where intentionally cultivated).	(12) cordgrass, smooth <i>Spartina alterniflora</i>	(a) regions 1, 3, 4, 5, 6, 7, 9, 10 (b) region 2 except Padilla Bay of Skagit County (c) region 8 except bays and estuaries of Pacific County.
(9) catsear, common <i>Hypochaeris radicata</i>	(a) regions 3, 4, 6, 7, 10	(13) cordgrass, common <i>Spartina anglica</i>	(a) regions 1, 3, 4, 5, 6, 7, 8, 9, 10 (b) region 2 except bays and estuaries of Skagit and Island counties and except bays and estuaries north of Everett in Snohomish County.
(10) chervil, wild <i>Anthriscus sylvestris</i>	(a) regions 1, ((2,)) 3, 4, 6, 7, ((8,)) 9, 10 (b) region 5 except those portions of Thurston County within T 15, 16, 17N, R2, 3, 4W	(14) daisy, oxeye <i>Leucanthemum vulgare</i>	(a) regions 7, 10 (b) region 9 except those areas lying within Klickitat and Yakima counties west of Range 13 East (c) region 6 except those areas lying within Yakima and Kittitas counties west of Range 13 E.
		(15) elodea, Brazilian <i>Egeria densa</i>	(a) regions 3, 4, 6, 7, 9, 10 (b) Lewis County of region 8 (c) <u>Clallam County of region 1.</u>
		(16) fanwort <i>Cabomba caroliniana</i>	(a) regions 1, 2, 3, 4, 5, 6, 7, 9, 10
		(17) fieldcress, Austrian <i>Rorippa austriaca</i>	(b) region 8 except T8N, R3W of Cowlitz County. (a) regions 1, 2, 3, 4, 5, 6, 8, 9

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Name	Will be a "Class B designate" in all lands lying within:	Name	Will be a "Class B designate" in all lands lying within:
(18) gorse <i>Ulex europaeus</i>	(b) regions 7 and 10 except within the Palouse River Canyon from Big Palouse Falls to the Snake River. (a) regions 3, 4, 6, 7, 9, 10	(25) helmet, policeman's <i>Impatiens glandulifera</i>	(b) Yakima, Benton, Franklin counties (c) Klickitat County except those lands lying within T4N, R10E, R11E, R12E, R13E, R14E; T3N, R10E, R11E, R12E, R13E; T2N, R12E, R13E. (a) regions 1, 3, 4, 6, 7, 8, 9, 10 (b) region 2 except Whatcom County (c) region 5 except Pierce (County) and Thurston counties.
(19) hawkweed, mouseear <i>Hieracium pilosella</i>	(a) regions 1, 2, 3, 4, 6, 7, 8, 9, 10 (b) region 5 except Thurston County (c) Thurston County lying within T17N, R1W, S31; T16N, R2W, S30 W1/2; T16N, R3W, S25, SE1/4; T16N, R3W, S36, N1/2; T16N, R2W, S31, NW1/4.	(26) herb-Robert <i>Geranium robertianum</i> (27) houndstongue <i>Cynoglossum officinale</i> (28) indigobush <i>Amorpha fruticosa</i>	(a) regions 3, 4, 6, 7, 9, 10 (a) <u>Kittitas County of region 6.</u> (a) regions 1, 2, 3, 4, 5, 6 (b) regions 7 and 10 except within 200 feet of the Snake River from Central Ferry downstream (c) regions 8, 9, and 10 except within 200 feet of the Columbia River. (a) regions 1, 2, 3, 4, 5, 7, 9, 10
(20) hawkweed, orange <i>Hieracium aurantiacum</i>	(a) regions 3, 6, 9, 10 (b) Clallam County of region 1 (c) Skagit County of region 2 (d) Ferry County of region 4 (e) Thurston and King counties of region 5 (f) Lincoln and Adams counties of region 7 (g) <u>Lewis County of region 8.</u>	((29)) (29) knapweed, black <i>Centaurea nigra</i>	(b) region 6 except Kittitas County (c) region 8 except Clark County. (a) regions 1, 2, 3, 4, 5, 7, 9, 10
(21) hawkweed, polar <i>Hieracium atratum</i>	(a) regions 1, 2, 3, 4, 6, 7, 8, 9, 10 (b) region 5 outside the boundaries of Mt. Rainier National Park.	((29)) (30) knapweed, brown <i>Centaurea jacea</i>	(a) regions 1, 2, 3, 4, 5, 7, 9, 10 (b) region 6 except Kittitas County (c) region 8 except Clark County.
(22) hawkweed, smooth <i>Hieracium laevigatum</i>	(a) regions 1, ((2)) 3, 4, 5, 6, 7, 8, 9, 10 (b) San Juan (and), Island, and Skagit counties of region 2.	((30)) (31) knapweed, diffuse <i>Centaurea diffusa</i>	(a) regions 1, 2, 5, 8 (b) Grant County lying in Townships 13 through 16 North, Ranges 25 through 27 East; Townships 17 and 18 N., Ranges 25 through 30 East; Townships 19 and 20 North, Ranges 29 and 30 East; T21N, R23E, Sections 1 through 30; T21N, R26E., Sections 5, 6, 7, 8, 17, and 18; East 1/2 Township 21N, Range 27E.; T21N, Ranges 28 through 30 E; those portions of Townships 22 through 28N, Ranges 28
(23) hawkweed, yellow <i>Hieracium caespitosum</i>	(a) regions 1, 2, 3, 5, 6, 7, 8, 10 (b) region 4 except north of T32N in Pend Oreille County and east Highway 395 and north of Highway 20 in Stevens County (c) region 9 except sections 32, 33 and 34 of T6N, R12E, and sections 4, 5, 6, and 7 of T5N, R12E, and section 12 of T5N, R11E, of Klickitat County.		
(24) hedgeparsley <i>Torilis arvensis</i>	(a) regions 1, 2, 3, 4, 5, 6, 7, 8, 10		

Name	Will be a "Class B designate" in all lands lying within:	Name	Will be a "Class B designate" in all lands lying within:
	through 30 E.; those portions of Township 22 through 28N., Ranges 23 through 30E. lying in Grant County; all W.M.	((35)) <u>(38)</u> <i>lepyrodielis</i> <i>Lepyrodielis</i> <i>holosteoides</i>	(d) Kittitas County of region 6. (a) regions 1, 2, 3, 4, 5, 6, 8, 9, 10
	(c) Adams County except those areas within T15N, R36E, Section 36; T15N, R37E, Sections 22, 26, 27, 28, 31, 32, 33 and 34; T15N, R37E, western half of Sections 23, 24 and 25; T15N, R38E, Sections 2, 10, 11, 14, 15, 19 and 20; T16N, R38E, Sections 34 and 35; T17N, R37E, Sections 5 and 6		(b) region 7 except an area within Whitman County east of the Pullman — Wawawai Road from Wawawai to Pullman and south of State Highway 270 from Pullman to Moscow, Idaho.
	(d) Franklin County of regions 9 and 10.	((36)) <u>(39)</u> loosestrife, garden <i>Lysimachia vulgaris</i>	(a) regions 1, 2, 3, 4, 6, 7, 8, 9, 10
((31)) <u>(32)</u> knapweed, meadow <i>Centaurea jacea x nigra</i>	(a) regions 1, 2, 3, 4, 5, 7, 9, 10		(b) region 5 except King County
	(b) region 6 except Kittitas County		(c) Those portions of King County lying north of I-90 and east of the line extending from SR522 to SR202 to E. Lake Sammamish Parkway; west of I-5 including Vashon Island; south of I-90 and east and south of I-405 to the county line.
	(c) region 8 except Clark County.		(a) regions 1, 4, 7, 8
((32)) <u>(33)</u> knapweed, Russian <i>Acroptilon repens</i>	(a) regions 1, 2, 5, 7, 8	((37)) <u>(40)</u> loosestrife, purple <i>Lythrum salicaria</i>	(b) region 2 except Snohomish County
	(b) region 4 except that area lying within the boundaries of the Colville Indian Reservation within Ferry County		(c) region 3 except within 100 feet of the ordinary highwater mark of the Okanogan River from the Canadian border south to Riverside
	(c) Adams County of region 6 except for the area west of Highway 17 and North of Highway 26		(d) Grays Harbor, Mason, Kitsap, and Thurston counties of region 5
	(d) Intercounty Weed District No. 52		(e) Those portions of King County lying north of I-90 and east of the line extending from SR522 to SR202 to E. Lake Sammamish Parkway; west of I-5 including Vashon Island; south of I-90 and east and south of I-405 to the county line
	(e) region 10 except Franklin County.		(f) Pierce County, except those areas lying within T2D, 21, 22N, R1W and R1E, all sections
((33)) <u>(34)</u> knapweed, spotted <i>Centaurea biebersteinii</i>	(a) regions 1, 2, 3, 5, 6, 8, 9		(g) region 6 except that portion of Grant County lying northerly of the Frenchmen Hills-O'Sullivan Dam Road, southerly of Highway Interstate 90, easterly of the section line of the location of County Road J SW/NW if constructed and westerly of
	(b) Ferry County of region 4		
	(c) Adams and Whitman counties of region 7		
	(d) region 10 except Garfield County.		
<u>(35)</u> knotweed, giant <i>Polygonum sachalinense</i>	(a) <u>Kittitas County of region 6.</u>		
<u>(36)</u> knotweed, Japanese <i>Polygonum cuspidatum</i>	(a) <u>Kittitas County of region 6.</u>		
((34)) <u>(37)</u> kochia <i>kochia scoparia</i>	(a) Skagit and Whatcom counties of region 2		
	(b) Pend Oreille County of region 4		
	(c) King County of region 5		

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Name	Will be a "Class B designate" in all lands lying within:	Name	Will be a "Class B designate" in all lands lying within:
<p>((38)) (41) loosestrife, wand <i>Lythrum virgatum</i></p>	<p>the section line of the location of County Road H SE/NE if constructed</p> <p>(h) region 9 except Benton County</p> <p>(i) region 10 except Walla Walla County</p> <p>(j) Intercounty Weed Districts No. 51 and No. 52.</p> <p>(a) regions 1, 4, 7, 8</p> <p>(b) region 2 except Snohomish County</p> <p>(c) region 3 except within 100 feet of the ordinary highwater mark of the Okanogan River from the Canadian border south to Riverside</p> <p>(d) region 5 except King County</p> <p>(e) Those portions of King County lying north of I-90 and east of the line extending from SR522 to SR202 to E. Lake Sammamish Parkway; west of I-5 including Vashon Island; south of I-90 and east and south of I-405 to the county line</p> <p>(f) region 6 except that portion of Grant County lying northerly of the Frenchmen Hills-O'Sullivan Dam Road, southerly of Highway Interstate 90, easterly of the section line of the location of County Road J SW/NW if constructed and westerly of the section line of the location of County Road H SE/NE if constructed</p> <p>(g) region 9 except Benton County</p> <p>(h) region 10 except Walla Walla County</p> <p>(i) Intercounty Weed Districts No. 51 and No. 52.</p> <p>(a) regions 1, 2, 3, 4, 5, 7, 8</p> <p>(b) region 6 except those areas lying between State Highway 26 and State Highway 28, and westerly of Dodson Road in Grant County, and except S 1/2, Sec. 2, T20N, R25E., W.M.</p> <p>(c) region 9 except:</p>	<p>((40)) (43) oxtongue, hawkweed <i>Picris hieracioides</i></p>	<p>(i) except those areas lying within the following boundary description within Yakima County: Beginning at the intersection of Highway 12 and Parker Heights Road and continuing easterly to Konnowac Pass Road follow said road north to the intersection of Konnowac Pass Road and Nightingale Road. The northern boundary shall be the Roza Canal, continuing from the established point at Nightingale Road. The boundaries will follow the Roza Canal easterly to the County Line Road. The east boundaries will be the Yakima/Benton County Line from a point beginning at the County Line and Highway 22 (near Byron) continuing westerly along Highway 22 (to near the city of Mabton) to the intersection of Highway 22 and the Reservation Boundary (Division Road) and continuing north to the Yakima River. Then it will follow the river northwest to the Wapato-Donald Road continuing north along said road to Highway 12 then Highway 12 to Parker Heights Road.</p> <p>(ii) an area lying southerly of State Route 14 and within T2N, Ranges 13 and 14 E of Klickitat County</p> <p>(d) region 10 except Walla Walla County.</p> <p>(a) regions 1, 2, 3, 4, 5, 6, 7, 9, 10</p> <p>(b) region 8 except Skamania County.</p>
<p>((39)) (42) nutsedge, yellow <i>Cyperus esculentus</i></p>			

Name	Will be a "Class B designate" in all lands lying within:	Name	Will be a "Class B designate" in all lands lying within:
((41)) (44) parrotfeather <i>Myriophyllum aquaticum</i>	(a) regions 1, 2, 3, 4, 5, 6, 7, 9, 10 (b) region 8 except Clark, Cowlitz, and Wahkiakum counties.		(b) Adams County of region 6 except for that area lying within Intercounty Weed District No. 52 (c) Intercounty Weed District No. 51 (d) <u>Kittitas County of region 6.</u>
((42)) (45) pepperweed, perennial <i>Lepidium latifolium</i>	(a) regions 1, 2, 3, 4, 5, 7, 8, 10 (b) Intercounty Weed Districts No. 51 and 52 (c) Kittitas County of region 6 (d) Adams County of region 6 except for the area west of Highway 17 and north of Highway 26.	((47)) (51) skeletonweed, rush <i>Chondrilla juncea</i>	(a) regions 1, 2, 3, 5, 8, 9 (b) Franklin County except T13N, R36E; and T14N, R36E (c) Adams County except those areas lying east of a line running north from Franklin County along the western boundary of Range 36 East to State Highway 26 then north on Sage Road until it intersects Lee Road, then due north until intersection with Providence Road, then east to State Highway 261, then north along State Highway 261 to its intersection with Interstate 90, henceforth on a due north line to intersection with Bauman Road, then north along Bauman Road to its terminus, then due north to the Lincoln County line.
(46) primrose, water <i>Ludwigia hexapetala</i>	(a) <u>regions 1, 2, 3, 4, 5, 6, 7, 9, 10</u> (b) <u>region 8 except T8N, R3W, S14 of Cowlitz County.</u>		(d) region 6 except that portion lying within Grant County that is southerly of State Highway 28, northerly of Interstate Highway 90 and easterly of Grant County Road E Northwest (e) Stevens County north of Township 33 North of region 4 (f) Ferry and Pend Oreille counties of region 4 (g) Asotin County of region 10 (h) Garfield and Columbia counties south of Highway 12 (i) Whitman County lying in Ranges 43 through 46 East of Townships 15 through 20 North; T14N, Ranges 44 through 46 East; and T13N, Ranges 45 and 46 East.
((43)) (47) puncturevine <i>Tribulus terrestris</i>	(a) Skagit County of region 2 (b) Kittitas County of region 6 (c) Adams County (d) <u>Clallam County of region 1.</u>		(a) regions 1, 2, 3, 5, 6, 8, 9, 10
((44)) (48) ragwort, tansy <i>Senecio jacobaea</i>	(a) regions 3, 4, 6, 7, 9, 10 (b) region 5, that portion of Pierce County lying south or east of a boundary beginning at the White River and State Highway 410, then west along State Highway 410 to intersection with State Highway 162 (Orting) to intersection with Orville Road, then south along Orville Road to intersection with Kapowsin Highway (304th Street East), then west following Kapowsin Highway to intersection with State Route 7, then south along State Route 7 to intersection with State Route 702, then west along State Route 702 to intersection with State Route 507, then southwest along State Route 507 to intersection with the Nisqually River.		
((45)) (49) rocket, garden <i>Eruca Vesicaria ssp. sativa</i>	(a) regions 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 (except where intentionally cultivated).	((48)) (52) Snapdragon, dwarf <i>Chaenorrhinum minus</i>	(a) regions 1, 2, 3, 5, 6, 8, 9, 10 (b) region 4 except Spokane County (c) region 7 except Spokane County.
((46)) (50) sandbur, longspine <i>Cenchrus longispinus</i>	(a) regions 1, 2, 3, 4, 5, 7, 8		

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Name	Will be a "Class B designate" in all lands lying within:	Name	Will be a "Class B designate" in all lands lying within:
((49)) (53) sowthistle, perennial <i>Sonchus arvensis</i> <i>ssp. arvensis</i>	(a) regions 1, 2, 3, 4, 7, 8, 9, 10 (b) Adams County of region 6 (c) region 5 except for sections 28, 29, 30, 31, 32, and 33 in T19N, R1E of Thurston and Pierce counties.		(f) in all lands lying within Asotin County, Region 10, except as follows: T11N, R44E, Sections 25, 26, 27, 28, 29, 31, 32, 33, 34, and 35; T11N, R45E, Sections 21, 22, 23, and 25; T11N, R36E, Sections 19, 20, 21, 28, 29, 30, 31, 32, and 33; T10N, R44E, Sections 1, 2, 3, 4, 5, 6, 8, 9, 10, 11, 12, 15, and 16; T10N, R45E, Sections 23 and 24; T10N, R46E, Sections 7, 8, 17, 18, 19, 20, 21, 22, 27, 34, and 35; T9N, R46E, Sections 1, 2, 12, 13, 14, 23, 24, 25, 26, 35, and 36; T9N, R47E, Sections 18, 19, 30, and 31; T8N, R46E, Sections 1, 2, 3, 9, 10, 11, 12, 13, 14, 15, 16, 23, and 24; T8N, R47E, Sections 8, 17, 18, 19, 20, 29, 30, 31, and 32.
((50)) (54) spurge, leafy <i>Euphorbia esula</i>	(a) regions 1, 2, 3, 4, 5, 6, 8, 9, 10 (b) region 7 except as follows: (i) T27N, R37E, Sections 34, 35, 36; T27N, R38E, Sections 31, 32, 33; T26N, R37E, Sections 1, 2, 3, 10, 11, 12, 13, 14, 15, 16, 26; T26N, R38E, Sections 5, 6, 7, 8 of Lincoln County (ii) T24N, R43E, Section 12, Qtr. Section 3, Parcel No. 9068 of Spokane County.	((52)) (56) Swainsonpea <i>Sphaerophysa salsula</i>	(a) regions 1, 2, 3, 4, 5, 7, 8 (b) Columbia, Garfield, Asotin, and Franklin counties (c) an area beginning at the Washington — Oregon border at the southwest portion of Section 15, R32E, T6N, then north to the northwest corner of Section 3, R32E, T7N, then east to the northeast corner of Section 3, R36E, T7N, then south to the southeast portion of Section 15, R36E, T6N, at the Washington — Oregon border, then west along the Washington — Oregon border to the point of beginning
((54)) (55) starthistle, yellow <i>Centaurea solstitialis</i>	(a) regions 1, 2, 3, 5, 6, 8 (b) region 4 except those areas within Stevens County bounded by a line beginning at the intersection of State Highway 20 and State Highway 25, then north to intersection with Pinkston Creek Road, then east along Pinkston Creek Road to intersection with Highland Loop Road, then south along Highland Loop Road to intersection with State Highway 20, then west along State Highway 20 to intersection with State Highway 25 (c) region 7 except those areas within Whitman County lying south of State Highway 26 from the Adams County line to Colfax and south of State Highway 195 from Colfax to Pullman and south of State Highway 270 from Pullman to the Idaho border (d) Franklin County (e) region 9 except Klickitat County	((53)) (57) thistle, musk <i>Carduus nutans</i> ((54)) (58) thistle, plumeless <i>Carduus acanthoides</i> ((55)) (59) thistle, Scotch <i>Onopordum acanthium</i>	(d) Weed District No. 3 of Grant County (e) Adams County of region 6. (a) regions 1, 2, 3, 5, 6, 7, 8, 9, 10 (b) Spokane and Pend Oreille counties. (a) regions 1, 2, 3, 5, 6, 7, 8, 9, 10 (b) region 4 except those areas within Stevens County lying north of State Highway 20. (a) regions 1, 2, 3, 4, 5, 6, 8, 9

Name	Will be a "Class B designate" in all lands lying within:
((56)) (60) toadflax, Dalmatian <i>Linaria dalmatica</i> <i>ssp. dalmatica</i>	(b) region 7 except for those areas within Whitman County lying south of State Highway 26 from the Adams County line to Colfax and south of State Highway 195 from Colfax to Pullman and south of State Highway 270 from Pullman to the Idaho border (c) Franklin County. (a) regions 1, 2, 5, 8, 10
((57)) (61) watermilfoil, Eurasian <i>Myriophyllum</i> <i>spicatum</i>	(b) Douglas County of region 3 lying south of T25N, west of R25E, and east of R28E (c) Okanogan County lying within T 33, 34, 35N, R19, 20, 21, 22E, except the southwest, southeast, and northeast quarters of the northeast quarter of section 27, T35N, R21E; and the northeast quarter of the southeast quarter of section 27, T35N, R21E (d) Kittitas, Chelan, Douglas, and Adams counties of region 6 (e) Intercountry Weed District No. 51 (f) Weed District No. 3 of Grant County (g) Lincoln and Adams counties (h) The western two miles of Spokane County of region 7 (i) region 9 except as follows: (i) those areas lying within Yakima County (ii) those areas lying west of the Klickitat River and within Klickitat County. (a) regions 1, 9, 10 (b) region 7 except Spokane County (c) region 8 except within 200 feet of the Columbia River (d) Adams County of region 6 (e) in all water bodies of public access, except the Pend Oreille River, in Pend Oreille County of region 4.

AMENDATORY SECTION (Amending WSR 98-24-026, filed 11/23/98, effective 1/2/99)

WAC 16-750-015 State noxious weed list—Class C noxious weeds.

Common Name	Scientific Name
babysbreath	<i>Gypsophila paniculata</i>
<u>beard, old man's</u>	<u><i>Clematis vitalba</i></u>
bindweed, field	<i>Convolvulus arvensis</i>
canarygrass, reed	<i>Phalaris arundinacea</i>
cockle, white	<i>Silene latifolia</i> ssp. <i>alba</i>
cocklebur, spiny	<i>Xanthium spinosum</i>
cress, hoary	<i>Cardaria draba</i>
dodder, smoothseed alfalfa	<i>Cuscuta approximata</i>
goatgrass, jointed	<i>Aegilops cylindrica</i>
henbane, black	<i>Hyoscyamus niger</i>
houndstongue	<i>Cynoglossum officinale</i>
knotweed, giant	<i>Polygonum sachalinense</i>
knotweed, Japanese	<i>Polygonum cuspidatum</i>
mayweed, scentless	<i>Matricaria perforata</i>
poison-hemlock	<i>Conium maculatum</i>
rye, cereal	<i>Secale cereale</i>
spikeweed	<i>Hemizonia pungens</i>
St. Johnswort, common	<i>Hypericum perforatum</i>
tansy, common	<i>Tanacetum vulgare</i>
<u>thistle, bull</u>	<u><i>Cirsium vulgare</i></u>
<u>thistle, Canada</u>	<u><i>Cirsium arvense</i></u>
toadflax, yellow	<i>Linaria vulgaris</i>
((thistle, Canada	<i>Cirsium arvense</i>))
whitetop, hairy	<i>Cardaria pubescens</i>
wormwood, absinth	<i>Artemisia absinthium</i>

AMENDATORY SECTION (Amending WSR 97-06-108, filed 3/5/97, effective 4/5/97)

WAC 16-750-020 Noxious weeds—Civil infractions—Schedule of monetary penalties. Civil infractions under chapter 17.10 RCW shall be assessed a monetary penalty according to the following schedule:

(1) Any owner knowing of the existence of any noxious weeds on the owner's land who fails to control ~~((such))~~ the noxious weeds ~~((in accordance with chapter 17.10 RCW and the rules and regulations in force pursuant thereto shall))~~ will be assessed the following monetary penalties. The penalties ~~((shall be))~~ are assessed per parcel, per noxious weed species, per day after expiration of the notice to control filed pursuant to RCW 17.10.170:

(a) Any Class A noxious weed:

1st offense within five years	\$ 750
2nd and any subsequent offense	1,000

(b) Any Class B designate noxious weed in the noxious weed control region in which the land lies:

1st offense within five years	\$ 500
2nd offense	750

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3rd and any subsequent offense 1,000

(c) Any Class B nondesignate noxious weed in the noxious-weed control region in which the land lies; or any Class C noxious weed:

1st offense within five years \$ 250
2nd offense 500
3rd offense 750
4th and any subsequent offense 1,000

(2) Any person who enters upon any land in violation of an order in force pursuant to RCW 17.10.210 ((shall)) will be assessed as follows:

1st offense within five years \$ 500
2nd offense 750
3rd and any subsequent offense 1,000

(3) Any person who interferes with the carrying out of the provisions of chapter 17.10 RCW shall be assessed as follows:

1st offense within five years \$ 500
2nd offense 750
3rd and any subsequent offense 1,000

AMENDATORY SECTION (Amending WSR 93-01-004, filed 12/2/92, effective 1/2/93)

WAC 16-750-025 Plant monitor list—Purpose. The purpose of the monitor list is to gather more information on suspect weeds as well as monitor for occurrence or spread. Information collected may be used to justify future inclusion on the state noxious weed list. There is no ((legal or)) regulatory aspect to this list. Reasons for plant inclusion on the monitor list include:

- (1) ((A)) There is reason to believe the species is invasive or poses a potential threat to Washington.
(2) Additional information is needed on distribution, abundance, or biology.
(3) The species was once present in Washington and on the state noxious weed list. It is now being monitored for reoccurrence.
(4) ((A)) There is need to verify existence (site investigation), verify identification, and/or obtain voucher specimen.
(5) It exists in an adjacent state or province or occurs on an adjacent state or province's noxious weed list and is not known ((from)) to occur in Washington.

Native species of Washington will not be included on the monitor list. Each weed included on the monitor list will be included by vote of the noxious weed committee ((and will require a sponsor for monitoring)). A sponsor is required in order to place a weed on the monitor list. The current monitor list is kept in the state noxious weed board office.

AMENDATORY SECTION (Amending WSR 93-01-004, filed 12/2/92, effective 1/2/93)

WAC 16-750-105 State noxious weed control board—Powers—Duties—Responsibilities. The powers and duties of the board include:

- (1) Adopting rules defining the words "control," "contain," "eradicate," and the term "prevent the spread of noxious weeds";
(2) Conducting elections to the board, and adopting rules as set forth in this chapter establishing a position number for each elected position to the board and ((designate)) designat- ing in which county noxious weed control board members are eligible to vote for each elected position;
(3) Electing officers, conducting meetings, holding hearings, appointing committees, entering upon any property to administer chapter 17.10 RCW, and adopting the necessary rules to carry out its powers and duties identified herein;
(4) When petitioned, holding a hearing in a county to determine the need for activation of the county noxious weed control board and, if such a need is found to exist, ordering the county legislative authority to activate and appoint members to such board;
(5) Each year or more often, adopting a state noxious weed list, classifying the weeds on the list, and entering written findings for the inclusion of each weed on the list;
(6) Sending a copy of the state noxious weed list to each activated county noxious weed control board, regional noxious weed control board, weed district, and each county legislative authority of each county with an inactivated noxious weed control board;
(7) When petitioned and following a hearing, ordering any county noxious weed board to include a noxious weed from the state list on the county board or district's weed list;
(8) Adopting a schedule of monetary penalties for each violation of chapter 17.10 RCW classified as a civil infraction and submitting the schedule to the appropriate courts;
(9) Employing an executive secretary whose qualifications, duties, and responsibilities are set forth in this chapter and RCW ((47.10.060)) 17.10.070;
(10) Preparing and distributing a biennial written report showing the ((funds disbursed by the department to each noxious weed control board or weed district;)) expenditure of state funds on noxious weed control; specifying how the funds were spent((;)); the status of state, county, and district programs; recommending the continued best use of state funds((;)); and recommending the long-term needs regarding weed control;
(11) Advising the director as provided for in chapter 17.10 RCW.

AMENDATORY SECTION (Amending WSR 93-01-004, filed 12/2/92, effective 1/2/93)

WAC 16-750-115 State noxious weed control board—Membership. The board ((shall be)) is comprised of nine voting members and three nonvoting members selected as follows:

- (1) Four of the members ((shall be)) are elected by the members of activated county noxious weed control boards

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eligible to vote for the elected position established by the state noxious weed board. Two ~~((such))~~ members ~~((shall be))~~ are elected from the west side of the state, the crest of the Cascades being the dividing line, and two from the east side of the state.

(2) The director ~~((shall be))~~ is a voting member.

(3) One member ~~((shall be))~~ is elected by the directors of activated weed districts formed under chapter 17.04 or 17.06 RCW.

(4) The Washington state association of counties ~~((shall))~~ appoints one voting member who ~~((shall))~~ must be a member of a county legislative authority.

(5) The director ~~((shall))~~ appoints two voting members to represent the public interest, one from the west side and one from the east side of the state.

(6) The director ~~((shall))~~ appoints three nonvoting members representing scientific disciplines relating to weed control.

AMENDATORY SECTION (Amending WSR 93-01-004, filed 12/2/92, effective 1/2/93)

WAC 16-750-120 State noxious weed control board—Nominations—Elections—Terms of office—Vacancies. (1) Nominations and elections to board positions ~~((shall be))~~ are conducted by regular mail.

(2) The board ~~((shall))~~ calls for nominations to elected positions at least sixty days prior to expiration of position terms.

(3) The board ~~((shall))~~ sends ballots to eligible activated county noxious weed control boards or weed district directors by regular mail at least forty-five days prior to expiration of each position term.

(4) Ballots ~~((shall))~~ must be returned no later than thirty days before expiration of each term. Only official ballots will be accepted. Photocopied ballots will be considered invalid.

(5) The board chairperson ~~((shall))~~ appoints a committee to count ballots and certify elections at least thirty days prior to expiration of each term.

(6) Results of elections ~~((shall be))~~ are announced prior to the next scheduled board meeting.

(7) For the purpose of conducting nominations or elections, the board ~~((shall))~~ uses the current list of county noxious weed control board voting members and weed district directors.

(8) Any person who is a resident in and member of an activated county noxious weed control board in the counties represented by positions 1, 2, 3, and 4 may enter his or her name, or that of any qualified person in nomination for election to the board position by voting members of the above activated county noxious weed control boards.

(9) Any director of an active weed district formed under chapter 17.04 or 17.06 RCW may enter a name in nomination for election to position 5 on the board.

(10) Each candidate or each person nominating such candidate ~~((shall))~~ must complete a certificate of nomination, and ~~((shall))~~ must return it to the board postmarked by the date specified.

(11) The board ~~((shall))~~ creates a ballot listing the names in alphabetical order beginning with the last name first, of the candidates nominated to the position of the board: Provided, That the board shall remove the name of any person nominated who notifies the board in writing that he or she is unwilling to serve on the board.

(12) The ballot, along with the statement, if any, of each candidate in ~~((such))~~ the election ~~((shall))~~ will be mailed by regular mail to each voting member of an activated county noxious weed control board or director of an active weed district. Only county board members or weed district directors within the established position area are eligible to vote for the board member to represent that area.

(13) Each voting member of an activated county noxious weed control board or director of an activated weed district may cast one vote for the candidates appearing on the appropriate ballot and return it to the board as provided above and as per the dates specified ~~((thereon))~~.

(14) The candidate receiving the highest number of votes ~~((shall be deemed))~~ is elected: Provided, That if ~~((such))~~ the candidate fails to receive more than fifty percent of the votes cast in an election, a second election ~~((shall))~~ will be held between such candidate and the candidate receiving the next highest votes and: Provided further, That if there is only one candidate, ~~((said))~~ that candidate ~~((shall))~~ will be deemed elected unanimously.

(15) The term of office for all members of the board ~~((shall be))~~ is three years from the date of election or appointment.

(16) Vacancies among board members appointed by the director ~~((shall))~~ will be filled by the director. Vacancies among elected members ~~((shall))~~ will be filled by special election by those entities eligible to elect that position for the expired term. Special elections follow the same procedure ~~((set forth for))~~ as regular elections. Board members appointed to fill vacancies will serve out the existing term.

AMENDATORY SECTION (Amending WSR 97-06-108, filed 3/5/97, effective 4/5/97)

WAC 16-750-130 State noxious weed control board—Organization. The organization of the board is as follows:

(1) The officers of the board ~~((shall be))~~ are the chairperson, vice-chairperson, and secretary. The title of the chief administrative officer ~~((shall be))~~ is the executive secretary.

(2) Duties of officers.

(a) The chairperson ~~((shall))~~ presides at all meetings of the board, has the power to appoint committees, ~~((shall))~~ acts as ex officio member of all committees except the executive committee, serves as chairperson of the executive committee, serves as official signer of agreements between the board and public or private agencies, and ~~((shall))~~ performs such other duties as pertain to the office.

(b) The vice-chairperson ~~((shall))~~ performs the duties of the chairperson in his or her absence, ~~((shall))~~ acts as an ex officio member of all committees, and any other duties delegated by the chairperson. The vice-chairperson ~~((shall))~~ will assume the duties of and serve out the term of the chairperson upon permanent departure of ~~((same))~~ the chairperson.

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(c) The secretary (~~(shall be)~~) is the official keeper of the minutes and (~~(shall)~~) approves them, and presents (~~(the minutes)~~) them to the board for adoption. In the absence of the chairperson and vice-chairperson, the secretary (~~(will)~~) performs the duties of the chairperson.

(d) The (~~(duty)~~) duties of the executive secretary, in addition to administrative duties assigned elsewhere in this chapter, (~~(will be)~~) are to keep a record of the proceedings of the board, notify all board members, county noxious weed control boards, and weed districts of meetings, act as an ex officio nonvoting member of all committees, negotiate agreements with public and private agencies on behalf of the board, and perform other responsibilities as delegated by the chairperson.

(3) Term of office. Term of office for officers of the board (~~(shall be for)~~) is twelve months effective July 27 of the year elected and ending July 26 of the following year.

(4) Election of officers. Elections will be held at the first meeting of the fiscal year in July. Officers (~~(shall be)~~) are elected by a majority vote of the voting members present.

(5) Vacancies of officers other than chairperson, shall be filled by election of the voting board members present.

AMENDATORY SECTION (Amending WSR 93-01-004, filed 12/2/92, effective 1/2/93)

WAC 16-750-135 State noxious weed control board—Meetings. (1) All meetings of the board (~~(shall be)~~) are open and public and all persons (~~(shall be)~~) are permitted to attend any meeting of the board, except as otherwise provided in the Open Public Meetings Act, chapter 42.30 RCW.

(2) Members of the public (~~(shall not be)~~) are not required, as a condition to attendance at a board meeting, to register names, other information, or otherwise to fulfill any condition (~~(precedent to attendance)~~) prior to attending.

(3) Interruptions. In the event that any meeting is interrupted by any person as to render the orderly conduct of (~~(such)~~) the meeting unfeasible, and order cannot be restored by the removal of individuals who are interrupting the meeting, the chairperson may order the meeting room cleared and continue in session or may adjourn the meeting and reconvene at another location selected by a majority vote of the board members present. In such a session, the board will follow the procedures set forth in the Open Public Meetings Act (RCW 42.30.050).

(4) Adoption of rules, regulations, resolution, etc. The board shall not adopt any rules, regulations, resolution, etc. except in a meeting open to the public and then only at a meeting, the date of which is fixed by rule, or at a meeting of which notice has been given according to the provisions of the Open Public Meetings Act. Any action taken at meetings failing to comply with this section (~~(shall be)~~) is null and void.

(5) Regular meetings—Schedule—Publication in State Register—Notice of change. The board (~~(shall)~~) will meet once every two months and at other times determined by the chairperson or by a majority of the voting members. If any regular meeting falls on a holiday, (~~(such regular)~~) the meeting (~~(shall)~~) will be held on the next business day. The executive secretary (~~(shall)~~) files with the code reviser a schedule

of the time and place of (~~(such)~~) regular meetings on or before January of each year for publication in the Washington State Register. Notice of any change from (~~(such)~~) this meeting schedule (~~(shall)~~) will be published in the State Register for distribution at least twenty days prior to the rescheduled meeting date.

(6) Notice. Ten days notice of all meetings (~~(shall)~~) will be given by mailing a copy of the notice and agenda to each board member, county noxious weed control board, and weed district.

(7) Special meetings. The ten-day notice may be waived for special meetings which may be called at any time by the chairperson, director, or a majority of the voting board members. Special meeting notification shall follow the procedures for special meetings set forth in the Open Public Meetings Act (RCW 42.30.080).

(8) Adjournments. (~~(The chairperson may adjourn any regular, adjourned regular, special, or adjourned special meeting to a time and place specified in the order of adjournment. Less than a quorum may so adjourn from time to time. If all members are absent from any regular or adjourned regular meeting, the executive secretary may declare the meeting adjourned to a stated time and place. He or she shall cause a written notice of the adjournment to be given in the same manner as provided for special meetings, unless such notice is waived as provided for special meetings. Whenever any meeting is adjourned a copy of the order or notice of adjournment shall be conspicuously posted immediately after the time of the adjournment on or near the door of the place where the regular, adjourned regular, special, or adjourned special meeting was held. When a regular or adjourned regular meeting is adjourned as provided in this section, the resulting adjourned regular meeting is a regular meeting for all purposes. When an order of adjournment of any meeting fails to state the hour at which the adjourned meeting is to be held, it shall be held at the hour specified for regular meetings.))~~ If a meeting is adjourned before the advertised time, a written notice will be posted at the meeting place that specifies when the meeting was adjourned.

(9) Executive sessions.

(a) The board may hold an executive session during a regular meeting which may be called by the chairperson or a majority of voting board members present. No official actions (~~(shall)~~) will be taken at executive sessions (~~(which shall be binding)~~). Executive sessions (~~(shall)~~) may deal only with matters authorized by RCW 42.30.110.

(b) Before convening in executive session, the chairperson shall publicly announce the purpose of excluding the public from the meeting place and the time when the executive session will be concluded. The executive session may be extended to a (~~(stated)~~) later time by announcement of the chairperson.

(10) Agenda. The agenda (~~(shall)~~) will be prepared by the executive secretary in consultation with the chairperson. Items may be submitted by all board members to the executive secretary at least fifteen days prior to the board meeting.

(11) Attendance. Each board member is expected to attend all board and assigned committee meetings. In the event a board member is unable to attend, he or she is requested to provide the chairperson or executive secretary

with the reasons for the absence prior to the meeting. Any voting member who misses two consecutive board meetings without providing the chairperson or the executive secretary with the reasons for the absences prior to the meeting may be removed from the board, following due notice and a hearing. Removal procedures may be initiated by a quorum vote of the board.

(12) Voting procedures. Board voting procedures on all matters ~~((shall be))~~ are as follows:

(a) Five voting members ~~((shall))~~ constitute a quorum to conduct the affairs of the board.

(b) The chairperson may vote on all matters coming before the board.

(c) A roll call of all voting board members present may be requested on all motions by any member.

(d) All members have the right to move ~~((and))~~ or second motions.

~~((There shall be no))~~ Proxy voting is not permitted.

(13) Minutes. The minutes of all regular and special meetings, except executive sessions, ~~((shall))~~ will be promptly recorded and such records ~~((shall be))~~ are open to public inspection.

(14) Press releases. All press releases and official information concerning board activities ~~((shall))~~ will be released from the board office.

(15) Public participation.

(a) Any person wishing to make a formal presentation at a regularly scheduled meeting of the board ~~((shall))~~ must notify the executive secretary of the subject matter at least fifteen days before the meeting.

(b) Permission to appear before the board ~~((shall))~~ will be granted by the executive secretary in consultation with the chairperson before the meeting. Permission ~~((shall))~~ includes the date and time of the meeting and the time set for formal presentation.

(c) The chairperson may, at his or her discretion, recognize anyone in the audience who indicates at the time of the meeting a desire to speak.

AMENDATORY SECTION (Amending WSR 93-01-004, filed 12/2/92, effective 1/2/93)

WAC 16-750-140 State noxious weed control board—Committees. Standing committees shall fairly reflect the composition of the board and unless advertised and open to the public, not more than four voting members may attend a committee meeting.

(1) Executive committee. ~~((There shall be))~~ An executive committee is authorized to deal with housekeeping and personnel matters, subject to board approval at the next scheduled board meeting. The chairperson ~~((shall))~~ appoints the executive committee with approval of the board.

(2) Standing committees. The standing committees of the board ~~((shall be))~~ are: Budget, executive, ~~((grant program,))~~ noxious weed, and education. The board chairperson ~~((shall))~~ appoints the chairperson and other members of each committee.

(3) Ad-hoc committees may be appointed from time to time.

(4) Committee voting procedures.

(a) All members of a particular committee ~~((shall))~~ have the right to vote. Other members in attendance may enter into discussion, but shall have no vote.

~~((There shall be no))~~ Proxy voting is not permitted.

(c) All questions decided by the committee ~~((shall))~~ will be by majority of the committee members present.

(5) Advisory committees. Advisory committees ~~((shall be))~~ are established by the board as deemed necessary to the functioning of the board. Advisory committees ~~((shall be))~~ are limited in their scope to the purposes determined by the board.

~~((Committee of the whole. The chairperson may, from time to time, direct that items of major importance be discussed in the committee of the whole. Meetings of the committee of the whole shall be chaired by the chairperson. When meeting as a committee of the whole, all voting members shall have the right to vote. There shall be no proxy voting.~~

~~((7))~~ Notice. Notice of committee meetings shall be given to the executive secretary.

~~((8))~~ (7) Committee reports.

(a) Committee reports and recommendations ~~((shall be))~~ are submitted to the board in writing except when committees meet in conjunction with the board.

(b) Minority reports may be submitted by members of a committee, if signed by ~~((said))~~ those members.

~~((9))~~ (8) Committee compensation. Board members attending meetings of committees ~~((shall))~~ will, upon request, be reimbursed on the same basis as for attendance at regularly called board meetings.

(9) All committee appointments will be reviewed in July of even-numbered years.

AMENDATORY SECTION (Amending WSR 93-01-004, filed 12/2/92, effective 1/2/93)

WAC 16-750-145 State noxious weed control board—Executive secretary—Definition. The executive secretary acts as the chief administrative officer for the board and:

(1) Implements and administers the statutes, administrative rules, and policies of the noxious weed control program assigned to the board;

(2) Plans, develops, and prepares administrative rules and policies for the state noxious weed control program in conjunction with the board and the department; arranges public hearings in compliance with the Administrative Procedure Act and acts as chief hearing officer for the board; conducts elections for positions on the board;

(3) Coordinates the educational and weed control efforts of county and regional noxious weed control boards and weed districts;

(4) Coordinates board activities with the department, maintains a liaison and performs coordinating activities with other public and private agencies;

(5) Negotiates agreements, on behalf of the board, with federal agencies, tribes, and other public and private agencies;

(6) Represents the board before the state legislature; coordinates the development, edits, and oversees the produc-

tion of the biennial report to the ~~((governor, legislature,))~~ county noxious weed boards~~((;))~~ and weed districts on how state funds were spent and recommendations for the continued best use of state funds for noxious weed control;

(7) Plans, prepares, and presents programs on noxious weed control, specific weed species, and the role of the board; acts as the principal spokesperson of the board to the media, technical audiences, and the public;

(8) Maintains a collection of scientific and technical information relating to noxious weeds and integrated vegetation management; prepares written findings for the inclusion of species on the state noxious weed list;

(9) Develops, maintains, and ensures dissemination of information relating to noxious weeds to county noxious weed control boards and weed districts and keeps the general public and program participants informed of board activities and accomplishments;

(10) ~~((Coordinates with the department on the administration of the noxious weed grant program; advises and assists local county and weed district agencies in preparing state noxious weed control grants;))~~ Provides technical advice to county noxious weed boards and weed districts on the state noxious weed law and related rules;

(11) Plans and coordinates state-wide approaches to selected noxious weeds, assists in the development of state-wide noxious weed survey standards, coordinates efforts with department weed specialists;

(12) Coordinates the activities of the board by scheduling all regular and committee meetings; in consultation with the chair, prepares meeting agendas; prepares all board correspondence; updates board on local, state, and federal noxious weed activities; acts as an ex officio, nonvoting member of all committees;

(13) Records the official minutes of the board and ensures their distribution; ~~((maintains records on the noxious weed grant program and on county noxious weed boards and weed districts;))~~ maintains all board records, acts as public record officer;

(14) Oversees fiscal management of the board's administrative budget and cooperates with the department in budget development;

(15) Supervises all board employees, approves hiring, rehiring, promotion, and termination of all board employees and ensures these processes and any disciplinary actions comply with state and department personnel policies; notifies board and department prior to initiating an adverse personnel action against any employee;

(16) Performs other assignments as determined by the board.

AMENDATORY SECTION (Amending WSR 93-01-004, filed 12/2/92, effective 1/2/93)

WAC 16-750-150 State noxious weed control board—Executive secretary—Hiring and dismissal. The board ~~((shall have))~~ has the responsibility for hiring and removing from office the executive secretary. The executive secretary may be dismissed by a majority vote of the full board upon the recommendation of the chairperson and the executive committee. Prior to initiating a dismissal the execu-

utive committee will notify the department. Neglect of duty, gross inefficiency, gross incompetence, gross misconduct, malfeasance or willful violation of obligations may give cause for a recommendation for dismissal or dismissal. Before any action is taken by the board to dismiss the executive secretary, the chairperson and one member of the executive committee will confer with the executive secretary and provide in writing and fully explain the charges and contemplated recommendation for dismissal. The privilege of a hearing before the executive committee or full board will be granted to the executive secretary prior to any formal action taken by the board. The executive secretary is granted thirty days preparation time for the hearing and is entitled to present evidence, to be assisted by favorable witnesses, and to confront unfavorable witnesses at the hearing.

AMENDATORY SECTION (Amending WSR 93-01-004, filed 12/2/92, effective 1/2/93)

WAC 16-750-155 State noxious weed control board—Exchange time. The board shall provide exchange time in lieu of overtime pay to its employees for hours worked in excess of forty hours per week. The time shall accrue on an hour-for-hour basis. Exchange time has no cash value.

AMENDATORY SECTION (Amending WSR 93-01-004, filed 12/2/92, effective 1/2/93)

WAC 16-750-165 State noxious weed control board—Budget and finances. (1) All board funds ~~((shall))~~ must be expended in a manner consistent with board wishes. The executive secretary is authorized to make these expenditures as appropriate. All matters related to payment of compensation and other expenses of the board ~~((shall be))~~ are subject to the State Budget and Accounting Act (chapter 43.88 RCW).

(2) Budget approval. The executive secretary ~~((shall))~~ prepares the biennial budget after consulting the budget committee. The budget will provide for costs associated with salary, personal benefits, travel, equipment, and goods and services for the operation of the board. The budget ~~((shall be))~~ is reviewed by the board for recommendation to and approval by the department and office of financial management.

(3) The board reserves the right to pursue additional funds for its administrative budget ~~((or the noxious weed grant account))~~ independent of the department.

AMENDATORY SECTION (Amending WSR 93-01-004, filed 12/2/92, effective 1/2/93)

WAC 16-750-185 State noxious weed control board—Access to public records and documents. (1) In accordance with the Public Records Disclosure Act of Washington, the board shall make available for public inspection and copying all public records, unless the record falls within the specific exemptions of RCW 42.17.260~~((;))~~ (6), 42.17.310, 42.17.315, or other statute which exempts or prohibits disclosure of specific information or records.

(2) The provisions of chapter 42.17 RCW shall be liberally construed to promote full access to public records so as to assure continuing public confidence and to assure the public interest will be fully protected.

(3) Place and times for inspection and copying. The executive secretary will make public records available for inspection upon request.

(4) Charges for copying. No fee shall be charged for the inspection of public records. The executive secretary may impose a reasonable charge for providing copies of public records and for the use by any person of agency equipment to copy public records, which charges shall not exceed the amount necessary to reimburse the board for its actual costs incident to such copying.

(5) Responses to requests. Responses to requests for public records shall be made promptly. Within five business days of receiving a public record request the board will respond as follows:

- (a) With the record requested;
- (b) Acknowledgment of the request and a reasonable estimate of the time it will take to provide the requested records or documents;
- (c) Denying the public record request.

Denials of requests will be accompanied by a written statement of the specific reasons the request is being denied and shall have received a prompt review and final determination by the board's executive committee. Additional time may be required to respond to a request due to time needed to clarify the intent of the request, to locate and assemble the information requested, to notify third persons or agencies affected by the request, or to determine whether any of the information requested is exempt. In acknowledging receipt of a public record request that is unclear, the executive secretary may ask the requestor to clarify what information the requestor is seeking. If the requestor fails to clarify the request, the board will not respond to it.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 16-750-175 State noxious weed control board—Reports.
- WAC 16-750-190 State noxious weed control board—Rule amendments.

WSR 99-20-140
PROPOSED RULES
DEPARTMENT OF LICENSING
 (Professional Athletics Section)
 [Filed October 6, 1999, 10:38 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-12-103.

Title of Rule: WAC 36-12-195, 36-12-465, 36-12-475, and 36-12-485, professional boxing rules, WAC 36-13-010

through 36-13-140, professional wrestling rules, and WAC 36-14-110 through 36-14-420, professional martial arts.

Purpose: To allow the department to expand and clarify chapter 36-12 WAC, so as to identify separately professional boxing, wrestling and the martial arts professions and to set licensing fees and add brief adjudicative procedures language.

Statutory Authority for Adoption: RCW 67.08.017(1).

Summary: These rule changes set fees as authorized previously by legislative authority and to establish brief adjudicative procedures.

Reasons Supporting Proposal: The professional athletics program regulates boxing, wrestling and martial arts events. The proposed rules will allow the Department of Licensing to establish fees not previously collected and to add brief adjudicative procedures.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Michael Schneider, 405 Black Lake Boulevard, Building #2, Olympia, WA 98502, (360) 753-3713.

Name of Proponent: Washington State Boxing Officials Association and United Full Contact Federation, private.

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

Explanation of Rule, its Purpose, and Anticipated Effects: A portion of licensees had previously been receiving a no charge license. These rule changes allow the department to set the license fee, establish brief adjudicative procedures language, and expand chapter 36-12 WAC to include chapter 36-13 WAC, Wrestling and chapter 36-14 WAC, Martial arts for better clarification.

Proposal Changes the Following Existing Rules: Changes current licensing year of July 1 through June 30, to one year from date of issue.

No small business economic impact statement has been prepared under chapter 19.85 RCW. There are fewer than fifty businesses affected by this rule.

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

Hearing Location: Department of Licensing, 405 Black Lake Boulevard, Building #2, BPD Conference Room #1, Olympia, WA, on November 15, 1999, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Jim Hood by November 5, 1999, TDD (360) 586-2788, or (360) 753-3713.

Submit Written Comments to: Michael Schneider, Deputy Administrator, Department of Licensing, Professional Athletics Section, P.O. Box 9649, Olympia, WA 98507-9649, fax (360) 644-2550, by November 8, 1999.

Date of Intended Adoption: December 31, 1999.

October 6, 1999

Michael W. Schneider
Deputy Administrator

NEW SECTION

WAC 36-14-110 License fees, renewals and requirements. (1) The license year is one year from date of issue. License fees are paid annually. Fees shall be as follows:

PROPOSED

Manager	-	\$	40.00
Referee	-	\$	15.00
Kickboxer	-	\$	15.00
Martial arts participant	-	\$	15.00
Matchmaker	-	\$	40.00
Second	-	\$	15.00
Inspector	-	\$	40.00
Judge	-	\$	40.00
Timekeeper	-	\$	40.00
Announcer	-	\$	40.00
Physician	-	\$	40.00
Promoter	-	\$	50.00

(2) All renewal fees shall be the same fee as each original license fee.

(3) Licensing requirements:

(a) Completed application on form approved by the department.

(b) Completed physical within one year (kickboxer, martial arts participant and referee only).

(c) One small current photograph, not more than two years old (kickboxer and martial arts participant only).

(d) Payment of license fee.

(4) Applicants may not participate until all licensing requirements are received and approved by the department of licensing.

NEW SECTION

WAC 36-14-400 Application of brief adjudicative proceedings. The director adopts RCW 34.05.482 through 34.05.494 for the administration of brief adjudicative proceedings conducted by request, and/or at the discretion of the director pursuant to RCW 34.05.482, for the categories of matters set forth below. Brief adjudicative proceedings will be limited to a determination of one or more of the following issues:

(1) Whether the department is proposing to deny an application to any applicant as defined in the Professional Athletics Act, chapter 67.08 RCW;

(2) Whether a person is in compliance with the terms and conditions of a final order or agreement previously issued by the department;

(3) Whether a license holder requesting renewal has not submitted all required information to meet minimum criteria for renewal; and

(4) Whether a license holder has been certified by a lending agency and reported to the department for nonpayment or default on a federally or state-guaranteed student loan or service-conditional scholarship.

NEW SECTION

WAC 36-14-410 Preliminary record in brief adjudicative proceedings. (1) The preliminary record with respect to an application for an original or renewal license shall consist of:

(a) The application for the license, renewal, or approval and all associated documents;

(b) All documents relied upon by the department in proposing to deny the application, renewal, or approval; and

(c) All correspondence between the applicant for license, renewal, or approval and the department regarding the application.

(2) The preliminary record with respect to determination of compliance with a previously issued final order or agreement shall consist of:

(a) The previously issued final order or agreement;

(b) All reports or other documents submitted by, or at the direction of, the license holder, in full or partial fulfillment of the terms of the final order or agreement;

(c) All correspondence between the license holder and the department regarding compliance with the final order or agreement; and

(d) All documents relied upon by the department showing that the license holder has failed to comply with the previously issued final order or agreement.

(3) The preliminary record with respect to the determination of nonpayment or default by the license holder on a federally or state-guaranteed student loan or service-conditional scholarship shall consist of:

(a) Certification and report by the lending agency that the identified person is in default or nonpayment on a federally or state-guaranteed student loan or service-conditional scholarship; or

(b) A written release, if any, issued by the lending agency stating that the identified person is making payment on the loan in accordance with a repayment agreement approved by the lending agency.

NEW SECTION

WAC 36-14-420 Conduct of brief adjudicative proceedings. (1) Brief adjudicative proceedings shall be conducted by a presiding officer for brief adjudicative proceedings designated by the director. The presiding officer for brief adjudicative proceedings shall not have personally participated in the decision which resulted in the request for brief adjudicative proceeding.

(2) The parties or their representatives may present written documentation. The presiding officer for brief adjudicative proceedings shall designate the date by which written documents must be submitted by the parties.

(3) The presiding officer for brief adjudicative proceedings may, in his or her discretion, entertain oral argument from the parties or their representatives.

(4) No witnesses may appear to testify.

(5) In addition to the record, the presiding officer for brief adjudicative proceedings may employ department expertise as a basis for decision.

(6) The presiding officer for brief adjudicative proceedings shall not issue an oral order. Within ten days of the final date for submission of materials or oral argument, if any, the presiding officer for brief adjudicative proceedings shall enter an initial order.

PROPOSED

NEW SECTION

WAC 36-13-010 License fees, renewals and requirements. (1) The license year is one year from date of issue. License fees are paid annually. Fees shall be as follows:

Manager	-	\$	15.00
Referee	-	\$	15.00
Wrestling participant	-	\$	15.00
Inspector	-	\$	40.00
Timekeeper	-	\$	40.00
Announcer	-	\$	40.00
Physician	-	\$	40.00
Promoter	-	\$	50.00

(2) All renewal fees shall be the same fee as each original license fee.

(3) Licensing requirements:

(a) Completed application on form approved by the department.

(b) Completed physical within one year. All applicants for a participant's license shall be found after examination by a physician to be physically and mentally fit to participate in a wrestling show or exhibition. (Manager, referee, and wrestling participant only.)

(c) One small current photograph, not more than two years old.

(d) Payment of license fee.

(4) Applicants may not participate until all licensing requirements are received and approved by the department of licensing.

(5) Any person under the age of eighteen years old shall not be eligible for a license with the department of licensing.

NEW SECTION

WAC 36-13-020 Definitions. The term "participant" as used in this chapter means any person actually engaged physically in the wrestling exhibition or show.

NEW SECTION

WAC 36-13-030 Ring. (1) The ring shall not be less than sixteen feet square within the ropes and the ring floor shall extend beyond the ropes not less than eighteen inches.

(2) The ring floor shall be padded to a thickness of at least one inch. A regular one-piece wrestling mat is preferred, although soft padding of a proper thickness may be used, with a top covering of clean canvas tightly stretched and laced to the ring platform.

(3) The promoter shall keep the mat and covering in a clean and sanitary condition.

NEW SECTION

WAC 36-13-040 Department inspector. (1) A department inspector shall attend all wrestling events scheduled. He will make sure all participants are properly licensed and that all laws, rules, and regulations are enforced.

(2) The inspector shall forward all reports and the gross revenue tax due from each event to the department office.

(3) Each inspector shall receive for each event officially attended, a fee not to exceed two percent of the net gate of each event up to a maximum of four hundred dollars and a minimum of thirty-five dollars which shall be paid by the promoter.

NEW SECTION

WAC 36-13-050 Timekeepers and announcers. Timekeepers and announcers will be provided by the promoter and must be licensed with the department.

NEW SECTION

WAC 36-13-060 Matches. (1) The promoter shall furnish the department with an advance notice, giving the names of the participants to be used prior to each event.

(2) Participants shall not engage another participant in any conduct outside of the ring which may endanger a spectator. Any wrestlers involved in this action will be suspended immediately for a period of time set by the department.

NEW SECTION

WAC 36-13-070 Tickets. (1) Tickets must be printed and consecutively numbered.

(2) A ticket manifest must be provided to the department upon request.

NEW SECTION

WAC 36-13-080 Contracts. Any contract or agreement between a participant and a promoter shall be in writing, signed by all parties, and made available to the department upon request.

NEW SECTION

WAC 36-13-090 Records. Promoters shall maintain a full, true, and accurate set of books of account and other records of receipts and disbursements in connection with all shows or exhibitions, and the records shall be open for inspection and audit by representatives of the department for a period of six months after each event or exhibition.

NEW SECTION

WAC 36-13-100 Buildings. Any building or facility where wrestling events are held must meet state and local fire and safety requirements.

NEW SECTION

WAC 36-13-110 Miscellaneous provisions. (1) Dangerous conduct; punishment. The referee shall not permit physically dangerous conduct or tactics by any participant. Any participant who fails to discontinue such tactics, after

being warned by the referee or a department official shall be disqualified and subject to disciplinary action:

(2) Duties of licensees. It shall be the duty of the promoter, his/her agents, employees, and the participants in any wrestling show or exhibition to maintain peace, order, and decency in the conduct of any show or exhibition. There shall be no abuse of a department official at any time. Foul and profane language by participants is prohibited.

(3) Responsibility of promoter.

(a) Each promoter shall be directly responsible to the department for the conduct of its employees and any violation of the laws, rules, or regulations of the department by any employee of a promoter shall be deemed to be a violation by the promoter.

(b) Promoters are responsible for any violations of the law or department rules by their participants.

(4) Postponement or cancellation. A small advance sale of tickets shall not be regarded as a legitimate reason for a postponement or cancellation. Indoor wrestling shows or exhibitions shall not be canceled for any reason except with the approval of the department.

(5) Discrimination. Discrimination against any participant in regard to sex, race, color, creed or national origin shall be referred to the human rights commission.

(6) Appeals.

(a) Licensees may appeal any suspension or revocation to the department in the manner provided in chapter 34.05 RCW.

(b) Such appeals must be received in the department office within twenty days from the date of the notice sent by the department.

NEW SECTION

WAC 36-13-120 Application of brief adjudicative proceedings. The director adopts RCW 34.05.482 through 34.05.494 for the administration of brief adjudicative proceedings conducted by request, and/or at the discretion of the director pursuant to RCW 34.05.482, for the categories of matters set forth below. Brief adjudicative proceedings will be limited to a determination of one or more of the following issues:

(1) Whether the department is proposing to deny an application to any applicant as defined in the Professional Athletics Act, chapter 67.08 RCW;

(2) Whether a person is in compliance with the terms and conditions of a final order or agreement previously issued by the department;

(3) Whether a license holder requesting renewal has not submitted all required information to meet minimum criteria for renewal; and

(4) Whether a license holder has been certified by a lending agency and reported to the department for nonpayment or default on a federally or state-guaranteed student loan or service-conditional scholarship.

NEW SECTION

WAC 36-13-130 Preliminary record in brief adjudicative proceedings. (1) The preliminary record with respect

to an application for an original or renewal license shall consist of:

(a) The application for the license, renewal, or approval and all associated documents;

(b) All documents relied upon by the department in proposing to deny the application, renewal, or approval; and

(c) All correspondence between the applicant for license, renewal, or approval and the department regarding the application.

(2) The preliminary record with respect to determination of compliance with a previously issued final order or agreement shall consist of:

(a) The previously issued final order or agreement;

(b) All reports or other documents submitted by, or at the direction of, the license holder, in full or partial fulfillment of the terms of the final order or agreement;

(c) All correspondence between the license holder and the department regarding compliance with the final order or agreement; and

(d) All documents relied upon by the department showing that the license holder has failed to comply with the previously issued final order or agreement.

(3) The preliminary record with respect to the determination of nonpayment or default by the license holder on a federally or state-guaranteed student loan or service-conditional scholarship shall consist of:

(a) Certification and report by the lending agency that the identified person is in default or nonpayment on a federally or state-guaranteed student loan or service-conditional scholarship; or

(b) A written release, if any, issued by the lending agency stating that the identified person is making payment on the loan in accordance with a repayment agreement approved by the lending agency.

NEW SECTION

WAC 36-13-140 Conduct of brief adjudicative proceedings. (1) Brief adjudicative proceedings shall be conducted by a presiding officer for brief adjudicative proceedings designated by the director. The presiding officer for brief adjudicative proceedings shall not have personally participated in the decision which resulted in the request for brief adjudicative proceeding.

(2) The parties or their representatives may present written documentation. The presiding officer for brief adjudicative proceedings shall designate the date by which written documents must be submitted by the parties.

(3) The presiding officer for brief adjudicative proceedings may, in his or her discretion, entertain oral argument from the parties or their representatives.

(4) No witnesses may appear to testify.

(5) In addition to the record, the presiding officer for brief adjudicative proceedings may employ department expertise as a basis for decision.

(6) The presiding officer for brief adjudicative proceedings shall not issue an oral order. Within ten days of the final date for submission of materials or oral argument, if any, the presiding officer for brief adjudicative proceedings shall enter an initial order.

AMENDATORY SECTION (Amending WSR 97-01-035, filed 12/10/96, effective 1/10/97)

WAC 36-12-195 License fees, renewals and requirements. (1) The license year is ~~((July 1st through June 30th and))~~ one year from date of issue. License fees are paid annually. Fees ~~((are))~~ shall be as follows:

((1)) Manager	-	\$ 40.00
((2)) Referee	-	\$ 15.00
((3)) Boxer	-	\$ 15.00
((4)) Matchmaker	-	\$ 40.00
((5)) Second	-	\$ 15.00
<u>Inspector</u>	=	\$ <u>40.00</u>
<u>Judge</u>	=	\$ <u>40.00</u>
<u>Timekeeper</u>	=	\$ <u>40.00</u>
<u>Announcer</u>	=	\$ <u>40.00</u>
<u>Physician</u>	=	\$ <u>40.00</u>
<u>Promoter</u>	=	\$ <u>50.00</u>

(2) All renewal fees shall be the same fee as each original license fee.

(3) Licensing requirements:

(a) Completed application on form approved by the department.

(b) Completed physical within one year (boxer and referee only).

(c) Federal identification card (boxer only).

(d) One small current photograph, not more than two years old (boxer only).

(e) Payment of license fee.

(4) Applicants may not participate until all licensing requirements are received and approved by the department of licensing.

NEW SECTION

WAC 36-12-465 Application of brief adjudicative proceedings. The director adopts RCW 34.05.482 through 34.05.494 for the administration of brief adjudicative proceedings conducted by request, and/or at the discretion of the director pursuant to RCW 34.05.482, for the categories of matters set forth below. Brief adjudicative proceedings will be limited to a determination of one or more of the following issues:

(1) Whether the department is proposing to deny an application to any applicant as defined in the Professional Athletics Act, chapter 67.08 RCW;

(2) Whether a person is in compliance with the terms and conditions of a final order or agreement previously issued by the department;

(3) Whether a license holder requesting renewal has not submitted all required information to meet minimum criteria for renewal; and

(4) Whether a license holder has been certified by a lending agency and reported to the department for nonpayment or default on a federally or state-guaranteed student loan or service-conditional scholarship.

NEW SECTION

WAC 36-12-475 Preliminary record in brief adjudicative proceedings. (1) The preliminary record with respect to an application for an original or renewal license shall consist of:

(a) The application for the license, renewal, or approval and all associated documents;

(b) All documents relied upon by the department in proposing to deny the application, renewal, or approval; and

(c) All correspondence between the applicant for license, renewal, or approval and the department regarding the application.

(2) The preliminary record with respect to determination of compliance with a previously issued final order or agreement shall consist of:

(a) The previously issued final order or agreement;

(b) All reports or other documents submitted by, or at the direction of, the license holder, in full or partial fulfillment of the terms of the final order or agreement;

(c) All correspondence between the license holder and the department regarding compliance with the final order or agreement; and

(d) All documents relied upon by the department showing that the license holder has failed to comply with the previously issued final order or agreement.

(3) The preliminary record with respect to the determination of nonpayment or default by the license holder on a federally or state-guaranteed student loan or service-conditional scholarship shall consist of:

(a) Certification and report by the lending agency that the identified person is in default or nonpayment on a federally or state-guaranteed student loan or service-conditional scholarship; or

(b) A written release, if any, issued by the lending agency stating that the identified person is making payment on the loan in accordance with a repayment agreement approved by the lending agency.

NEW SECTION

WAC 36-12-485 Conduct of brief adjudicative proceedings. (1) Brief adjudicative proceedings shall be conducted by a presiding officer for brief adjudicative proceedings designated by the director. The presiding officer for brief adjudicative proceedings shall not have personally participated in the decision which resulted in the request for brief adjudicative proceeding.

(2) The parties or their representatives may present written documentation. The presiding officer for brief adjudicative proceedings shall designate the date by which written documents must be submitted by the parties.

(3) The presiding officer for brief adjudicative proceedings may, in his or her discretion, entertain oral argument from the parties or their representatives.

(4) No witnesses may appear to testify.

(5) In addition to the record, the presiding officer for brief adjudicative proceedings may employ department expertise as a basis for the decision.

PROPOSED

(6) The presiding officer for brief adjudicative proceedings shall not issue an oral order. Within ten days of the final date for submission of materials or oral argument, if any, the presiding officer for brief adjudicative proceedings shall enter an initial order.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 36-12-365 Definitions.
- WAC 36-12-367 Participants.
- WAC 36-12-370 Ring.
- WAC 36-12-385 Department inspector.
- WAC 36-12-400 Timekeepers and announcers.
- WAC 36-12-410 Matches.
- WAC 36-12-415 Tickets.
- WAC 36-12-425 Contracts.
- WAC 36-12-435 Records.
- WAC 36-12-445 Buildings.
- WAC 36-12-450 Miscellaneous provisions.

WSR 99-20-143

PROPOSED RULES

TRANSPORTATION IMPROVEMENT BOARD

[Filed October 6, 1999, 11:33 a.m.]

Original Notice.

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

Title of Rule: Housekeeping on existing rules.

Chapter 479-01 WAC, Description of organization.

WAC 479-01-010 Organization of transportation improvement board.

- Removed references to small city account, city hardship assistance account, and central Puget Sound public transportation account.

- Added new responsibilities assigned to TIB since the last WAC update.

WAC 479-01-020 Time and place of meetings.

- Clarified meeting date as being on the "third Friday of the fourth Friday is a holiday."

- Loosened the requirement to have a meeting every month.

WAC 479-01-040 Definitions.

- Added definitions for "agency" and "urban area."

WAC 479-01-050 Administration costs.

- Removed references to small city account, city hardship assistance account, and central Puget Sound public transportation account.

Chapter 479-02 WAC, Public access to information and records, changes made to this section were suggested by the Transportation Improvement Board's assistant attorney general.

WAC 479-02-020 Definitions.

- Deleted because definitions provided were common knowledge.

WAC 479-02-030 Exempted records.

- The entire section is deleted. RCW 42.17.310 contains a much longer list of exemptions than the ones set out in this section. There is risk in setting out some, but not all of the exemptions in the WAC. For an example a court could conclude that the board has waived any exemptions that were not specifically mentioned.

WAC 479-02-050 Public records officer.

- The responsibilities for administering public records has been changed to the executive director. Previously, role of the public records officer was performed by the executive assistant.

WAC 479-02-060 Public records available.

- Changed to refer to the specific exemptions of RCW 42.17.310 or statutes that exempt or prohibit disclosure of specific information or records.

Chapter 479-05 WAC, Program requirements, the majority of this section pulls together WACs which were common to all programs.

WAC 479-05-010 Time and place for submission of proposed transportation improvement board projects (WAC 479-12-020).

- No change.

WAC 479-05-020 Six-year transportation programs for urban areas (WAC 479-13-010).

- Changed to require transit projects be included on the applying agencies transit development plan prior to board approval.

WAC 479-05-030 Six-year financial plan (WAC 479-13-025).

- Six-year financial plans will be prepared annually instead of biennially.

WAC 479-05-040 Value engineering study requirements (WAC 479-13-035).

- No change.

WAC 479-05-050 Procedures for project approval (WAC 479-13-070).

- Removed a section which identified specifically how projects would be approved if there were insufficient funds available. WAC 479-05-280 was added to give the board flexibility in determining how projects would be approved or funded should there be insufficient funds available.

WAC 479-05-060 Methods of construction (WAC 479-16-010).

- Section was clarified.

WAC 479-05-070 Registered engineer in charge (WAC 479-16-015).

- Would require that construction projects be designed, planned and constructed by a professional engineer from Washington state.

WAC 479-05-080 Standard specifications (WAC 479-16-020).

PROPOSED

- Would allow contracts entered into by local agencies use either the standard specifications for road, bridge, and municipal construction or an equivalent standard.

WAC 479-05-090 Design standards for transportation improvement board projects (WAC 479-16-060).

- No change.

WAC 479-05-100 Utility and railroad adjustments and relocations (WAC 479-16-030).

- No change.

WAC 479-05-110 Under-grounding utilities (WAC 479-16-035).

- Clarifies the board's position on under-grounding existing overhead facilities.

WAC 479-05-120 Traffic control devices (WAC 479-16-040).

- No change.

WAC 479-05-130 Project landscaping (WAC 479-16-045).

- Used the term "landscaping" in place of "street tree plantings."

WAC 479-05-140 Acquisition of rights of way (WAC 479-16-050).

- No change.

WAC 479-05-150 Inclusion of bicycle facilities in transportation improvement board projects (WAC 479-16-098).

- No change.

WAC 479-05-160 Reimbursable costs (WAC 479-20-010).

- No change.

WAC 479-05-170 Reimbursable costs for engineering (WAC 479-20-011).

- Included language that would allow the board to make exceptions to the 25% engineering rule.

WAC 479-05-180 Direct costs (WAC 479-20-013).

- Changed to allow any city that does not have an "equipment rental and revolving fund" to use the same vehicle and equipment rate used by WSDOT.

- Salvaged material will no longer be used to reduce direct costs.

WAC 479-05-190 Indirect costs (WAC 479-20-016).

- Language clarified.

WAC 479-05-200 Partial or progress payments for project costs (WAC 479-20-020).

- Language requiring agreement letters between TIB and local agencies has been removed.

- Language identifying when project acceptance occurs has been included.

- Signatures are no longer required on reimbursement forms, except for the final payment.

WAC 479-05-210 Record requirements (WAC 479-20-025).

- No change.

WAC 479-05-220 Audits of TIB project records (WAC 479-20-027).

- No change.

WAC 479-05-230 Expenditure schedule of TIB funds (WAC 479-20-031).

- Expenditure schedule will be requested at least every six months.

WAC 479-05-240 Procedure to request increase in board funds (WAC 479-20-037).

- Removed repetitive language.

WAC 479-05-250 Review of delayed projects (WAC 479-20-086).

- Language clarified.

WAC 479-05-260 Recovery of TIB funds on canceled projects (WAC 479-20-089).

- No change.

WAC 479-05-270 Identification and consideration of surplus funds on authorized urban arterial trust account projects (WAC 479-20-095).

- No change.

WAC 479-05-280 Funding shortfall (WAC 479-510-076).

- Language giving the board discretion on how it will handle insufficient funds.

WAC 479-05-290 Programming of funds (479-510-080).

- Authorizes the board to use overprogramming of funds when establishing program sizes.

Chapter 479-12 WAC, Submission of proposed urban arterial trust account projects to transportation improvement board.

WAC 479-12-005 Purpose and authority.

WAC 479-12-008 Definitions.

WAC 479-12-010 Programs funded from the urban arterial trust account.

WAC 479-12-100 Intent of the arterial improvement program (WAC 479-12-005).

- No change, but the section was renumbered.

WAC 479-12-110 Priority criteria for arterial improvement program projects (WAC 479-13-011).

- No change, but the section was renumbered.

WAC 479-12-120 Establishing regions for the arterial improvement program.

- No change, but the section was renumbered.

WAC 479-12-130 Apportionment of funds to arterial improvement program regions (WAC 479-16-080).

- No change, but the section was renumbered.

WAC 479-12-140 Eligible arterial improvement program projects (WAC 479-12-008).

- No change, but the section was renumbered.

WAC 479-12-150 Matching ratios for arterial improvement program projects (WAC 479-20-007).

- No change, but the section was renumbered.

WAC 479-12-200 Intent of the small city program (WAC 479-410-020).

- No change, but the section was renumbered.

WAC 479-12-210 Priority criteria for small city program projects (WAC 479-412-250).

- No change, but the section was renumbered.

WAC 479-12-220 Establishing regions for the small city program (WAC 479-410-170).

- No change, but the section was renumbered.

WAC 479-12-230 Apportionment of funds to small city program regions (WAC 479-410-180).

- No change, but the section was renumbered.

WAC 479-12-240 Eligible small city program projects (WAC 479-410-160).

- No change, but the section was renumbered.

WAC 479-12-250 Matching requirements for small city program projects (WAC 479-412-300).

- No change, but the section was renumbered.

WAC 479-12-260 Increases in small city program projects (WAC 479-420-037).

- No change, but the section was renumbered.

WAC 479-12-300 Intent of the city hardship assistance program (WAC 479-310-010).

- No change, but the section was renumbered.

WAC 479-12-310 Priority criteria for city hardship assistance program projects (WAC 479-12-250).

- No change, but the section was renumbered.

WAC 479-12-340 Eligible city hardship assistance program agencies and streets (WAC 479-312-010).

- No change, but the section was renumbered.

WAC 479-12-350 Matching ratios for city hardship assistance program projects (WAC 479-312-300).

- No change, but the section was renumbered.

WAC 479-12-360 Allowable activities (WAC 479-316-010).

- No change, but the section was renumbered.

WAC 479-12-370 City hardship assistance program participation with other funds (WAC 479-316-100).

- No change, but the section was renumbered.

WAC 479-12-400 Intent of the pedestrian safety and mobility program.

WAC 479-12-410 Priority criteria for pedestrian safety and mobility program projects.

• Identifies criteria used when selecting urban and small city pedestrian safety and mobility projects.

WAC 479-12-420 Establishing regions for the pedestrian safety and mobility program.

• Establishes three regions, the east, west and Puget Sound.

WAC 479-12-430 Apportionment of funds to the pedestrian safety and mobility program regions.

• Apportionment factors for urban pedestrian safety and mobility program.

- 40% - state-wide.

- 15% - east region.

- 15% - west region.

- Approximately 30% - Puget Sound region.

• Apportionment factors for small city pedestrian safety and mobility program is consistent with the apportionment factors used for the small city account. The amount apportioned to the projects in a region will be within plus or minus 5% of the ratio which the population of cities under five thousand in a region bears to the state-wide population for cities under five thousand as last determined by the office of financial management.

WAC 479-12-440 Eligible pedestrian safety and mobility program projects

- Outlines the eligibility criteria.

Chapter 479-14 WAC, Submission of proposed transportation improvement account projects to transportation improvement board.

WAC 479-14-005 Purpose and authority (WAC 479-112-001).

WAC 479-14-008 Definitions (WAC 479-112-0055).

WAC 479-14-010 Programs funded from the transportation improvement account.

WAC 479-14-100 Intent of the transportation partnership program (WAC 479-112-003).

WAC 479-14-110 Priority criteria for the transportation partnership program.

• Identifies criteria used when selecting transportation partnership program projects.

WAC 479-14-120 Establishing regions for the transportation partnership program.

• Establishes three regions, the East, West, and Puget Sound.

WAC 479-14-130 Apportionment of funds to transportation partnership program regions.

• Apportionment factors for transportation partnership program.

- 40% - state-wide.

- 15% - east region.

- 15% - west region.

- Approximately 30% - Puget Sound region.

WAC 479-12-140 Eligible transportation partnership program projects (WAC 479-112-0055).

- No change, but the section was renumbered.

WAC 479-14-150 Designation of lead agency for transportation partnership program projects (WAC 479-112-007)

- No change, but the section was renumbered.

WAC 479-14-160 Verification of coordination with planning authority for transportation partnership program projects (WAC 479-112-008).

- No change, but the section was renumbered.

WAC 479-14-170 Planning requirements for multi-agency transportation partnership program projects (WAC 479-112-009).

- No change, but the section was renumbered.

WAC 479-14-180 Local/private matching funds on transportation partnership program projects (WAC 479-112-017).

- No change, but the section was renumbered.

WAC 479-14-190 Certification of local/private matching funds for transportation partnership program projects (WAC 479-112-018).

- No change, but the section was renumbered.

Chapter 479-15 WAC, Submission of proposed public transportation systems account projects to transportation improvement board.

WAC 479-15-005 Purpose and authority.

WAC 479-15-008 Definitions.

WAC 479-15-010 Programs funded from the public transportation systems account.

WAC 479-15-100 Intent of the public transportation systems program.

• Intent was pulled from the RCW which creates the account.

WAC 479-15-110 Priority criteria for public transportation systems program (WAC 479-510-120).

- Identifies criteria used when selecting public transportation systems program projects.

WAC 479-15-120 Establishing regions for the public transportation systems program.

- Establishes two regions in the public transportation systems account.

- Puget Sound region - King, Pierce, Snohomish, and Kitsap counties.

- East/West region - Everything outside of the Puget Sound region.

WAC 479-15-130 Apportionment of funds to public transportation systems program regions.

- The amount apportioned to projects in a region will be based on the revenue provided by RCW 82.44.150.

- Puget Sound region - 86.7% of PTSA distribution.

- East/West region - 13.3% of PTSA distribution.

WAC 479-15-140 Eligible public transportation systems projects (WAC 479-510-210).

- Eligible projects were expanded to include tax credits for commute trip reduction.

Purpose: SSB 5615, passed by the 1999 legislature, consolidated a number of TIB funding accounts. As a result of this legislation, the TIB had to revise its WAC to be consistent with the revised RCW.

Statutory Authority for Adoption: Chapter 47.26 RCW.

Summary: See Title of Rule above.

Reasons Supporting Proposal: Rules need to be revised to reflect current procedures and desired changes in TIB programs. The revisions do not reflect any major policy changes.

Name of Agency Personnel Responsible for Drafting and Implementation: Dan Rude, Transportation Building, (360) 705-7547; and Enforcement: Jerry Fay, Transportation Building, (360) 705-7301.

Name of Proponent: Transportation Improvement Board, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: SSB 5615, passed by the 1999 legislature, consolidated a number of TIB funding accounts. As a result of this legislation, the TIB had to revise its WAC to be consistent with the revised RCW. These proposed changes are house-keeping in nature. References to obsolete accounts have been removed, language clarified, and sections have been consolidated where appropriate. These revisions do not reflect any major policy changes.

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

No small business economic impact statement has been prepared under chapter 19.85 RCW. Revisions are house-keeping in nature and do not reflect any changes in TIB policy, which would impose a cost on businesses in an industry.

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

Hearing Location: Clallam Transit, 830 West Lauridsen Boulevard, Port Angeles, on November 19, 1999, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Theresa Anderson by November 5, 1999, (360) 705-7599.

Submit Written Comments to: Fax (360) 705-6830, by November 12, 1999.

Date of Intended Adoption: November 19, 1999.

October 6, 1999

Jerry M. Fay

Executive Director

AMENDATORY SECTION (Amending WSR 95-22-056, filed 10/30/95, effective 11/30/95)

WAC 479-01-010 Organization of transportation improvement board. The transportation improvement board is a twenty-one member board, organized under the provisions of chapter 269, Laws of 1995. The board administers the urban arterial trust account (~~((program))~~), the transportation improvement account (~~((program, small city account program, city hardship assistance program, central Puget Sound public transportation account))~~), and public transportation systems account (~~((, Intermodal Surface Transportation and Efficiency Act of 1991, surface transportation program state-wide competitive, and))~~). The board evaluates petitions requesting any additions to or deletions from the state highway system ((created and financed under the provisions contained therein. Nineteen members of the board are appointed by the secretary of transportation, with six being city officials, six being county officials, two representatives of public transit systems, a private sector member, a member representing the ports, a member representing nonmotorized transportation, a member representing special needs transportation and two representatives from the department of transportation. One member shall be appointed by the governor. The county road administration engineer, created by RCW 36.78.060 is an ex officio member of the board)) and forwards recommendations to the legislature. The board selects projects for the STP state-wide competitive program and the enhancement program and forwards the recommended list to the legislature. Board membership is defined in RCW 47.26.121.

AMENDATORY SECTION (Amending WSR 95-04-072, filed 1/30/95, effective 3/2/95)

WAC 479-01-020 Time and place of meetings. Regular public meetings of the board shall be held on the fourth Friday of ~~((every))~~ the month or the third Friday if ~~((that))~~ the fourth Friday is a holiday. Each such regular meeting shall be held at the offices of the board in Olympia, Washington, and begin at the hour of 9:00 a.m. or at such other time and place as designated by the board.

A special meeting of the board may be called by the chairperson or by a majority of the members of the board, by delivering personally or by mail written notice to all other members of the board at least twenty-four hours before the time of such meeting as specified in the notice. The notice calling a special meeting shall state the purpose for which the meeting is called and the date, hour, and place of such meeting and all provisions of chapter 42.30 RCW shall apply.

PROPOSED

AMENDATORY SECTION (Amending WSR 95-04-072, filed 1/30/95, effective 3/2/95)

WAC 479-01-040 Definitions. For purposes of implementing the requirements of RCW 47.26.160 relative to the transportation improvement board, the following definitions shall apply:

- (1) Board - the transportation improvement board.
- (2) TIB - the transportation improvement board.
- (3) Director - the executive director of the transportation improvement board.
- (4) Agency - all cities, towns, counties, and public transit agencies eligible to receive board funding.
- (5) Urban area - the term "urban area" as used for the arterial improvement program and the transportation partnership program refers to the portion of a county within the federal urban area boundary as designated by FHWA and/or Washington state's Growth Management Act.

AMENDATORY SECTION (Amending WSR 95-22-056, filed 10/30/95, effective 11/30/95)

WAC 479-01-050 Administration costs. The board costs for necessary staff services and facilities that are attributable to the urban arterial trust account, (~~small city account, city hardship assistance account,~~) transportation improvement account, (~~central Puget Sound public transportation account~~) and public transportation systems account shall be paid in proportion to the anticipated expenditures of the (~~programs~~) accounts as determined by the biennial appropriation.

AMENDATORY SECTION (Amending WSR 91-13-056, filed 6/17/91, effective 7/18/91)

WAC 479-02-010 Purpose. The purpose of this chapter shall be to ensure compliance by the Washington transportation improvement board with the provisions of RCW 42.17.250 through (~~42.17.340~~) 42.17.348 dealing with public records.

AMENDATORY SECTION (Amending WSR 91-13-056, filed 6/17/91, effective 7/18/91)

WAC 479-02-050 Public records officer. The transportation improvement board public records shall be in the charge of the (~~confidential secretary~~) executive secretary who shall be the public records officer for the board. The person so designated shall be officed in the Transportation Improvement Boards office in Olympia, Washington. The public records officer shall be responsible for implementation of the board's rules and regulations regarding release of public records, coordinating staff efforts of the board in this regard and generally ensuring compliance of the staff with the public records disclosure requirements of chapter 1, Laws of 1973.

AMENDATORY SECTION (Amending WSR 91-13-056, filed 6/17/91, effective 7/18/91)

WAC 479-02-060 Public records available. All public records of the board as defined in (~~WAC 479-02-020~~) chapter 42.17 RCW are deemed available for public inspection and copying pursuant to these rules, (~~except as provided in WAC 479-02-030~~) unless the record falls within the specific exemptions of RCW 42.17.310 or other statute that exempts or prohibits disclosure of specific information or records.

AMENDATORY SECTION (Amending WSR 95-04-072, filed 1/30/95, effective 3/2/95)

WAC 479-02-110 Denial of request. (1) The executive director shall determine which public records requested in accordance with these rules are exempt under the provisions of RCW 42.17.310 or other statute.

(2) Each denial of a request for a public record shall be accompanied by a written statement to the person requesting the record clearly specifying the reasons for denial, including a statement of the specific exemption authorizing the withholding of the record and a brief explanation of how the exemption applies to the record withheld.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 479-02-020 Definitions.
- WAC 479-02-030 Exempted records.

Chapter 479-05 WAC

PROGRAM REQUIREMENTS

NEW SECTION

WAC 479-05-010 Time and place for submission of proposed transportation improvement board projects. Prospectuses for predesign or design phase shall be requested by the board after:

- (1) Submitted project applications have been evaluated as to priority;
- (2) The legislative appropriation authority has been reviewed and capacity to authorize additional projects determined.

Prospectuses for predesign phase or design phase shall be received by the board by the first day of the month preceding the month in which project authorization is proposed unless a later receipt is approved by the director.

Prospectuses for the construction phase shall be received by the twentieth day of the month preceding the month in which construction project authorization is proposed unless a later receipt date is approved by the director.

PROPOSED

NEW SECTION

WAC 479-05-020 Six-year transportation programs for urban areas. The six-year transportation programs of agencies required, respectively, by RCW 35.77.010, 36.81.121 and 35.58.2795 must have proposed transportation improvement board projects included prior to board approval of funds.

A copy of the six-year transportation program including the proposed projects to be approved shall be submitted to the board along with a copy of the resolution of the city or county adopting such program.

NEW SECTION

WAC 479-05-030 Six-year financial plan. At the beginning of each fiscal year the board shall update its six-year financial plan to determine the amount of estimated revenue to be available for new project starts in the ensuing biennium. The estimate of funds for new project starts shall take into consideration projects approved by the board for the design phase where construction funding approval is pending.

NEW SECTION

WAC 479-05-040 Value engineering study requirements. Value engineering studies shall be required in accordance with the policy adopted by the board.

NEW SECTION

WAC 479-05-050 Procedures for project approval. Predesign, design proposals and related construction projects authorized by the board for financial assistance shall be selected for authorization based upon the following factors:

The proposed project scope shall include improvements that will address or mitigate the items for which the project was selected.

The board shall evaluate the project scope and may reduce the project scope if the scope exceeds that which is necessary to address or mitigate items.

The following factors relative to each project, in addition to other factors required by law, shall be evaluated:

(1) Each project shall be evaluated on the availability and source of matching funds.

(2) Construction prospectuses for projects previously approved for design and right of way funding by the board shall be required to be accompanied by the following information demonstrating the readiness of the project to be placed under contract for construction.

(a) A certification from the legislative body or other designated responsible official, of the administering agency, that an environmental impact analysis has been conducted and an environmental impact statement including the conformity with the state and Federal Clean Air Acts or negative declaration of environmental impact, as appropriate, has been circulated pursuant to chapter 43.21C RCW, and that the results have been utilized in arriving at the decisions reflected in the prospectus for the construction project.

(b) A certification that all right of way required for the project is available or if right of way remains to be acquired that the agency has obtained a possession and use agreement on the parcels in question.

(c) A certification from the legislative body that the project is completely designed and ready to be advertised for bids.

(d) The date the project will be advertised for bids.

(e) Each construction project prospectus shall identify changes between the scope of work of the proposed project and the work contemplated in the current six-year transportation program or the project design prospectus. An explanation and justification for such changes shall also be included.

(f) The board shall consider adjustments to the amount previously requested in accordance with the board's rule on increases in transportation improvement board funds.

NEW SECTION

WAC 479-05-060 Methods of construction. All construction by agencies using board funds shall be advertised, competitively bid and contracted, except:

(1) Utility and railroad relocations and adjustments; and

(2) Installation of traffic control devices, if accomplished by the personnel of the agency.

A competitive bid is not required for projects which meet the requirements of chapters 36.77, 35.22, 35.23, and 35.27 RCW.

NEW SECTION

WAC 479-05-070 Registered engineer in charge. All construction projects using transportation improvement board funds shall be planned, designed, and constructed under the supervision of a professional engineer registered in the state of Washington.

NEW SECTION

WAC 479-05-080 Standard specifications. The current edition of *the Standard Specifications for Road, Bridge, and Municipal Construction* or equivalent, shall be included in any contract entered into by an agency using board funds.

NEW SECTION

WAC 479-05-090 Design standards for transportation improvement board projects. All transportation improvement board funded projects shall be prepared using currently applicable design standards.

NEW SECTION

WAC 479-05-100 Utility and railroad adjustments and relocations. Utility and railroad adjustments and relocations may be performed by negotiated contract with the owner of those facilities. The administering agency shall review and approve a written statement that includes the items of work and an estimate of cost prepared by the utility or railroad for the work required as a result of the improve-

PROPOSED

ment. Updated statements of items of work and estimates of cost may be reviewed and approved by the administering agency. All costs of utility and railroad adjustments, as finally approved by the administering agency, shall be subject to audit. If federal aid highway funds are included in the project, the negotiated contract shall include the applicable provisions of federal Highway Administration policies and procedures prescribed in 23 C.F.R. 140, 23 C.F.R. 645 and 23 C.F.R. 646, Federal Aid Policy Guide.

NEW SECTION

WAC 479-05-110 Undergrounding utilities. Board funds may be used in the actual, necessary costs of relocating utility or other service facilities resulting from an approved project when:

- (1) The local agency administering the project directly incurs such costs; or
- (2) The local agency administering the project is obligated by law or by previously established and documented policies and practices for such costs.

Board funds may be used in the costs to underground service connections for street illumination and traffic signal services within the prescribed limits of the approved project.

The board funds used in the costs of relocating utility or other service facilities, other than service connections for street illumination and traffic signal services within the prescribed limits of the approved project, shall be further limited as follows:

(a) Where a local agency requires that existing overhead facilities be placed underground, board funds shall be limited. The board considers this type of improvements to be aesthetic in nature as is landscaping, therefore, the cost involved in undergrounding the utility facilities, in excess of the estimated cost to relocate them overhead, will be included within the three percent allowance for landscaping costs.

(b) If utility lines or other service facilities are already underground, board funds may be used in the costs of replacing such facilities on an underground basis.

NEW SECTION

WAC 479-05-120 Traffic control devices. Traffic control devices included in a participating project may be installed by the employees and with the equipment and materials of the local governmental units subject to the limits of RCW 35.22.620(3), 35.23.352(1), and 36.77.065(3): Provided, That the basis for payment of board funds is reimbursement of the appropriate portion of actual cost of such work, subject to audit.

NEW SECTION

WAC 479-05-130 Project landscaping. Board funds may be used at the appropriate matching ratio in the cost of landscaping and the use of other plantings and supporting materials within the project right of way to a maximum of three percent of the total authorized project costs: Provided, That requests for increases in the authorized amount of board funds to cover landscaping and related costs shall be consid-

ered jointly with other cost increases and approval of all such requests shall be limited to the amount authorized by WAC 479-05-250 to be approved by the director. Erosion control treatment shall not be considered a part of landscaping costs.

The three percent limitation for landscaping and related costs shall not affect the agency's authority to include landscaping and the use of other plantings or supporting materials in the project in amounts that exceed the three percent limit provided they are paid for solely with funds other than board supplied funds.

NEW SECTION

WAC 479-05-140 Acquisition of rights of way. Right of way for board funded projects shall be acquired in accordance with chapter 468-100 WAC.

NEW SECTION

WAC 479-05-150 Inclusion of bicycle facilities in transportation improvement board projects. If an eligible agency has a project funded by transportation improvement board funds that includes the construction of bicycle facilities, the agency shall submit its bikeway plan to the board in map form along with the agency's verification that the plan has been reviewed with, and approved by, the agency's legislative body.

The proposed bicycle facility shall be in accordance with definitions, criteria, and design standards shown in Chapter 1020 of the *Washington Department of Transportation Design Manual*.

NEW SECTION

WAC 479-05-160 Reimbursable costs. Project costs eligible for reimbursement from the account shall be those proper and allowable costs incurred on a project after the project is authorized by the board except as provided by the following:

Reimbursement of right of way acquisition costs are eligible within the design phase of the project. In the event the project is not built, those funds expended for right of way shall be refunded to the board.

NEW SECTION

WAC 479-05-170 Reimbursable costs for engineering. Design and construction engineering costs eligible for reimbursement shall be limited to twenty-five percent of the approved contract bid amount including adjustments for change orders and actual quantity amounts during construction and agency force construction. Exceptions to the twenty-five percent engineering limit may be considered by the board. Agency costs for value engineering and other special studies and right of way appraisals and acquisition costs will not be used to determine the amount subject to the limit.

PROPOSED

NEW SECTION

WAC 479-05-180 Direct costs. Direct costs eligible for board participation are those costs which are directly attributable to a specific project and shall include:

(1) Direct labor (engineering and/or construction) including related employee benefits:

(a) Salaries and wages (at actual or average rates) covering productive labor hours of city and county employees (excluding the administrative organization of the operating unit involved) for periods of time, actively or incidentally engaged in:

- (i) Predesign engineering;
- (ii) Design engineering;
- (iii) Construction engineering;
- (iv) Acquisition of rights of way; and
- (v) Actual construction activities are considered a direct cost of construction projects.

The cost of services rendered by employees generally classified as administrative are considered a direct cost only when such employees are assigned for short periods of time to perform on a full time basis the types of services described above and when similar procedures are followed for non-board projects.

(b) Employee benefits relating to direct labor are considered a direct cost of construction projects. The following items may be included as employee benefits:

- (i) F.I.C.A. (Social Security) - employer's share;
- (ii) Retirement benefits;
- (iii) Hospital, health, dental and other welfare insurance;
- (iv) Life insurance;
- (v) Industrial and medical insurance;
- (vi) Vacation;
- (vii) Holiday;
- (viii) Sick leave;
- (ix) Military leave and jury duty.

Employee benefits shall be calculated as a percentage of direct labor dollars. The computation of predetermined percentage rates to be applied to current labor costs shall be based upon the average of total employee benefits and total labor costs for the prior fiscal year and adjusted by known current year variations.

(2) Contract engineering services.

(3) Right of way acquisition costs including:

- (a) Purchase of land and easements acquired for and devoted to the project;
- (b) Purchase of improvements;
- (c) Adjustment or reestablishment of improvements;
- (d) Salaries, expenses or fees of appraisers, negotiators or attorneys;
- (e) Removal or demolition of improvement;
- (f) Other direct costs in connection with the acquisition.

Amounts received from the sale of excess real property or improvements and from any rentals shall be a reduction of the direct cost.

(4) Contract construction work, and/or capital equipment acquisition approved by the board.

(5) Direct vehicle and equipment charges at the actual rental cost paid for the equipment or, in the case of city or county owned equipment, at the rental rates established by

the city's or county's "equipment rental and revolving fund" following the methods prescribed by the division of audit: Provided, That such costs shall be charged on a uniform basis to equipment used for all projects regardless of the source of funding. Cities which may not use this type of fund shall be allowed the same rates as used by the department of transportation.

(6) Direct materials and supplies. The cost of materials used in projects shall be based upon methods prescribed for the "equipment rental and revolving fund" by the division of audit.

(a) An overhead rate or "loading factor" shall not be considered an appropriate additive to the actual cost of materials and supplies used on construction projects unless the factor is readily and properly supportable by the governmental unit's accounting records.

(b) The cost, or reasonable estimate thereof, of materials paid for as contract estimate items, but not used, shall be considered a reduction of direct costs.

(7) Interdepartmental charges for work performed by county or city departments, other than the road or street department, for the benefit of specific construction projects shall be limited to direct costs plus an allocation of indirect costs based upon ten percent of direct labor dollars, excluding employee benefits. Such indirect costs shall be determined by a rate which is readily and properly supportable by the governmental unit's accounting records and shall be the same rate as applied to nonboard projects; however, this rate shall not exceed the indirect cost allocation rate established by the board. If individual units of government do not have such an internal indirect cost allocation rate, the rate predetermined by the board shall be used in determining the amount of indirect costs includable in the total interdepartmental charges.

(8) Other direct costs incurred for materials or services acquired for a specific project shall be eligible for participation by board funds and may include, but shall not be limited to, such items as:

- (a) Telephone charges;
- (b) Reproduction and photogrammetry costs;
- (c) Computer usage;
- (d) Printing and advertising.

NEW SECTION

WAC 479-05-190 Indirect costs. Indirect costs incurred by an agency for common or joint objectives which include an authorized board funded project, and which are not included in those direct costs set forth and defined in WAC 479-05-190, shall be eligible for board fund participation on a particular project at a rate not to exceed ten percent of direct labor costs.

NEW SECTION

WAC 479-05-200 Partial or progress payments for project costs. Participation and payment of board funds to agencies shall be governed by the following:

(1) Board participation. Board funds shall not participate in any cost which is not incurred in conformity with all applicable federal and state law and the rules, regulations and

procedures as may be prescribed by the board promulgated in conformity with the statutes.

(2) Project acceptance. Projects for which board funds are requested by the eligible agencies and for which the board has allocated funds will be the subject of a project approval process. The agencies' participation in this process demonstrates acceptance of the conditions to payment of funds, as prescribed by laws and regulations, and the amount of funds to be obligated.

(3) Changes in project work and cost. No material change in the termini, character, or scope of the work on an approved project shall be made without prior concurrence in such changes by the board.

(4) Payments. Eligible agencies are to submit requests for payment of funds claimed to be due on approved projects. Such requests are to be on forms prescribed by the board. Supporting data may be required by the board. Requests for payment may be submitted from time to time as the work progresses and final requests shall be signed and submitted within six months of contract completion. Payment of TIB funds shall at no time exceed the approved amount of the project costs incurred to the date of the payment request.

(5) Compliance with laws and regulations. If an eligible agency has failed to comply with laws and regulations with respect to a project, payment of funds may be withheld on such projects, or approval of additional projects may be withheld until compliance or remedial action has been accomplished by the eligible agency to the satisfaction of the board.

(6) Costs incurred prior to phase approval shall be considered ineligible.

NEW SECTION

WAC 479-05-210 Record requirements. All eligible agencies requesting payment of board funds on authorized projects shall have procedures in effect that will provide adequate assurance that payments requested are proper and accurate:

(1) Quantities of complete construction contract work shall be supported by all related source documents upon which payment to the contractor is based. These source documents shall include, but shall not be limited to, tickets for items measured on a weight or volume basis, cross section notes, inspector's diaries, engineering calculations for items measured in place, material tests, shipping invoices for steel, and all other field records normally developed by field engineers to support final quantities paid to contractors. The quantity field record should be summarized so that final pay estimates would lend themselves to comparison with supporting records.

(2) All appraisal reports, record of negotiations with grantors including a negotiator's diary indicating dates of contracts, offers made, and final acceptance by grantor, title insurance documents, transfer documents such as warranty deeds, quit claim deeds, easements, contract and sale documents, shall be maintained.

(3) Daily labor time records, equipment use records, requisitions for materials used, invoices for goods and services, and other invoices shall be maintained. Records shall also be maintained which support employee benefit percentages

which are used in calculating amounts charged to construction projects.

(4) All records shall be retained until notification from the board that a project audit is complete or is not required.

NEW SECTION

WAC 479-05-220 Audits of project records. Projects shall be audited in accordance with the policy adopted by the board. Project records for each project developed through the use of board funds may be audited to determine that funds paid can be attributed to the project and supported by project records. The audit will determine if there has been compliance with the rules of the board. Projects may be audited by the board at the time of the project completion or at such additional times as may be directed by the director.

The director may, where the cumulative amount of audit exceptions is less than five hundred dollars in board funds, advise the agency that no recovery of funds is requested.

Audit exceptions which the director considers to be significant in relation to board rules or significant in amount to warrant potential recovery of funds, shall be furnished to the administering agency to allow an opportunity to respond in writing to the audit report.

After reviewing the written response, the director shall advise the agency whether any recovery of funds is indicated.

If recovery of board funds is indicated, as determined by the director, or by the board, the agency shall be provided ninety days from the date of the notice from the board to make repayment.

If repayment of funds by the agency is not made within ninety days from the date of the notice from the board, the subject shall be placed before the board for review and action.

NEW SECTION

WAC 479-05-230 Expenditure schedule of board funds. Each eligible agency having an approved project shall, when requested by the director, submit an updated schedule of its estimated demand for board funds to the board. This schedule shall be on forms provided by the board and shall include the estimated demand for board funds at least biannually until project completion.

Such estimates shall be differentiated between the design engineering, right of way and construction stages of project development.

Additional information pertaining to estimated demands for board funds by eligible agencies may be requested by the director as required to permit adequate funding of the programs.

NEW SECTION

WAC 479-05-240 Procedure to request increase in board funds. The amount of funds approved will be based upon the amount requested at design approval. This amount may be adjusted from the amount shown in the project application with adequate justification. Board fund increases are not approved at predesign phase.

PROPOSED

Local agencies may request an increase in funds over the amount set forth in the design phase, at the construction phase, bid opening or contract completion of a project in accordance with the following procedures:

(1) At the construction phase all requests shall be reviewed by the director. The director shall report the findings to the board for its review, consideration and final action. The board shall not grant a request for increase at this phase if:

(a) The requested increase is to pay for an expansion of the scope of the work that is beyond the work required to accomplish the intent of the project as approved at the design phase.

(b) The granting of the request will obligate funding beyond the level acceptable to the board or will in any way adversely affect authorized funds previously approved by the board.

(2) Request for increases at bid opening shall not exceed ten percent of the engineer's estimate submitted to the board at the time the construction phase was approved multiplied by the account matching ratio. Requests for increases at this phase will take priority over design and construction phase approvals. Such requests shall be reviewed by the director and will not be approved if:

(a) The requested increase is to pay for an expansion of the authorized scope of the work; or

(b) If the request is not substantiated and the director determines that the increased funds should have been anticipated by the local agency at the construction phase of the project.

(3) Requests for increases in funds submitted to the board at contract completion shall not exceed the account matching ratio multiplied by the sum of ten percent of the original contract amount up to one million dollars and five percent of the amount in excess of one million dollars. Requests for increases at this phase will take priority over design and construction phase approvals. Such requests shall be reviewed by the director and will not be approved if:

(a) The requested increase is to pay for an expansion of the authorized scope of the work; or

(b) If the request is not substantiated and the director determines that the increased funds should have been anticipated by the local agency at the construction approval phase of the project.

(4) If the director or the board, as the case may be, does not approve the request of a local agency for an increase, the administering agency may:

(a) Proceed with the project, paying for any additional costs with local or other funds; or

(b) Withdraw the request for participation; or, if applicable

(c) Within the authorized amount, and subject to approval by the director, reduce the scope of the project while retaining a usable and functional improvement.

NEW SECTION

WAC 479-05-250 Review of delayed projects. The director may contact, in writing, each local agency administering a transportation improvement board-funded project

that appears to be delayed when evaluated in relation to the proposed schedule for project development. If the agency does not respond to the inquiry of the director within twenty days explaining why the project is delayed, it shall be placed before the board as a candidate for cancellation as a delayed project.

The written response from the administering agency shall be reviewed to determine if the reason or reasons for the project delay is acceptable. The administrative agency will be advised by certified mail by the director if the delay is for an unacceptable reason. The letter from the director shall advise the local agency that:

(1) The project is delayed for an unacceptable reason;

(2) The local agency has a period of three months from the date of the director's letter to resolve the reason or reasons for delay and to provide evidence to the board that the problems have been resolved. Such evidence shall, if requested by the director, include a time schedule for project development which sets forth project development dates in sufficient detail to permit monthly monitoring of project progress;

(3) If the reason or reasons for delay are not resolved within the specified time period, the project may be placed before the board as a candidate for cancellation.

The administering agency for any project placed before the board as a candidate for cancellation shall be requested to appear before the board to explain the status of the project.

NEW SECTION

WAC 479-05-260 Recovery of board funds on canceled projects. Project development costs incurred by an agency on behalf of an authorized project that is subsequently canceled at the request of the agency, or by the board, shall be eligible for participation by board funds if, in the opinion of the board, the agency has pursued the project's development in good faith with a reasonable expectation of completing the project: Provided, That in all projects where the total project cost exceeds the amount of authorized board funds plus local matching funds, board funds shall be recovered in sufficient amount that the percentage of nonrecovered payments in relation to total project costs to the date of cancellation or withdrawal shall not exceed the percentage determined by dividing the total authorized amount of board funds by the most recently determined total project cost.

All board funds previously paid to an agency on behalf of an authorized project as a result of falsification, negligence, or deliberate misrepresentation on the part of the administering agency, in the opinion of the board, shall be repaid to the appropriate account, or a repayment agreement that is acceptable to the board shall be executed between the local agency and the board, within ninety days following cancellation of the specified project by request of the agency or by the board.

NEW SECTION

WAC 479-05-270 Identification and consideration of surplus funds on authorized board projects. When requested by the director, by certified mail, each project authorized for financial assistance from the local agency shall

PROPOSED

review their project to identify probable reductions in project cost in relation to the previously authorized amount of funds. The agency shall review the project to:

(1) Close the project by submitting a final request for payment and summary cost documents if all work has been completed; or

(2) Advise the board of total costs to date, remaining costs necessary to complete the project, and the amount of estimated surplus funds, if any, on the project.

Each response shall be reviewed by the director to determine whether the explanations appear reasonable and whether the agency appears to be pursuing the completion of the project at a reasonable rate. Any project where the agency does not appear to be pursuing the project to completion at a reasonable rate, or fails to submit a final request for payment within six months from the date that all work appears to be complete, shall be referred by the director to the board for appropriate action.

Each agency administering a project that is not considered to be developing to completion at a reasonable rate, or fails to submit a final request for payment within six months when all physical work appears to be completed, shall be notified by the director by certified mail that the project is being scheduled for a hearing before the board at a specified time and place. The agency shall be requested to provide suitable representation to such board meeting to explain the status of the authorized project, the reasons why the project has not been completed and finalized out, the amount of board funds estimated to be required to complete the project, and the resulting surplus in relation to previously authorized board funds.

NEW SECTION

WAC 479-05-280 Funding shortfall. If it is determined by the transportation improvement board that the funding in any of the accounts will be insufficient to meet the obligations identified for the selected projects, the transportation improvement board shall have discretion as to the action it will take.

NEW SECTION

WAC 479-05-290 Over-programming of funds. The transportation improvement board shall select projects based on its estimate of revenues and expenditures. The transportation improvement board may utilize the principle of over-programming when selecting projects, the degree of such over-programming to be at the discretion of the transportation improvement board for each account and application period.

AMENDATORY SECTION (Amending WSR 95-04-072, filed 1/30/95, effective 3/2/95)

WAC 479-12-005 Purpose and authority. RCW 47.26.160 provides that the transportation improvement board shall adopt reasonable rules necessary to implement the urban arterial trust account ~~((program. The intent of the urban arterial trust account program is to improve mobility~~

~~and safety while supporting an environment essential to the quality of life of the citizens of Washington state)).~~

AMENDATORY SECTION (Amending WSR 96-04-015, filed 1/29/96, effective 2/29/96)

WAC 479-12-008 Definitions. For purposes of implementing the requirements of RCW 47.26.185 relative to the urban arterial trust account, the following definitions shall apply:

(1) ~~((Board when board is used in this chapter, it refers to the transportation improvement board.~~

(2)) UATA - this is the abbreviation for the urban arterial trust account.

~~((3) Director the executive director of the transportation improvement board.~~

(4) ~~Eligible agencies the urban arterial trust account eligible agencies are the counties with urban areas, cities within an urban area, and cities with a population of five thousand or above.~~

(5) ~~Urban area the term "urban area" as used for the UATA program refers to the portion of a county within the federal urban area boundary as designated by FHWA.~~

(6) ~~Eligible projects:~~

(a) ~~Improvements on federally classified arterials.~~

(b) ~~Improvement involving state highway and transit when they are part of a joint project with eligible agencies.~~

(c) ~~A project within the federal urban boundary or a project that extends partially or is totally beyond the federal urban boundary and is an extension of a federally classified arterial which connects two other federally classified arterials.~~

(d) ~~A project that is on the federal functional classification system and in an area that is outside of the federal urban boundary, but has definite urban characteristics as defined by local comprehensive plans.)~~ (2) AIP - arterial improvement program.

(3) SCP - small city program.

(4) CHAP - city hardship assistance program.

(5) PSMP - pedestrian safety and mobility program.

NEW SECTION

WAC 479-12-011 Programs funded from the urban arterial trust account. Funds from the urban arterial trust account shall fund the arterial improvement program, the small city program, the city hardship assistance program, and the pedestrian safety and mobility program.

NEW SECTION

WAC 479-12-100 Intent of the arterial improvement program. The intent of the arterial improvement program is to improve mobility and safety while supporting an environment essential to the quality of life of the citizens of Washington state. Eligible agencies are counties with urban areas, cities and towns within an urban area, and cities with a population of five thousand or greater.

NEW SECTION

WAC 479-12-110 Priority criteria for arterial improvement program projects. The transportation improvement board shall evaluate the proposed arterial improvement projects by utilizing the following criteria to prioritize projects.

- (1) Safety, improvements to reduce accidents;
- (2) Mobility, improvements to increase mobility;
- (3) Structural condition of the roadway, improvements to the roadway surface;
- (4) Roadway widths, improvements to widen standard lanes and shoulders and adding sidewalks;
- (5) Multimodal, improvements for a variety of transportation modes such as transit, bicycle, trucks, etc.;
- (6) Project cost, improvements with lower cost in relationship to traffic and length;
- (7) Other, consideration given to agencies that show initiative to improve their local transportation system in various ways.

NEW SECTION

WAC 479-12-120 Establishing regions for arterial improvement program. For the purpose of apportioning arterial improvement program funds, the counties of the state are grouped within five regions of the state as follows:

- (1) Northeast region shall include eligible agencies within the counties of Adams, Chelan, Douglas, Ferry, Grant, Lincoln, Okanogan, Pend Oreille, Spokane, Stevens, and Whitman.
- (2) Southeast region shall include eligible agencies within the counties of Asotin, Benton, Columbia, Franklin, Garfield, Kittitas, Klickitat, Walla Walla, and Yakima.
- (3) Puget Sound region shall include eligible agencies within the counties of King, Pierce, and Snohomish.
- (4) Northwest region shall include eligible agencies within the counties of Clallam, Island, Jefferson, Kitsap, San Juan, Skagit, and Whatcom.
- (5) Southwest shall include eligible agencies within the counties of Clark, Cowlitz, Grays Harbor, Lewis, Mason, Pacific, Skamania, Thurston, and Wahkiakum.

NEW SECTION

WAC 479-12-130 Apportionment of funds to arterial improvement program regions. Beginning 1995, every four years, the board shall determine the distribution formula to apportion unobligated arterial trust account funds to each urban region. The distribution formula shall be defined in the following manner:

- (1) One-third of the ratio shall be the population the urban areas of each region bears to the total population of all urban areas of the state as last determined by the office of financial management;
- (2) One-third of the ratio shall be the vehicle to mile ratio traveled on the classified arterial system within the urban areas of each region, compared to the total vehicle to mile ratio traveled on all classified urban arterial systems;

(3) One-third of the ratio shall be an actual or historical indicator of needs within the region as determined by the board.

The distribution of funds within each region shall be administered so as to permit complete arterial improvement program projects in each arterial classification to be authorized and funded.

NEW SECTION

WAC 479-12-140 Eligible arterial improvement program projects. Eligible projects are:

- (1) Improvements on federally classified arterials;
- (2) Improvement involving state highway and transit when they are part of a joint project with eligible agencies;
- (3) Within the urban growth area in counties which are in full compliance with Washington state's Growth Management Act;
- (4) Within the Federal Aid Urban Boundary for those counties that are in the process, but have not formally adopted urban growth areas; or
- (5) Projects which have definite urban characteristics as defined by local comprehensive plans.

NEW SECTION

WAC 479-12-150 Matching ratios for arterial improvement program projects. Urban arterial trust account funds for local agency arterial projects shall be matched in accordance with the following scheduled percentage of the total project cost.

City with a population less than 10,000 or a county with a population less than 70,000 - 10% match.

City with a population from 10,000 to 14,999 or a county with a population from 70,000 to 210,000 - 15% match.

City with a population from 15,000 and up or a county with a population over 210,000 - 20% match.

NEW SECTION

WAC 479-12-200 Intent of the small city program. The intent of the small city program is to preserve and improve the roadway system in a manner that is consistent with local needs. An eligible agency is a city or town that has a population less than five thousand.

NEW SECTION

WAC 479-12-210 Priority criteria for small city program projects. The board will use the following criteria to prioritize proposed small city account projects:

- (1) Structural ability to carry loads (pavement condition);
- (2) Roadway width;
- (3) Safety; and
- (4) Other factors: Criteria deemed appropriate by the board on a case-by-case basis.

NEW SECTION

WAC 479-12-220 Establishing regions for small city program. For the purpose of apportioning urban arterial trust account funds to the small city program, the counties of the state are grouped within three regions as follows:

(1) East region shall include eligible agencies within the counties of Adams, Asotin, Benton, Chelan, Columbia, Douglas, Ferry, Franklin, Garfield, Grant, Kittitas, Klickitat, Lincoln, Okanogan, Pend Oreille, Spokane, Stevens, Walla Walla, Whitman, and Yakima.

(2) Puget Sound region shall include eligible agencies within the counties of King, Pierce, and Snohomish.

(3) West region shall include eligible agencies within the counties of Clallam, Clark, Cowlitz, Grays Harbor, Island, Jefferson, Kitsap, Lewis, Mason, Pacific, San Juan, Skagit, Skamania, Thurston, Wahkiakum, and Whatcom.

NEW SECTION

WAC 479-12-230 Apportionment of funds to small city program regions. Of the funds obligated to the small city program, the amount apportioned to projects in a region will be within plus or minus five percent of the ratio which the population of cities under five thousand in a region bears to the state-wide population for cities under five thousand as last determined by the office of financial management.

NEW SECTION

WAC 479-12-240 Eligible small city program projects. Incorporated areas outside federal designated urban areas shall be required to identify their streets as either arterials or local access. An arterial shall be defined by at least one of the following standards:

(1) Serves as the logical extension of a county arterial into the corporate boundary; or

(2) Serves as a route connecting local (traffic) generators such as schools, medical facilities, social centers, recreational areas, commercial centers, or industrial sites within the corporate boundary; or

(3) Acts as a bypass or truck route to relieve the central core area.

Streets failing to qualify under these standards for arterials are not eligible for small city account funds.

NEW SECTION

WAC 479-12-250 Matching requirements for small city program projects. There will be no local agency matching requirements for cities with a population of five hundred or less. Those agencies with a population over five hundred must provide a minimum local match of five percent.

NEW SECTION

WAC 479-12-260 Increases in small city program projects. An increase in the amount of small city program funds for a project may be requested in accordance with the provisions of WAC 479-05-250, except, where in the board's

judgment at project completion, ten percent of unexpected project costs would create an undue financial burden on the agency, the board may elect to fund all or a portion of the unexpected cost.

NEW SECTION

WAC 479-12-300 Intent of the city hardship assistance program. RCW 47.26.164, provides that the transportation improvement board shall adopt reasonable rules necessary to implement the city hardship assistance program as recommended by the road jurisdiction study. An eligible project is an improvement on a section of roadway that meets the requirements of RCW 47.26.164 and the requirements specified in this chapter. A listing of the roadways eligible for city hardship assistance program funding is included in WAC 479-12-340.

NEW SECTION

WAC 479-12-310 Priority criteria for city hardship assistance program projects. The board will use the following criteria to prioritize proposed city hardship assistance program projects:

(1) Structural ability to carry loads (pavement condition);

(2) Deterioration rate for the roadway;

(3) Safety; and

(4) Other factors:

(a) Relationship to other local agency projects;

(b) Extent of previous participation in the program; and

(c) Other criteria deemed appropriate by the board on a case-by-case basis.

NEW SECTION

WAC 479-12-340 Eligible city hardship assistance program agencies or streets. Agencies eligible for city hardship assistance program funds are:

(1) Only those cities with a net gain in cost responsibility due to jurisdictional transfers in RCW 47.26.164, which have a population of fifteen thousand or less may participate;

(2) The board is authorized to allocate funds from the city hardship assistance program to cities with a population under twenty thousand to offset extraordinary costs associated with the transfer of roadways other than pursuant to RCW 47.26.164, that occur after January 1, 1991.

The following cities or towns are eligible for city hardship assistance program funding: Clarkston, Old SR 128, 0.13 Miles, SR 12 to Poplar Street; Kelso, Old SR 431, 0.90 Miles, SR 5 to Cowlitz Way; Kelso, Old I-5, 1.20 Miles, north end of Coweeman River Bridge to 2,480 feet south of Haussler Road and those sections of Kelso Drive, Minor Road, Grade Street and Kelso Avenue referred to in the memorandum of understanding for this turn back, approximately 2.7 miles; Leavenworth, Old SR 209, 0.11 Miles, SR 2 to 260 feet north of Fir Street; Milton, Old SR 514, 2.46 Miles, Junction SR 99 to 50 feet west of SR 161; Napavine, Old SR 603, 0.79 Miles, 810 feet southwest of Lincoln Street to 8th Avenue West; Pomeroy, Old SR 128, 0.72 Miles, SR 12 to 2,690

feet south of Arlington Avenue; Skykomish, Old SR 2 Spur, 0.16 Miles, SR 2 to Railroad Avenue; Stanwood, Old SR 530, 1.59 Miles, 790 feet north of 86th Drive NW to 740 feet northwest of 72nd Avenue NW; Toledo, Old SR 505, 0.12 Miles, Fifth Street to 210 feet northwest of Sixth Street; Toppenish, Old SR 220, 0.27 Miles, Junction SR 22 to 630 feet east of Linden Road; Vader, Old SR 411, 0.25 Miles, 520 feet south of SR 506 to 1,840 feet south of SR 506; Washougal, Old SR 140, 0.70 Miles, SR 14 to west end of Washougal River Bridge; Winlock, Old SR 603, 0.61 Miles, Walnut Street to 160 feet south of Olequa Creek Bridge; and other cities under 20,000 population could become eligible for turn backs approved after January 1, 1991.

NEW SECTION

WAC 479-12-350 Matching ratios for city hardship assistance program projects. There will be no local agency matching requirements for city hardship assistance program funded projects.

NEW SECTION

WAC 479-12-360 Allowable city hardship assistance program activities. Unless otherwise approved by the board, city hardship assistance program funding shall be limited to the direct and attributable indirect costs associated with rehabilitation activities on the eligible project. City hardship assistance program funds cannot be used for landscaping. City hardship assistance program funds will not participate in the cost involved with adding lanes or turn lanes.

NEW SECTION

WAC 479-12-370 City hardship assistance program participation with other funds. City hardship assistance program funds may be used to fund rehabilitation work associated with the widening of the section of roadway but participation will be limited to the minimum standard or existing lane and shoulder widths. City hardship assistance program funds will be considered local agency funds if they are used in other board funded projects.

NEW SECTION

WAC 479-12-400 Intent of pedestrian safety and mobility program. The intent of this program is to enhance and promote pedestrian safety and mobility as a viable transportation choice by providing funding for pedestrian projects that provide access and address system continuity and connectivity of pedestrian facilities.

NEW SECTION

WAC 479-12-410 Priority criteria for pedestrian safety and mobility projects. The board will use the following criteria to prioritize proposed urban pedestrian safety and mobility projects:

- (1) Pedestrian safety;
- (2) Pedestrian movements;

- (3) Pedestrian convenience;
- (4) Neighborhood impact; and
- (5) Project cost.

The board will use the following criteria to prioritize proposed small city pedestrian safety and mobility projects:

- (a) Pedestrian safety;
- (b) Pedestrian movements;
- (c) Economic development; and
- (d) Funding partners.

NEW SECTION

WAC 479-12-420 Establishing regions for the pedestrian safety and mobility program. For the purpose of apportioning urban arterial trust account funds to the pedestrian safety and mobility program, the counties of the state are grouped within three regions as follows:

(1) East region shall include eligible agencies within the counties of Adams, Asotin, Benton, Chelan, Columbia, Douglas, Ferry, Franklin, Garfield, Grant, Kittitas, Klickitat, Lincoln, Okanogan, Pend Oreille, Spokane, Stevens, Walla Walla, Whitman, and Yakima.

(2) Puget Sound region shall include eligible agencies within the counties of King, Pierce, and Snohomish.

(3) West region shall include eligible agencies within the counties of Clallam, Clark, Cowlitz, Grays Harbor, Island, Jefferson, Kitsap, Lewis, Mason, Pacific, San Juan, Skagit, Skamania, Thurston, Wahkiakum, and Whatcom.

NEW SECTION

WAC 479-12-430 Apportionment of funds to pedestrian safety and mobility program regions. Of the funds obligated to pedestrian safety and mobility projects within urban areas, forty percent will be allocated to projects on a state-wide basis and then, at least fifteen percent will be allocated to projects in the east region, at least fifteen percent to projects in the west region, and approximately thirty percent to projects in the Puget Sound region.

Of the funds obligated to pedestrian safety and mobility projects within small cities, the amount apportioned to projects in a region will be within plus or minus five percent of the ratio which the population of cities under five thousand in a region bears to the state-wide population for cities under five thousand as last determined by the office of financial management.

NEW SECTION

WAC 479-12-440 Eligible pedestrian safety and mobility projects. Minimum project requirements are:

- (1) An urban pedestrian safety and mobility project must be on a pedestrian route with linkages to a functionally classified route. Small city pedestrian safety and mobility projects must be on or related to a street on the board approved arterial system;
- (2) Primary purpose of the project is transportation;
- (3) Urban agency matching funds cannot be less than twenty-percent;

(4) For small city pedestrian safety and mobility project there will be no local agency matching requirements for cities with a population of five hundred or less. For those agencies with a population over five hundred, but less than five thousand, there will be a minimum local match requirement of five-percent;

(5) This program will not participate in the cost of right of way acquisition;

(6) Maximum board participation for a project is specified by the board;

(7) No increases are given on urban projects; and

(8) All projects must be completed within two years of board selection.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 479-12-010 Data to be submitted on proposed projects.
- WAC 479-12-020 Time and place for submission of proposed urban arterial trust account projects.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 479-13-010 Six-year transportation programs for urban areas.
- WAC 479-13-011 Priority criteria for urban arterial trust account projects.
- WAC 479-13-025 Six-year financial plan.
- WAC 479-13-035 Value engineering study requirements.
- WAC 479-13-070 Procedures for project approval.

Chapter 479-14 WAC

SUBMISSION OF PROPOSED TRANSPORTATION IMPROVEMENT ACCOUNT PROJECTS TO TRANSPORTATION IMPROVEMENT BOARD

NEW SECTION

WAC 479-14-005 Purpose and authority. RCW 47.26.084 and 47.26.086 provides that the transportation improvement board shall adopt reasonable rules necessary to implement the transportation improvement account.

NEW SECTION

WAC 479-14-008 Definitions. For purposes of implementing the requirements of RCW 47.26.185 relative to the

transportation improvement account, the following definitions shall apply:

- (1) TIA - Transportation Improvement Account.
- (2) TPP - Transportation Partnership Program.

NEW SECTION

WAC 479-14-010 Programs funded from the transportation improvement account. Funds from the transportation improvement account shall fund the transportation partnership program.

NEW SECTION

WAC 479-14-100 Intent of the transportation partnership program. The intent of the program is to improve mobility of people and goods in Washington state by supporting economic development and environmentally responsive solutions to our state-wide transportation system needs. Eligible agencies are counties that have an urban area, all cities with a population of five thousand or more, and transportation benefit districts.

NEW SECTION

WAC 479-14-110 Priority criteria for the transportation partnership program. The following criteria shall be utilized by the transportation improvement board to prioritize projects:

- (1) The percentage of agency(ies) and private matching funds.
- (2) Multimodal solutions for projects including, but not limited to, transit, high occupancy vehicle (HOV) lanes, ferry, high capacity transit/rail, or intermodal facility.
- (3) Economic development is encouraged.
- (4) Multiagency involvement in projects.
- (5) Mobility enhancement by betterment of service level.
- (6) Improvements necessitated by existing or foreseeable congestion or safety problems due to economic development or growth.
- (7) Other considerations demonstrating improvement of the local transportation system such as traffic demand management or local transportation funding.

NEW SECTION

WAC 479-14-120 Establishing regions for transportation partnership program. For the purpose of apportioning TIA funds to the transportation partnership program, the counties of the state are grouped within three regions of the state as follows:

- (1) East region shall include eligible agencies within the counties of Adams, Asotin, Benton, Chelan, Columbia, Douglas, Ferry, Franklin, Garfield, Grant, Kittitas, Klickitat, Lincoln, Okanogan, Pend Oreille, Spokane, Stevens, Walla Walla, Whitman, and Yakima.
- (2) Puget Sound region shall include eligible agencies within the counties of King, Pierce, and Snohomish.
- (3) West region shall include eligible agencies within the counties of Clallam, Clark, Cowlitz, Grays Harbor, Island,

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Jefferson, Kitsap, Lewis, Mason, Pacific, San Juan, Skagit, Skamania, Thurston, Wahkiakum, and Whatcom.

NEW SECTION

WAC 479-14-130 Apportionment of funds to transportation partnership program regions. Of the funds in the program, forty percent will be allocated to projects on a state-wide basis and then, at least fifteen percent will be allocated to projects in the East region, at least fifteen percent to projects in the West region, and approximately thirty percent to projects in the Puget Sound region.

NEW SECTION

WAC 479-14-140 Eligible transportation partnership program projects. Eligible projects are:

- (1) Improvements on federally classified arterials;
- (2) Improvement involving state highway and transit when they are part of a joint project with eligible agencies;
- (3) Within the urban growth area in counties which are in full compliance with Washington state's Growth Management Act;
- (4) Within the Federal Aid Urban Boundary for those counties that are in the process, but have not formally adopted urban growth areas; or
- (5) Projects which have definite urban characteristics as defined by local comprehensive plans.

NEW SECTION

WAC 479-14-150 Designation of lead agency for transportation partnership program projects. The agencies involved in a multiagency transportation partnership program project shall designate one agency as the lead agency. The lead agency must be a city, county, or transportation benefit district.

NEW SECTION

WAC 479-14-160 Verification of coordination with planning authority for transportation partnership program projects. All applications for transportation partnership program funding shall be consistent with the regional transportation plan. In areas of the state where there is no regional transportation planning authority, a letter of verification shall be signed by the chair of the lead agency legislative authority.

NEW SECTION

WAC 479-14-170 Planning requirements for multi-agency transportation partnership program projects. The board requires joint planning for all transportation partnership program funded multiagency projects. The lead agency shall submit documentation to the board stating that the approving authority of each agency involved in the project has indicated support for the project. In the case of projects that stop at or near a corporate boundary or could affect other transportation agencies' facilities or programs, a copy of a let-

ter requesting review by other affected agencies shall accompany the project application.

NEW SECTION

WAC 479-14-180 Local/private matching funds on transportation partnership program projects. Transportation partnership program funds for urban program projects authorized by the board shall be matched by an amount not less than twenty percent of the total cost of the transportation project. Matching funds will be considered to be all contributions other than those provided by the board.

NEW SECTION

WAC 479-14-190 Certification of local/private matching funds for transportation partnership program projects. Within one year after board approval of a prospectus for funding and before any transportation partnership program funds are committed to the project, each agency with an interest in the transportation partnership program project shall provide written certification to the board of the pledged percentage of local and/or private funding. Funds allocated to an applicant that does not certify funding within one year after approval may be reallocated by the board.

Chapter 479-15 WAC

SUBMISSION OF PROPOSED PUBLIC TRANSPORTATION SYSTEMS ACCOUNT PROJECTS TO TRANSPORTATION IMPROVEMENT BOARD

NEW SECTION

WAC 479-15-005 Purpose and authority. RCW 47.66.010 provides that the transportation improvement board shall adopt reasonable rules necessary to implement the public transportation systems account.

NEW SECTION

WAC 479-15-008 Definitions. For purposes of implementing the requirements of RCW 47.66.010 relative to the public transportation systems account, the following definitions shall apply:

- (1) PTSA - Public Transportation Systems Account.
- (2) PTSP - Public Transportation Systems Program.

NEW SECTION

WAC 479-15-010 Programs funded from the public transportation systems account. Funds from the public transportation systems account shall fund the public transportation systems program.

NEW SECTION

WAC 479-15-100 Intent of the public transportation systems program. The intent of the program is to ensure that

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viable multimodal programs are available throughout Washington state. All public transit agencies are eligible to apply for public transportation systems program funds.

NEW SECTION

WAC 479-15-110 Priority criteria for public transportation systems program. The following criteria shall be utilized by the transportation improvement board to prioritize projects:

- (1) Multimodal solutions;
- (2) Mobility enhancements;
- (3) Customer satisfaction/safety/security;
- (4) Financial;
- (5) Economic development;
- (6) Environmental responsive solutions; and
- (7) Innovative solutions.

NEW SECTION

WAC 479-15-120 Establishing regions for public transportation systems program. For the purpose of apportioning public transportation systems funds to the public transportation systems program, the counties of the state are grouped within two regions of the state as follows:

The central Puget Sound region shall include eligible agencies within the counties of King, Kitsap, Pierce, and Snohomish.

The remaining region shall include eligible agencies within the counties of Adams, Asotin, Benton, Chelan, Clallam, Clark, Columbia, Cowlitz, Douglas, Ferry, Franklin, Garfield, Grant, Grays Harbor, Island, Jefferson, Kittitas, Klickitat, Lewis, Lincoln, Mason, Okanogan, Pacific, Pend Oreille, San Juan, Skagit, Skamania, Spokane, Stevens, Thurston, Walla Walla, Wahkiakum, Whatcom, Whitman, and Yakima.

NEW SECTION

WAC 479-15-130 Apportionment of funds to public transportation systems program regions. Of the funds obligated to the public transportation systems program, the amount apportioned to projects in a region will be based on the revenue provided by RCW 82.44.150.

NEW SECTION

WAC 479-15-140 Eligible public transportation systems program projects. Projects eligible for funding from the public transportation systems program shall be limited to public transportation projects for:

- (1) Planning;
- (2) Development of capital projects;
- (3) Development of high capacity transportation systems as defined in RCW 81.104.015;
- (4) Development of high occupancy vehicle lanes and related facilities as defined in RCW 81.100.020;
- (5) Public transportation system contributions required to fund projects under federal programs and those approved by the transportation improvement board; and

- (6) Commute trip reduction tax credits.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 479-16-010	Methods of construction.
WAC 479-16-015	Registered engineer in charge.
WAC 479-16-016	Certification of completed work.
WAC 479-16-020	Standard specifications.
WAC 479-16-030	Utility and railroad adjustments and relocations.
WAC 479-16-035	Undergrounding utilities.
WAC 479-16-040	Traffic control devices.
WAC 479-16-045	Project plantings.
WAC 479-16-050	Acquisition of rights of way.
WAC 479-16-060	Design standards for transportation improvement board projects.
WAC 479-16-080	Apportionment of urban arterial trust account fund to regions.
WAC 479-16-085	Funding for pedestrian facilities.
WAC 479-16-098	Inclusion of bicycle facilities in transportation improvement board projects.

Chapter 479-17 WAC

STATE-WIDE COMPETITIVE AND ENHANCEMENT PROGRAMS

NEW SECTION

WAC 479-17-100 Transportation Equity Act for the 21st Century or its successor acts, surface transportation program, state-wide competitive program account—Eligibility. (1) Eligibility to apply shall be limited to public agencies.

(2) Programs and projects eligible for funding shall be limited to the following purposes:

- (a) Planning;
- (b) Preliminary engineering;
- (c) Right of way acquisition;
- (d) Construction; and
- (e) Capital equipment acquisition.

(3) Projects eligible for funding under the account shall be limited to applications that directly benefit Washington state.

(4) All projects must be regionally significant.

NEW SECTION

WAC 479-17-200 Transportation Equity Act for the 21st Century or its successor acts, state-wide competitive program account—Criteria. (1) Projects selected for funding from the state-wide competitive program account shall be consistent with the following criteria without regard to geographic distribution:

- (a) Local, regional, and state transportation plans;
 - (b) Local transit development plans; and
 - (c) Local comprehensive land use plans.
- (2) The following criteria shall be considered:

(a) Objectives of the Growth Management Act, the High Capacity Transportation Act, the Commute Trip Reduction Act, transportation demand management programs, federal and state air quality requirements, and federal Americans with Disabilities Act and related state accessibility requirements; and

(b) Energy efficiency issues, freight and goods movement, economic development, rural isolation, fish passage, flood mitigation, the leveraging of other funds including funds administered by the transportation improvement board, and safety and security issues.

(3) In addition to the criteria identified in subsections (1) and (2) of this section, the transportation improvement board may choose to identify additional criteria for program and project selection for the state-wide competitive program. Such criteria shall be subject to public meetings as required by federal law, and shall be identified in the application guidelines.

(4) The transportation improvement board shall prepare application forms and guidelines to assist eligible applicants and ensure their distribution to all eligible applicants no later than thirty days prior to the date on which the applications must be submitted.

(5) The transportation improvement board shall select projects for the state-wide competitive program and forward the recommended list to the legislature, governor's office, and Washington state department of transportation by February 1st of each year.

NEW SECTION

WAC 479-17-300 Transportation Equity Act for the 21st Century or its successor acts, enhancement program account—Eligibility. (1) Eligibility to apply shall be limited to public agencies.

(2) Programs and projects eligible for funding shall be limited to the following purposes:

- (a) Provision of bicycle and pedestrian facilities;
- (b) Acquisition of scenic easement;
- (c) Scenic or historic highway programs (including tourist and welcome center facilities);
- (d) Landscaping and other scenic beautification;
- (e) Historic preservation;
- (f) Rehabilitation and operation of historic transportation buildings, structures or facilities;

- (g) Preservation of abandoned railway corridors;
 - (h) Control and removal of outdoor advertising;
 - (i) Archaeological planning and research;
 - (j) Mitigation of water pollution due to highway runoff or reduce vehicle-caused wildlife mortality while maintaining habitat connectivity;
 - (k) Establishment of transportation museums.
- (3) Projects eligible for funding under the account shall be limited to applications that directly benefit Washington state.

NEW SECTION

WAC 479-17-400 Transportation Equity Act for the 21st Century or its successor acts, enhancement program account—Criteria. (1) Projects selected for funding from the enhancement program account shall be consistent with the following criteria:

- (a) Local, regional and state transportation plans;
 - (b) Local comprehensive land use plans.
- (2) The following procedure shall be considered:

(a) Project applications shall be reviewed and regionally prioritized by the regional transportation planning organizations or metropolitan planning organizations and shall be forwarded to the transportation improvement board for selection.

(b) The Washington state department of transportation shall prepare application forms and guidelines to assist eligible applicants and ensure their distribution to all eligible applicants no later than thirty days prior to the date on which the applications must be submitted.

(c) The transportation improvement board shall establish priorities to fund regionally significant projects by allocating twenty-five percent of the funds to projects on a state-wide basis and the remaining funds based on population distribution to the regional transportation planning organizations or metropolitan planning organizations.

(d) The transportation improvement board shall select projects for the enhancement program and forward the recommended list to the legislature, governor's office and Washington state department of transportation by February 1st of each year.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 479-20-007	Matching ratios for urban arterial trust account funds.
WAC 479-20-010	Reimbursable costs.
WAC 479-20-011	Reimbursable costs for engineering.
WAC 479-20-013	Direct costs.
WAC 479-20-016	Indirect costs.
WAC 479-20-020	Partial or progress payments for project costs.

PROPOSED

WAC 479-20-025	Record requirements.		improvement account projects.
WAC 479-20-027	Audits of urban arterial project records.	WAC 479-112-010	Application for transportation improvement account projects.
WAC 479-20-031	Expenditure schedule of urban arterial trust account funds.	WAC 479-112-017	Local/private matching funds on transportation improvement account projects.
WAC 479-20-037	Procedure to request increase in board funds.	WAC 479-112-018	Certification of local/private matching funds for transportation improvement account projects.
WAC 479-20-086	Review of delayed projects.	WAC 479-112-020	Time and place for submission of proposed TIA projects.
WAC 479-20-089	Recovery of urban arterial trust funds on canceled projects.		
WAC 479-20-095	Identification and consideration of surplus funds on authorized urban arterial trust account projects.		

PROPOSED

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 479-24-010	Purpose.
WAC 479-24-020	Incorporation of the SEPA guidelines adopted by the council on environmental policy.
WAC 479-24-030	Timing of the environmental review process.
WAC 479-24-040	Procedures when consulted.
WAC 479-24-050	Designation of responsible official.
WAC 479-24-070	Designation of lead agency.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 479-113-010	Six-year programs for transportation improvement account projects.
WAC 479-113-011	Priority criteria for transportation improvement account projects.
WAC 479-113-029	Establishing regions for transportation improvement account program.
WAC 479-113-031	Allocation of transportation improvement account funds to regions.
WAC 479-113-035	Value engineering study requirements for transportation improvement account projects.
WAC 479-113-070	Procedures for project phase approval for transportation improvement account projects.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 479-112-001	Purpose and authority.
WAC 479-112-003	Transportation improvement account program intent.
WAC 479-112-0055	Definitions.
WAC 479-112-007	Designation of lead agency for transportation improvement account projects.
WAC 479-112-008	Verification of coordination with planning authority for transportation improvement account projects.
WAC 479-112-009	Planning requirements for multiagency transportation

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 479-116-010	Methods of construction for transportation improvement account projects.
WAC 479-116-015	Registered engineer in charge for transportation improvement account projects.

WAC 479-116-016	Certification of completed work for transportation improvement account projects.
WAC 479-116-020	Standard specifications for transportation improvement account projects.
WAC 479-116-030	Utility and railroad adjustments and relocations for transportation improvement account projects.
WAC 479-116-035	Undergrounding utilities on transportation improvement account projects.
WAC 479-116-040	Traffic control devices on transportation improvement account projects.
WAC 479-116-045	Project plantings on transportation improvement account projects.
WAC 479-116-050	Acquisition of right of way for transportation improvement account projects.
WAC 479-116-060	Design standards for transportation improvement account projects.
WAC 479-116-070	Funding for pedestrian facilities.
WAC 479-116-080	Inclusion of bicycle facilities in TIB projects.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 479-120-010	Reimbursable costs for transportation improvement account projects.
WAC 479-120-011	Reimbursable costs for engineering for transportation improvement projects.
WAC 479-120-013	Direct costs for transportation improvement account projects.
WAC 479-120-016	Indirect costs for transportation improvement account projects.
WAC 479-120-020	Partial or progress payments for transportation improvement account project costs.

WAC 479-120-025	Record requirements for transportation improvement account projects.
WAC 479-120-027	Audits of transportation improvement account project records.
WAC 479-120-031	Expenditure schedule of transportation improvement account funds.
WAC 479-120-037	Procedure for requesting an increase in authorized amount of transportation improvement account funds.
WAC 479-120-086	Review of delayed projects for the transportation improvement account program.
WAC 479-120-089	Recovery of transportation improvement account funds on canceled projects.
WAC 479-120-095	Identification and consideration of surplus funds on authorized transportation improvement account projects.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 479-310-010	Purpose and authority.
WAC 479-310-050	Adoption of rules.
WAC 479-310-100	Funds for the city hardship assistance program.
WAC 479-310-150	Definitions.
WAC 479-310-200	Administration costs.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 479-312-010	Eligible agencies and streets.
WAC 479-312-050	Population requirement for eligible agencies.
WAC 479-312-100	Data to be submitted for CHAP project application.
WAC 479-312-150	Six-year transportation plan requirements.
WAC 479-312-200	Other applicable federal, state and local regulations.

PROPOSED

WAC 479-312-250 Process and selection criteria for priority array.

WAC 479-312-300 Matching requirements for city hardship assistance program projects.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 479-316-010 Allowable activities.

WAC 479-316-050 Minimum roadway widths.

WAC 479-316-100 Participation with other funds.

WAC 479-316-200 Record requirements.

WAC 479-316-250 Audits of CHAP projects.

WAC 479-316-300 Project plantings on CHAP projects.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 479-320-050 Eligible project costs.

WAC 479-320-100 Eligible costs for engineering.

WAC 479-320-150 Procedure for requesting an increase in authorized amount of city hardship assistance program funds.

WAC 479-320-200 Partial or progress payments for city hardship assistance program costs.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 479-410-010 Purpose and authority.

WAC 479-410-020 Small city account program intent.

WAC 479-410-100 Funds for the small city account program.

WAC 479-410-150 Definitions.

WAC 479-410-160 Classification standards for arterials in small cities.

WAC 479-410-170 Establishing regions for small city account program.

WAC 479-410-180 Allocation of small city account funds to regions.

WAC 479-410-200 Administration costs.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 479-412-020 Time and place for submission of proposed small city account projects.

WAC 479-412-100 Application for small city account projects.

WAC 479-412-150 Six-year transportation plan requirements for small city account projects.

WAC 479-412-200 Other applicable federal, state and local regulations.

WAC 479-412-250 Priority criteria for small city account projects.

WAC 479-412-300 Matching requirements for small city account projects.

WAC 479-412-310 Order of construction funding of small city account projects.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 479-416-010 Methods of construction for small city account projects.

WAC 479-416-015 Registered engineer in charge for small city account projects.

WAC 479-416-016 Certification of completed work for small city account projects.

WAC 479-416-018 Design standards for small city account program projects.

WAC 479-416-020 Standard specifications for small city account projects.

WAC 479-416-030 Utility and railroad adjustments and relocations for small city account projects.

WAC 479-416-035 Undergrounding utilities on small city account projects.

WAC 479-416-040 Traffic control devices on small city account projects.

WAC 479-416-045 Project plantings on small city account projects.

PROPOSED

WAC 479-416-050 Acquisition of right of way for small city account program projects.

WAC 479-510-120

Central Puget Sound public transportation account—Criteria.

WAC 479-510-210

Public transportation systems account—Eligibility.

WAC 479-510-220

Public transportation systems account—Criteria.

WAC 479-510-410

Transportation Equity Act for the 21st Century or its successor acts, surface transportation program, state-wide competitive program account—Eligibility.

WAC 479-510-420

Transportation Equity Act for the 21st Century or its successor acts, surface transportation program, state-wide competitive program account—Criteria.

WAC 479-510-500

Financial and payment requirements.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 479-420-010 Eligible project costs for small city account projects.
- WAC 479-420-011 Eligible costs for engineering for small city account projects.
- WAC 479-420-013 Direct costs for small city account projects.
- WAC 479-420-016 Indirect costs for small city account projects.
- WAC 479-420-020 Partial or progress payments for small city account project costs.
- WAC 479-420-025 Record requirements for small city account projects.
- WAC 479-420-027 Audits of small city account project records.
- WAC 479-420-031 Expenditure schedule of small city account funds.
- WAC 479-420-037 Procedure for requesting an increase in authorized amount of transportation improvement account funds.
- WAC 479-420-086 Review of delayed projects for the small city account program.
- WAC 479-420-089 Recovery of small city account funds on canceled projects.
- WAC 479-420-095 Identification and consideration of surplus funds on authorized small city account projects.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 479-510-060 Application guidelines.
- WAC 479-510-076 Funding shortfall.
- WAC 479-510-080 Over-programming of funds.
- WAC 479-510-110 Central Puget Sound public transportation account—Eligibility.

**WSR 99-20-144
PROPOSED RULES
FOREST PRACTICES BOARD**

[Filed October 6, 1999, 11:41 a.m.]

Original Notice.

Title of Rule: Amendments to forest practices rules, Title 222 WAC.

Purpose: Current forest practices rules are not providing adequate protection for salmon and other public resources. The Forest Practices Board and the Department of Natural Resources face many new resource protection challenges, the most significant of which are the current and [proposed] listings of salmonids under the federal Endangered Species Act (ESA) and water quality-limited waters under the federal Clean Water Act (CWA).

The Forest Practices Board initiated permanent rule making in October 1998 (WSR 98-21-015) and has adopted emergency rules for water typing and salmonids. The legislature has declared an emergency (RCW 76.09.055) and has authorized the board to adopt emergency rules consistent with the forests and fish report. These rules will remain in effect until permanent rules are adopted or until June 30, 2001, whichever is sooner.

Statutory Authority for Adoption: Chapter 34.05 RCW, RCW 34.05.090, 76.09.040, [76.09.]050, [76.09.]055.

Statute Being Implemented: Chapter 76.09 RCW.

Summary: The legislature has authorized the board to adopt emergency rules amending the forest practices rules with respect to protection of aquatic resources. RCW 76.09.055(2). The rules below include water typing, riparian protection, forest roads and wetlands, SEPA guidance, Class IV-Special, slope stability, forest chemicals, enforcement, adaptive management and watershed analysis.

PROPOSED

PROPOSED

Citation of Existing Rules Amended by this Order: WAC 222-08-035 Continuing review of forest practices rules, 222-10-010 Policies and authorities, 222-12-010 Authorities, 222-12-045 Adaptive management, 222-12-090 Forest practices board manual, 222-16-010 General definitions, 222-16-030 Water typing system, 222-16-035 Wetland typing system, 222-16-050 Classes of forest practices, 222-16-080 Critical wildlife habitats (state) and critical habitat (federal) of threatened and endangered species, 222-20-010 Applications and notifications—Policy, 222-20-020 Application time limits, 222-20-080 Application and notification expiration, 222-22-070 Prescription recommendation, 222-22-090 Use and review of watershed analysis, 222-24-010 Policy, 222-24-020 Road location and design, 222-24-030 Road construction, 222-24-035 Landing location and construction, 222-24-040 Water crossing structures, 222-24-050 Road maintenance, 222-24-060 Rock quarries, gravel pits, borrow pits, and spoil dispersal areas, 222-30-010 Policy-timber harvesting, 222-30-020 Harvest planning and design, 222-30-040 Shade requirements to maintain water temperature, 222-30-060 Cable yarding, 222-38-010 Policy-forest chemicals, 222-38-020 Handling, storage, and application of pesticides, 222-38-030 Handling, storage, and application of fertilizers, 222-38-040 Handling, storage, and application of other forest chemicals, 222-46-060 Civil penalties, and 222-46-070 Injunctions, civil suits, disapprovals.

New sections added: WAC 222-10-030 SEPA policies for potentially unstable slopes and landforms, 222-10-035 Watershed analysis SEPA policies, 222-12-041 Use of approved state and federal conservation agreements, 222-12-044 Cooperative opportunities, 222-16-036 Wetland delineation, 222-20-015 Multi-year permits, 222-20-055 Continuing forest land obligations, 222-22-075 Monitoring, 222-22-076 Restoration, 222-24-015 Construction in wetlands, 222-24-026 Temporary roads, 222-24-051 Road maintenance schedule, 222-24-052 Maintenance for specific roads and structures, 222-30-021 Western Washington riparian management zones, 222-30-022 Eastern Washington riparian management zones, 222-30-023 Riparian management zones for exempt twenty-acre parcels, 220-30-045 Salvage logging within riparian management zones, and 222-46-012 Representatives on inspections.

Section Deleted: WAC 222-24-025 Road design.

Reasons Supporting Proposal: The legislature has found that declines of fish stocks throughout much of the state require immediate action to be taken to help restore these fish runs where possible. An immediate adoption of emergency rules is appropriate in this particular instance. RCW 76.09.055(1).

Proposal Changes the Following Existing Rules:

Name of Agency Personnel Responsible for Drafting: Judith Holter, 1111 Washington Street S.E., Olympia, WA 98504-7012, (360) 902-1412; Implementation and Enforcement: Catherine Elliott, 1111 Washington Street S.E., Olympia, WA 98504-7012, (360) 902-1041.

Name of Proponent: Forest Practices Board, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The proposed rule:

- Revises the water typing rules used to identify streams that are or are not used by fish so that more adequate protection is provided or fish habitat along those streams.
- Provides a multi-year forest practices permit for landowners who have completed watershed analysis or who have submitted an application for a road maintenance and abandonment plan.
- Expands the Class IV-Special SEPA trigger for unstable slopes, gives SEPA guidance, and adds definitions related to unstable slopes.
- Requires that all watershed analyses being reviewed under SEPA.
- Revises riparian management zone requirements for eastern and western Washington; identifies and delineates RMZ core, inner and outer zones on each side of the state; continues the January 1999 riparian requirements for exempt twenty-acre parcels of landowner who own less than eighty acres of forest land.
- Presents options for variable buffer widths for aerial application of pesticides and adds best management practices to the Forest Practices Board (FPB) manual.
- Adds best management practices related to roads to the FPB manual; revises requirements for road location and design, relief drainage structures, water crossing structures, and road maintenance and abandonment; separates wetland delineation rules into a new section.
- Expands adaptive management requirements by formally establishing the Cooperative Monitoring, Evaluation, and Research (CMER) Committee and charging them with implementing adaptive management based on scientific findings; encourages cooperative opportunities for working with the board.

The anticipated effects for these rules include improved water quality and fish habitat, as well as better overall protection of public resources while maintaining a viable forest products industry.

Rule Category	WAC 222	Current Rules	New Emergency Rule - Summary of Additions and Revisions
Adaptive Management	08-035 12-044 12-045		Expands adaptive management by spelling out CMER's reporting responsibilities and its relationship to the board. Adds a new section on cooperative opportunities.

Rule Category	WAC 222	Current Rules	New Emergency Rule - Summary of Additions and Revisions
FPB Manual	12-090		Adds guidelines for: Water typing, roads and road plans; aerial applications of pesticides; bankfull width and channel migration zones; RMZ calculations; unstable slopes.
Definitions	16-010		Adds several new definitions for each topic: Unstable slopes, roads, RMZs, pesticides, water typing, multi-year permits.
Water Typing	16-030 16-035		Water typing system is still based on fish use and implements guidelines for determining fish use; includes revised criteria for identifying seasonal, perennial streams; amends wetlands rules.
SEPA Guidance Class IV-Special	10-030 10-035 16-050		New SEPA guidance sections written for watershed analysis, unstable slopes. Revises SEPA trigger for unstable slopes.
Applications: Multi-year permits	20-010 20-015 20-020 20-055	Permits are valid for two years only.	Multi-year permit option for landowners within a completed watershed analysis or an approved road maintenance and abandonment plans; name of operator and notice to the department required to begin forest practices operations. Certain forestry obligations continue with the land when it changes owners.
Watershed Analysis	22-035 to 22-090	Process and requirements for watershed analysis are prescribed.	Adds a cross reference to multi-year permits; new sections added for SEPA guidance monitoring, and restoration.
Roads	24-010 to 24-060	Road plans required only upon DNR request	The goal is to protect water quality and aquatic habitat by minimizing/eliminating delivery of sediment; adds mandatory road maintenance and abandonment plan requirements; establishes a schedule for road maintenance; revises road design and water crossing; no net loss of wetland functions and mitigation sequence is given; BMPs to be written for FPB Manual.
Riparian Management Zones	30-010 30-020 30-070	W. Wash: 25' to 100' E. Wash: 30'-300' + leave tree requirements	Revises riparian management zone requirements (RMZs); RMZs are made up of core, inner and outer zones; management options vary by zone. 30' equipment limitation zone everywhere else, including seasonal streams. 20-acre parcels follow January 1999 rules if landowner owns less than 80 acres statewide.
Pesticides	38-020 38-030 38-040	50' buffers	Rules implement BMPs to eliminate direct entry of pesticides to water. Protective buffers required during aerial application of pesticides vary by water type and RMZ core, inner and outer zones, and wind conditions.
Enforcement	46-012 46-060 46-065		The department may invite representatives needed to provide specific expertise to accompany DNR when reviewing an application. Persons incurring civil penalties are also responsible for attorneys costs and fees.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not required per RCW 76.09.055(2).

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Not required per RCW 76.09.055(2).

Hearing Location: Natural Resources Building, Room 172, 1111 Washington Street S.E., Olympia, WA, on November 9, 1999, at 4 p.m.

Assistance for Persons with Disabilities: Contact Forest Practices Board Secretary, (360) 902-1413, by November 1, 1999, TTY (360) 902-1125.

Submit Written Comments to: Judith Holter, Department of Natural Resources, Forest Practices Division, fax (360) 902-1789, by November 10, 1999.

PROPOSED

Date of Intended Adoption: November 16, 1999.

October 5, 1999

Amy F. Bell
Chair

AMENDATORY SECTION (Amending WSR 97-24-091, filed 12/3/97, effective 1/3/98)

WAC 222-08-035 Continuing review of forest practices ((regulations)) rules. *(1) Annual evaluations. The department, after consulting with affected state agencies, Indian tribes, forest landowners, fish and wildlife, natural resources, and environmental interest groups, shall beginning July 1, 1988, report annually to the forest practices board an assessment of how ((regulations)) the rules and voluntary processes are working.

*((2) Adaptive management. The cooperative monitoring, evaluation and research committee (CMER) will provide results of research and monitoring projects for covered resources (see WAC 222-16-010) to the TFW policy group or similar collaborative forum in the form of technical recommendations. In the event that CMER cannot agree on a recommendation within six months of submittal of a scientific report, the report will be forwarded to the TFW policy group for review and recommendation to the forest practices board. In the event that the TFW policy group cannot agree on a recommendation to the forest practices board within six months, mediation or arbitration may be used to reach agreement. The decision by the TFW policy group to use either arbitration or mediation must be made within one month and the results must be completed within three months, including the one month used to decide on either arbitration or mediation. When the forest practices board receives results of mediation or arbitration, all information generated should be forwarded to the forest practices board. In addition, the department is directed to report to the board on opportunities to modify these ((regulations)) rules when baseline data, monitoring, evaluation or the use of interdisciplinary teams show that such adaptive management will better meet the purposes and policies of the Forest Practices Act.

(3) Resource management plans. The department is directed to develop a method for cooperative voluntary resource management planning among forest landowners, governmental agencies, affected Indian tribes, and environmental groups which would result in the development of plans which might be used as an alternative to the forest practice regulations in achieving the purposes and policies set forth in the act. This should be done through pilot projects, at least one of which should be located on the east side of the Cascade summit and one on the west side of the Cascade summit.

AMENDATORY SECTION (Amending Order 429, Resolution No. 8-8-84, filed 8/29/84, effective 10/1/84)

WAC 222-10-010 Policies and authorities. (1) **This chapter** is promulgated pursuant to the authority granted in RCW 76.09.010, 43.21C.120 and chapter 197-11 WAC.

(2) **The forest practices board**, according to RCW 76.09.040, possesses the authority to promulgate forest practices regulations establishing minimum standards for forest practices and setting forth necessary administrative provisions.

(3) **The forest practices board** adopts by reference the policies of SEPA as set forth in RCW 43.21C.020.

(4) **A Class IV-Special forest practice approval** will be conditioned when necessary to mitigate specific adverse impacts which are identified in the environmental documents prepared under SEPA. An application for a Class IV-Special forest practice will be denied when the proposal would result in significant adverse impacts identified in a final or supplemental environmental impact statement prepared under SEPA, and reasonable mitigation measures are insufficient to mitigate the identified impacts and denial is consistent with all provisions of the acts cited in subsection (1) of this section.

(5) **SEPA policies** and procedures required for administration of Class IV-Special forest practices or any other forest practices applications or notifications subject to SEPA shall be implemented by the department of natural resources.

NEW SECTION

WAC 222-10-030 *SEPA policies for potentially unstable slopes and landforms. In addition to SEPA policies established elsewhere in this chapter, the following policies apply to forest practices subject to SEPA where the forest practices would occur on potentially unstable slopes or landforms.

(1) In order to determine whether such forest practices are likely to have a probable significant adverse impact, and therefore require an environmental impact statement, the applicant must submit the following additional information, prepared by a qualified expert. The expert must describe the potentially unstable landforms in and around the application site, and analyze:

(a) The likelihood that the proposed forest practices will cause movement on the potentially unstable slopes or landforms, or contribute to further movement of a potentially unstable slope or landform;

(b) The likelihood of delivery of sediment or debris to any public resources, or in a manner that would threaten public safety; and

(c) Any possible mitigation for the identified hazards and risks.

(2) The department's threshold determination will include an evaluation of whether the proposed forest practices:

(a) Are likely to increase the probability of a mass movement on or near the site;

(b) Would deliver sediment or debris to a public resource or would deliver sediment or debris in a manner that would threaten public safety; and

(c) Such movement and delivery are likely to cause significant adverse impacts.

If the department determines that (a), (b) and (c) of this subsection are likely to occur, then the forest practice is likely to have a probable significant adverse impact.

(3) The department will evaluate the proposal, using appropriate expertise and in consultation with other affected agencies and Indian tribes.

(4) Specific mitigation measures or conditions must be designed to avoid accelerating rates and magnitudes of mass wasting that could deliver sediment or debris to a public resource or could deliver sediment or debris in a manner that would threaten public safety.

(5) Qualified expert for the purposes of this section means a person with a master's degree in geology or geomorphology or a related field, or a significant amount of post-graduate course or thesis work or other training in geomorphology or mass movement, and an additional 5 years of field experience in the evaluation of relevant problems in forested lands.

NEW SECTION

WAC 222-10-035 *Watershed analysis SEPA policies. When the department considers a watershed analysis for approval as in WAC 222-22-080, the department will perform a review under SEPA as a nonproject proposal. When making the threshold determination for a watershed analysis, the department shall only make a determination of significance if, when compared to rules or prescriptions in place at the time of the analysis or the 5-year review, the prescriptions will cause a probable significant adverse impact on elements of the environment other than those addressed in the watershed analysis process.

AMENDATORY SECTION (Amending Order 263, filed 6/16/76)

WAC 222-12-010 Authority. These forest practices regulations are adopted pursuant to chapter 76.09 RCW. Where necessary to accomplish the purposes and policies stated in the act, the board is authorized to promulgate forest practices regulations establishing minimum standards for forest practices and setting forth necessary administrative provisions, pursuant to chapter 34.04 RCW and in accordance with the procedures enumerated in the act.

Promulgation of all forest practices regulations shall be accomplished so that compliance with such forest practices regulations will achieve compliance with the water quality laws.

Those regulations marked with an asterisk (*) pertain to water quality protection; pursuant to RCW 76.09.040 (~~they will also be adopted by the department of ecology~~) and can be amended only by agreement between the board and the department of ecology.

Forest practices regulations shall be administered and enforced by the department except as otherwise provided in the act. Such regulations shall be administered so as to give consideration to all purposes and policies set forth in RCW 76.09.010.

NEW SECTION

WAC 222-12-041 Use of approved state and federal conservation agreements. If a landowner submits a forest practice application or notification for an activity or resource that is covered by one of the following agreements, the standard for the activity or resource in the agreement replaces the applicable rules (chapters 222-22 through 222-38 WAC) upon approval of the application or notification. The specific rules replaced will be identified by the department at the time of approval. The agreements are:

(1) A habitat conservation plan and incidental take permit or an incidental take statement covering such species approved by the Secretary of the Interior or Commerce pursuant to 16 U.S.C. section 1536(b) or 1539(a) and reviewed under the National Environmental Policy Act, 42 U.S.C. section 4321 et seq.;

(2) An "unlisted species agreement" covering such species approved by the U.S. Fish and Wildlife Service or National Marine Fisheries Service which has been reviewed under the National Environmental Policy Act, 42 U.S.C. section 4321 et seq.; or

(3) Another cooperative or conservation agreement entered into with a state resource agency pursuant to its statutory authority for fish and wildlife protection, such as a landowner option plan, cooperative habitat enhancement agreement or a landscape management plan that addresses the needs of the covered resources and that is subject to review under the State Environmental Policy Act, chapter 43.21C RCW.

NEW SECTION

WAC 222-12-044 Cooperative opportunities. The forest practices board recognizes and encourages collaborative efforts to build solutions to pressing forest practices issues. The forest practices board may at any time use this method to assist in assessing and recommending solutions to issues. The benefits of this method lie in the ability of disparate groups to use consensus processes to bring recommendations to the forest practices board. The board will continue to utilize collaborative efforts, such as the Timber, Fish, and Wildlife (TFW) forum. Participants would ideally consist of representation by timber interests, environmental interests, state agencies, local government, federal agencies, tribal governments and other interested parties so long as the collaborative effort utilizes a consensus approach to resolving or addressing issues.

AMENDATORY SECTION (Amending Order 535, filed 11/16/87, effective 1/1/88)

WAC 222-12-045 *Adaptive management. In order to further the purposes of chapter 76.09 RCW the board has adopted a policy of adaptive management designed to modify these (~~regulations~~) rules and their application based on cooperative research, monitoring, and evaluation. Such adaptive management shall include the measures set out in WAC 222-08-035. The forest practices board, in consultation with Timber, Fish, and Wildlife or a similar collaborative forum,

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will establish resource objectives for "covered resources." (See definition in WAC 222-16-010.) The forest practices board will establish the cooperative monitoring, evaluation, and research (CMER) committee, and will, in consultation with TFW or a similar collaborative forum, designate a scientific review committee.

(1) **CMER.** The CMER committee will conduct validation and effectiveness monitoring and research to facilitate achieving the resource objectives. Each funded project will have an independent scientific peer review performed or facilitated by the scientific review committee.

(a) **Membership.** The CMER committee will be made up of members representing timber interests, environmental interests, state agencies, local government, federal agencies and tribal governments who have expertise in the interaction of forest practices with public resources. CMER members will serve voluntarily without compensation or per diem.

(b) **Administration.** If funding is available, the department will employ an administrator to oversee the adaptive management program. The adaptive management program administrator will be selected in consultation with TFW or similar collaborative forum. The administrator will be responsible for managing the research and monitoring projects, including budget preparation and work plans, set time frames for products, and resolve disputes within the committee. In addition, the administrator will select peer reviewers in consultation with the scientific review committee.

(c) **Reports to the board.** The administrator will report to the forest practices board at a minimum annually, on the membership of the CMER committee and on progress of funded projects. Each biennium, the administrator will submit the following for forest practices board approval: A budget proposal and a projects list that includes time frames for accomplishing the work. Both the budget and the projects list will have been developed in consultation with TFW or similar collaborative forum. This will be the basis for the department's biennial CMER budget request to the legislature. The department will conduct a performance audit of the expenditure of legislatively appropriated funds for CMER projects.

(2) **Scientific review committee.** A scientific review committee, chosen in consultation with TFW or similar collaborative forum, will be designated by the forest practices board to provide peer review of CMER's work. Together, the CMER and the scientific review committees will establish protocols and standards governing adaptive management. The SRC will review or facilitate review of all studies, including design, methodology, data and results, presented to CMER in support of requests for changes to existing rules or suggestions for new rules.

AMENDATORY SECTION (Amending WSR 97-24-091, filed 12/3/97, effective 1/3/98)

WAC 222-12-090 Forest practices board manual. When approved by the board the manual serves as an advisory technical supplement to these forest practices regulations. The department, in cooperation with the departments of fish and wildlife, agriculture, ecology, and such other agen-

cies, affected Indian tribes, or interested parties as may have appropriate expertise, is directed to prepare, and submit to the board for approval, revisions to the forest practices board manual. The manual shall include:

(1) **Method for determination of adequate shade requirements on streams** needed for use with WAC 222-30-040.

(2) **The standard methods for measuring** (~~channel width, stream gradient and flow which are used in the water typing criteria WAC 222-16-030~~) **physical parameters of streams and channel migration zones.**

(3) (~~A chart for establishing recommended permanent culvert sizes and associated data~~) **Guidelines for forest roads.**

(a) **Road construction.**

(b) **Road maintenance and abandonment plans.**

(c) **Recommended culvert sizes.**

(4) **Guidelines for clearing slash and debris from Type 4 and 5 Waters.**

(5) **Guidelines for landing location and construction.**

(6) **Guidelines for determining acceptable stocking levels.**

(7) **Guidelines for** (~~calculating average widths of~~) **riparian management zones.**

(a) **Calculating average RMZ widths for exempt 20-acre parcels in WAC 222-30-023.**

(b) **Western Washington RMZs WAC 222-30-021.**

(c) **Eastern Washington RMZs WAC 222-30-022.**

(d) **Large woody debris placement plans.**

(8) **Guidelines for wetland delineation.**

(9) **Guidelines for wetland replacement or substitution.**

(10) **A list of nonnative wetland plant species.**

(11) **The standard methodology, which shall specify the quantitative methods, indices of resource conditions, and definitions, for conducting watershed analysis under chapter 222-22 WAC.** The department, in consultation with Timber/Fish/Wildlife's Cooperative Monitoring, Evaluation and Research Committee (CMER), may make minor modifications to the version of the standard methodology approved by the board. Substantial amendments to the standard methodology requires approval by the board.

(12) **Guidelines for forest chemicals.**

(a) **A list of special concerns related to aerial application of pesticides developed under WAC 222-16-070(3).**

(b) **Guidelines for aerial applications of pesticides and other forest chemicals under chapter 222-38 WAC.**

(13) **Guidelines for determining fish use for the purpose of typing waters under WAC 222-16-030.**

(14) **Survey protocol for marbled murrelets.** The Pacific seabird survey protocol in effect March 1, 1997, shall be used when surveying for marbled murrelets in a stand. Surveys conducted before the effective date of this rule are valid if they were conducted in substantial compliance with generally accepted survey protocols in effect at the beginning of the season in which they were conducted.

(15) The department shall, in consultation with the department of fish and wildlife, develop **platform protocols** for use by applicants in estimating the number of platforms,

and by the department in reviewing and classifying forest practices under WAC 222-16-050. These protocols shall include:

- (a) A sampling method to determine platforms per acre in the field;
- (b) A method to predict the number of platforms per acre based on information measurable from typical forest inventories. The method shall be derived from regression models or other accepted statistical methodology, and incorporate the best available data; and
- (c) Other methods determined to be reliable by the department, in consultation with the department of fish and wildlife.

(16) Guidelines for evaluating potentially unstable slopes and landforms.

AMENDATORY SECTION (Amending WSR 98-07-047, filed 3/13/98, effective 5/1/98)

WAC 222-16-010 General definitions.* Unless otherwise required by context, as used in these ((regulations)) rules:

"Act" means the Forest Practices Act, chapter 76.09 RCW.

"Affected Indian tribe" means any federally recognized Indian tribe that requests in writing from the department information on forest practices applications and notification filed on specified areas.

"Alluvial fan" see "sensitive sites" definition.

"Appeals board" means the forest practices appeals board established in the act.

"Area of resource sensitivity" means areas identified in accordance with WAC 222-22-050 (2)(d) or 222-22-060(2).

"Bankfull depth" means the elevation of the water surface of a stream flow having a return period of approximately 1.5 years measured from the line of maximum depth of the stream or thalweg. (See board manual for measuring guidelines.)

"Bankfull width" means the horizontal projection of bankfull depth to the stream bank. (See board manual for measuring guidelines.)

"Basal area" means the area in square feet of the cross section of a tree bole measured at 4 1/2 feet above the ground.

"Bedrock hollows" (colluvium-filled bedrock hollows, or hollows; also referred to as zero-order basins, swales, or bedrock depressions) means landforms that are commonly spoon-shaped areas of convergent topography within unchanneled valleys on hillslopes. (See board manual section 16 for identification criteria.)

"Board" means the forest practices board established by the act.

"Bog" means wetlands which have the following characteristics: Hydric organic soils (peat and/or muck) typically 16 inches or more in depth (except over bedrock or hardpan); and vegetation such as sphagnum moss, labrador tea, bog laurel, bog rosemary, sundews, and sedges; bogs may have an overstory of spruce, western Hemlock, lodgepole pine, cedar, whitepine, crabapple, or aspen, and may be associated with

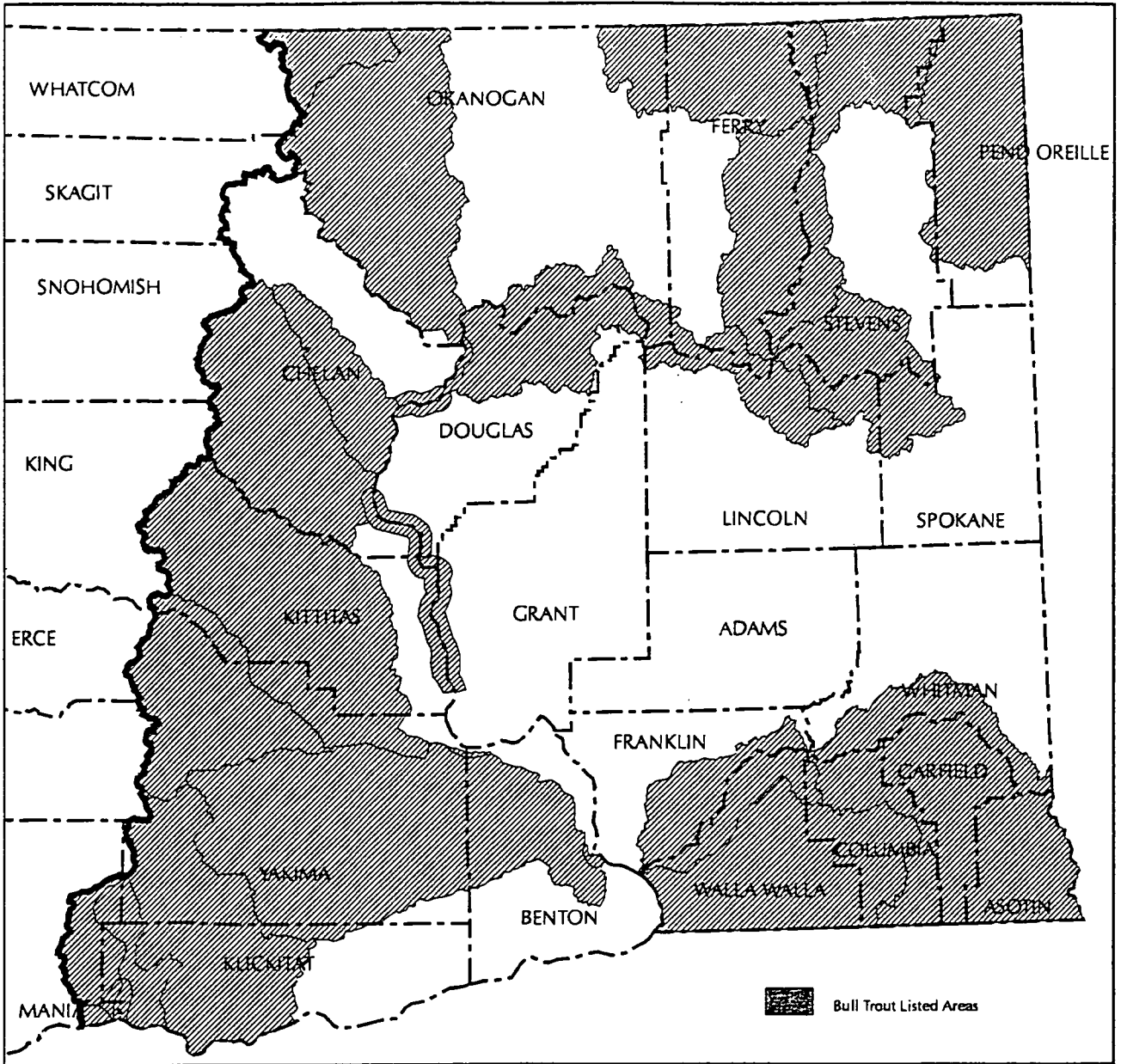
open water. This includes nutrient-poor fens. See the *Forest Practices Board Manual*.

"Borrow pit" shall mean an excavation site outside the limits of construction to provide material necessary to that construction, such as fill material for the embankments.

"Bull trout habitat overlay" means those portions of Eastern Washington streams containing bull trout habitat as identified in the department of fish and wildlife's bull trout map. Prior to the development of a bull trout field protocol and of the habitat-based predictive model, the "bull trout habitat overlay" map may be modified to allow for locally-based corrections using current data, field knowledge, and best professional judgment. A landowner may meet with the departments of natural resources and fish and wildlife and, in consultation with affected tribes and federal biologists, determine whether certain stream reaches have habitat conditions that are unsuitable for supporting bull trout. If such a determination is mutually agreed upon, documentation submitted to the department will result in the applicable stream reaches no longer being included within the definition of bull trout habitat overlay. Conversely, if suitable bull trout habitat is discovered outside the current mapped range, those waters will be included within the definition of "bull trout habitat overlay" by a similar process.

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"Channel migration zone (CMZ)" means the area where the active channel of a stream is prone to move and this results in a potential near-term loss of riparian habitat adjacent to the stream. (See the board manual for descriptions and illustrations of CMZs, delineation guidelines, except as modified by a permanent levee or dike. CMZs.)

"Chemicals" means substances applied to forest lands or timber including pesticides, fertilizers, and other forest chemicals.

"Clearcut" means a harvest method in which the entire stand of trees is removed in one timber harvesting operation. Except as provided in WAC 222-30-110, an area remains clearcut until:

It meets the minimum stocking requirements under WAC 222-34-010(2) or 222-34-020(2); and

The largest trees qualifying for the minimum stocking levels have survived on the area for five growing seasons or, if not, they have reached an average height of four feet.

"Columbia River Gorge National Scenic Area or CRGNSA" means the area established pursuant to the Columbia River Gorge National Scenic Area Act, 16 U.S.C. §544b(a).

"CRGNSA special management area" means the areas designated in the Columbia River Gorge National Scenic Area Act, 16 U.S.C. §544b(b) or revised pursuant to 16 U.S.C. §544b(c). For purposes of this rule, the special management area shall not include any parcels excluded by 16 U.S.C. §544f(o).

"CRGNSA special management area guidelines" means the guidelines and land use designations for forest practices developed pursuant to 16 U.S.C. §544f contained in the CRGNSA management plan developed pursuant to 15 U.S.C. §544d.

"Commercial tree species" means any species which is capable of producing a merchantable stand of timber on the particular site, or which is being grown as part of a Christmas tree or ornamental tree-growing operation.

"Completion of harvest" means the latest of:

Completion of removal of timber from the portions of forest lands harvested in the smallest logical unit that will not be disturbed by continued logging or an approved slash disposal plan for adjacent areas; or

Scheduled completion of any slash disposal operations where the department and the applicant agree within 6 months of completion of yarding that slash disposal is necessary or desirable to facilitate reforestation and agree to a time schedule for such slash disposal; or

Scheduled completion of any site preparation or rehabilitation of adjoining lands approved at the time of approval of the application or receipt of a notification: Provided, That delay of reforestation under this paragraph is permitted only to the extent reforestation would prevent or unreasonably hinder such site preparation or rehabilitation of adjoining lands.

"Constructed wetlands" means those wetlands voluntarily developed by the landowner. Constructed wetlands do not include wetlands created, restored, or enhanced as part of a mitigation procedure or wetlands inadvertently created as a result of current or past practices including, but not limited

to: Road construction, landing construction, railroad construction, or surface mining.

"Contamination" means the introducing into the atmosphere, soil, or water, sufficient quantities of substances as may be injurious to public health, safety or welfare, or to domestic, commercial, industrial, agriculture or recreational uses, or to livestock, wildlife, fish or other aquatic life.

"Convergent headwalls" (or headwalls) means tear-drop-shaped landforms, broad at the ridgetop and terminating where headwaters converge into a single channel; they are broadly concave both longitudinally and across the slope, but may contain sharp ridges separating the headwater channels. (See board manual section 17 for identification criteria.)

"Conversion option harvest plan" means a voluntary plan developed by the landowner and approved by the local government entity indicating the limits of harvest areas, road locations, and open space.

"Conversion to a use other than commercial timber operation" shall mean a bona fide conversion to an active use which is incompatible with timber growing.

"Cooperative habitat enhancement agreement (CHEA)" see WAC 222-16-105.

"Covered resources" means water quality, fish, the Columbia torrent salamander (*Rhyacotriton kezeri*), the Cascade torrent salamander (*Rhyacotriton cascadae*), the Olympic torrent salamander (*Rhyacotriton olympian*), the Dunn's salamander (*Plethodon dunni*), the Van Dyke's salamander (*Plethodon vandyke*), the Tailed frog (*Ascaphus truei*) and their respective habitats.

"Critical habitat (federal)" means the habitat of any threatened or endangered species designated as critical habitat by the United States Secretary of the Interior or Commerce under Sections 3 (5)(A) and 4 (a)(3) of the Federal Endangered Species Act.

"Critical nesting season" means for marbled murrelets - April 1 to August 31.

"Critical wildlife habitat (state)" means those habitats designated by the board in accordance with WAC 222-16-080.

"Cultural resources" means archaeological and historic sites and artifacts and traditional religious, ceremonial and social uses and activities of affected Indian tribes.

"Cumulative effects" means the changes to the environment caused by the interaction of natural ecosystem processes with the effects of two or more forest practices.

"Daily peak activity" means for marbled murrelets - one hour before official sunrise to two hours after official sunrise and one hour before official sunset to one hour after official sunset.

"Debris" means woody vegetative residue less than 3 cubic feet in size resulting from forest practice activities which would reasonably be expected to cause significant damage to a public resource.

"Deep-seated landslides" means landslides in which the slide plane or zone is mostly below the maximum rooting depth of forest trees, to depths of tens to hundreds of feet. (See board manual section 17 for identification criteria.)

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"Demographic support" means providing sufficient suitable spotted owl habitat within the SOSEA to maintain the viability of northern spotted owl sites identified as necessary to meet the SOSEA goals.

"Department" means the department of natural resources.

"Desired future condition (DFC)" means the stand conditions of a mature riparian forest at 140 years of age.

"Diameter at breast height (dbh)" means the diameter of a tree at 4 1/2 feet above the ground.

"Dispersal habitat" see WAC 222-16-085(2).

"Dispersal support" means providing sufficient dispersal habitat for the interchange of northern spotted owls within or across the SOSEA, as necessary to meet SOSEA goals. Dispersal support is provided by a landscape consisting of stands of dispersal habitat interspersed with areas of higher quality habitat, such as suitable spotted owl habitat found within RMZs, WMZs or other required and voluntary leave areas.

"Eastern Washington" means ~~(the lands of the state lying east of an administrative line which approximates the change from the Western Washington timber types to the Eastern Washington timber types described as follows:~~

~~Beginning at the International Border and Okanogan National Forest boundary at the N1/4 corner Section 6, T. 40N, R. 24E., W.M., south and west along the Pasayten Wilderness boundary to the west line of Section 30, T. 37N, R. 19E.,~~

~~Thence south on range line between R. 18E. and R. 19E., to the Lake Chelan Sawtooth Wilderness at Section 31, T. 35N, R. 19E.,~~

~~Thence south and east along the eastern wilderness boundary of Lake Chelan Sawtooth Wilderness to the west line of Section 18, T. 31N, R. 19E. on the north shore of Lake Chelan,~~

~~Thence south on the range line between R. 18E. and R. 19E. to the SE corner of T. 28N, R. 18E.,~~

~~Thence west on the township line between T. 27N, and T. 28N to the NW corner of T. 27N, R. 17E.,~~

~~Thence south on range line between R. 16E. and R. 17E. to the Alpine Lakes Wilderness at Section 31, T. 26N, R. 17E.,~~

~~Thence south along the eastern wilderness boundary to the west line of Section 6, T. 22N, R. 17E.,~~

~~Thence south on range line between R. 16E. and R. 17E. to the SE corner of T. 22N, R. 16E.,~~

~~Thence west along township line between T. 21N, and T. 22N to the NW corner of T. 21N, R. 15E.,~~

~~Thence south along range line between R. 14E. and R. 15E. to SW corner of T. 20N, R. 15E.,~~

~~Thence east along township line between T. 19N, and T. 20N to the SW corner of T. 20N, R. 16E.,~~

~~Thence south along range line between R. 15E. and R. 16E. to the SW corner of T. 18N, R. 16E.,~~

~~Thence west along township line between T. 17N, and T. 18N to the SE corner of T. 18N, R. 14E.,~~

~~Thence south along range line between T. 14E. and R. 15E. to the SW corner of T. 14N, R. 15E.,~~

~~Thence south and west along Wenatchee National Forest Boundary to the NW corner of T. 12N, R. 14E.,~~

~~Thence south along range line between R. 13E. and R. 14E. to SE corner of T. 10N, R. 13E.,~~

~~Thence west along township line between T. 9N, and T. 10N to the NW corner of T. 9N, R. 12E.,~~

~~Thence south along range line between R. 11E. and R. 12E. to SE corner of T. 8N, R. 11E.,~~

~~Thence west along township line between T. 7N, and T. 8N to the Gifford Pinchot National Forest Boundary,~~

~~Thence south along Forest Boundary to SE corner of Section 33, T. 7N, R. 11E.,~~

~~Thence west along township line between T. 6N, and T. 7N to SE corner of T. 7N, R. 9E.,~~

~~Thence south along Skamania-Klickitat County line to Oregon-Washington)) the geographic area in Washington east of the crest of the Cascade Mountains from the international border to the top of Mt. Adams, then east of the ridge line dividing the White Salmon River drainage from the Lewis River drainage and east of the ridge line dividing the Little White Salmon River drainage from the Wind River drainage to the Washington-Oregon state line.~~

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"Eastern Washington timber habitat types" means:

<u>Tree species zone</u>	<u>Elevation</u>
<u>Ponderosa Pine</u>	<u>0 - 2500 feet</u>
<u>Mixed Conifer</u>	<u>2501 - 5000 feet</u>
<u>High Elevation</u>	<u>Above 5000 feet</u>

"End hauling" means the removal and transportation of excavated material, pit or quarry overburden, or landing or road cut material from the excavation site to a deposit site not adjacent to the point of removal.

"Erodible soils" means those soils exposed or displaced by a forest practice operation, that would be readily moved by water.

"Even-aged harvest methods" means the following harvest methods:

Clearcuts;

Seed tree harvests in which twenty or fewer trees per acre remain after harvest;

Shelterwood regeneration harvests in which twenty or fewer trees per acre remain after harvest;

Group or strip shelterwood harvests creating openings wider than two tree heights, based on dominant trees;

Shelterwood removal harvests which leave fewer than one hundred fifty trees per acre which are at least five years old or four feet in average height;

Partial cutting in which fewer than fifty trees per acre remain after harvest;

Overstory removal when more than five thousand board feet per acre is removed and fewer than fifty trees per acre at least ten feet in height remain after harvest; and

Other harvesting methods designed to manage for multiple age classes in which six or fewer trees per acre remain after harvest.

Except as provided above for shelterwood removal harvests and overstory removal, trees counted as remaining after harvest shall be at least ten inches in diameter at breast height and have at least the top one-third of the stem supporting green, live crowns. Except as provided in WAC 222-30-110, an area remains harvested by even-aged methods until it meets the minimum stocking requirements under WAC 222-30-010(2) or 222-34-020(2) and the largest trees qualifying for the minimum stocking levels have survived on the area for five growing seasons or, if not, they have reached an average height of four feet.

"Fen" means wetlands which have the following characteristics: Peat soils 16 inches or more in depth (except over bedrock); and vegetation such as certain sedges, hardstem bulrush and cattails; fens may have an overstory of spruce and may be associated with open water.

"Fertilizers" means any substance or any combination or mixture of substances used principally as a source of plant food or soil amendment.

"Fill" means the placement of earth material or aggregate for road or landing construction or other similar activities. Fill does not include the growing or harvesting of timber including, but not limited to, slash burning, site preparation, reforestation, precommercial thinning, intermediate or final harvesting, salvage of trees, brush control, or fertilization.

"Fish" means for purposes of these rules, species of the vertebrate taxonomic groups of Cephalospidomorphi and Osteichthyes.

~~("Flood level - 50 year." For purposes of field interpretation of these regulations, the 50-year flood level shall be considered to refer to a vertical elevation measured from the ordinary high water mark which is 1.25 times the vertical distance between the average stream bed and the ordinary high water mark, and in horizontal extent shall not exceed 2 times the channel width measured on either side from the ordinary high water mark, unless a different area is specified by the department based on identifiable topographic or vegetative features or based on an engineering computation of flood magnitude that has a 2 percent chance of occurring in any given year. The 50-year flood level shall not include those lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or under license from the federal government, the state, or a political subdivision of the state.)~~ "Flood level - 100 year." Is a calculated flood event flow based on an engineering computation of flood magnitude that has a 1 percent chance of occurring in any given year. For purposes of field interpretation, landowners may use the following methods:

- Flow information from gauging stations;
- Field estimate of water level based on guidance for "Determining the 100-Year Flood Level" in the forest practices board manual.

The 100-year flood level shall not include those lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or under license from the federal government, the state, or a political subdivision of the state.

"Forest land" means all land which is capable of supporting a merchantable stand of timber and is not being actively used for a use which is incompatible with timber growing.

"Forest land owner" shall mean any person in actual control of forest land, whether such control is based either on legal or equitable title, or on any other interest entitling the holder to sell or otherwise dispose of any or all of the timber on such land in any manner: Provided, That any lessee or other person in possession of forest land without legal or equitable title to such land shall be excluded from the definition of "forest land owner" unless such lessee or other person has the right to sell or otherwise dispose of any or all of the timber located on such forest land.

"Forest practice" means any activity conducted on or directly pertaining to forest land and relating to growing, harvesting, or processing timber, including but not limited to:

- Road and trail construction;
- Harvesting, final and intermediate;
- Precommercial thinning;
- Reforestation;
- Fertilization;
- Prevention and suppression of diseases and insects;
- Salvage of trees; and
- Brush control.

"Forest practice" shall not include: Forest species seed orchard operations and intensive forest nursery operations; or

PROPOSED

preparatory work such as tree marking, surveying and road flagging; or removal or harvest of incidental vegetation from forest lands such as berries, ferns, greenery, mistletoe, herbs, mushrooms, and other products which cannot normally be expected to result in damage to forest soils, timber or public resources.

"Forest trees" excludes trees cultivated by agricultural methods in growing cycles shorter than ten years: Provided, That Christmas trees are forest trees and: Provided further, That this exclusion applies only to trees planted on land that was not in forest use immediately before the trees were planted and before the land was prepared for planting the trees.

"Full bench road" means a road constructed on a side hill without using any of the material removed from the hillside as a part of the road. This construction technique is usually used on steep or unstable slopes.

"Green recruitment trees" means those trees left after harvest for the purpose of becoming future wildlife reserve trees under WAC 222-30-020(11).

"Groundwater recharge areas for glacial deep-seated slides" means the area upgradient that can contribute water to the landslide, assuming that there is an impermeable perching layer in or under a deep-seated landslide in glacial deposits. (See board manual section 17 for identification criteria.)

"Herbicide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any tree, bush, weed or algae and other aquatic weeds.

"Historic site" includes:

Sites, areas and structures or other evidence of human activities illustrative of the origins, evolution and development of the nation, state or locality; or

Places associated with a personality important in history;

or

Places where significant historical events are known to have occurred even though no physical evidence of the event remains.

"Horizontal distance" means the distance on a line parallel to the horizon (not parallel to the slope).

"Hyporheic" means an area adjacent to and below channels where interstitial water is exchanged with channel water and water movement is mainly in the downstream direction.

"Identified watershed processes" means the following components of natural ecological processes that may in some instances be altered by forest practices in a watershed:

Mass wasting;

Surface and road erosion;

Seasonal flows including hydrologic peak and low flows and annual yields (volume and timing);

Large organic debris;

Shading; and

Stream bank and bed stability.

"Inner gorges" means canyons created by a combination of the downcutting action of a stream and mass movement on the slope walls; they commonly show evidence of recent movement, such as obvious landslides, vertical tracks of disturbance vegetation, or areas that are concave in con-

tour and/or profile. (See board manual section 17 for identification criteria.)

"Insecticide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any insect, other arthropods or mollusk pests.

"Interdisciplinary team" (ID Team) means a group of varying size comprised of individuals having specialized expertise, assembled by the department to respond to technical questions associated with a proposed forest practice activity.

"Islands" means any island surrounded by salt water in Kitsap, Mason, Jefferson, Pierce, King, Snohomish, Skagit, Whatcom, Island, or San Juan counties.

"Limits of construction" means the area occupied by the completed roadway or landing, including the cut bank, fill slope, and the area cleared for the purpose of constructing the roadway or landing.

"Load bearing portion" means that part of the road, landing, etc., which is supportive soil, earth, rock or other material directly below the working surface and only the associated earth structure necessary for support.

"Local government entity" means the governments of counties and the governments of cities and towns as defined in chapter 35.01 RCW.

"Low impact harvest" means use of any logging equipment, methods, or systems that minimize compaction or disturbance of soils and vegetation during the yarding process. The department shall determine such equipment, methods or systems in consultation with the department of ecology.

"Marbled murrelet detection area" means an area of land associated with a visual or audible detection of a marbled murrelet, made by a qualified surveyor which is documented and recorded in the department of fish and wildlife data base. The marbled murrelet detection area shall be comprised of the section of land in which the marbled murrelet detection was made and the eight sections of land immediately adjacent to that section.

"Marbled murrelet nesting platform" means any horizontal tree structure such as a limb, an area where a limb branches, a surface created by multiple leaders, a deformity, or a debris/moss platform or stick nest equal to or greater than 7 inches in diameter including associated moss if present, that is 50 feet or more above the ground in trees 32 inches dbh and greater (generally over 90 years of age) and is capable of supporting nesting by marbled murrelets.

"Median home range circle" means a circle, with a specified radius, centered on a spotted owl site center. The radius for the median home range circle in the Hoh-Clearwater/Coastal Link SOSEA is 2.7 miles; for all other SOSEAs the radius is 1.8 miles.

"Merchantable stand of timber" means a stand of trees that will yield logs and/or fiber:

Suitable in size and quality for the production of lumber, plywood, pulp or other forest products;

Of sufficient value at least to cover all the costs of harvest and transportation to available markets.

PROPOSED

"Multiyear permit" means a permit to conduct forest practices which is effective for longer than two years but no longer than five years.

"Northern spotted owl site center" means the location of status 1, 2 or 3 northern spotted owls based on the following definitions:

- Status 1: Pair or reproductive - a male and female heard and/or observed in close proximity to each other on the same visit, a female detected on a nest, or one or both adults observed with young.
- Status 2: Two birds, pair status unknown - the presence or response of two birds of opposite sex where pair status cannot be determined and where at least one member meets the resident territorial single requirements.
- Status 3: Resident territorial single - the presence or response of a single owl within the same general area on three or more occasions within a breeding season with no response by an owl of the opposite sex after a complete survey; or three or more responses over several years (i.e., two responses in year one and one response in year two, for the same general area).

In determining the existence, location, and status of northern spotted owl site centers, the department shall consult with the department of fish and wildlife and use only those sites documented in substantial compliance with guidelines or protocols and quality control methods established by and available from the department of fish and wildlife.

"Notice to comply" means a notice issued by the department pursuant to RCW 76.09.090 of the act and may require initiation and/or completion of action necessary to prevent, correct and/or compensate for material damage to public resources which resulted from forest practices.

"Occupied marbled murrelet site" means:

(1) A contiguous area of suitable marbled murrelet habitat where at least one of the following marbled murrelet behaviors or conditions occur:

- A nest is located; or
- Downy chicks or eggs or egg shells are found; or
- Marbled murrelets are detected flying below, through, into or out of the forest canopy; or
- Birds calling from a stationary location within the area; or
- Birds circling above a timber stand within one tree height of the top of the canopy; or

(2) A contiguous forested area, which does not meet the definition of suitable marbled murrelet habitat, in which any of the behaviors or conditions listed above has been documented by the department of fish and wildlife and which is distinguishable from the adjacent forest based on vegetative characteristics important to nesting marbled murrelets.

(3) For sites defined in (1) above, the outer perimeter of the occupied site shall be presumed to be the closer, measured from the point where the observed behaviors or conditions listed in (1) above occurred, of the following:

(a) 1.5 miles from the point where the observed behaviors or conditions listed in (1) above occurred; or

(b) The beginning of any gap greater than 300 feet wide lacking one or more of the vegetative characteristics listed under "suitable marbled murrelet habitat"; or

(c) The beginning of any narrow area of "suitable marbled murrelet habitat" less than 300 feet in width and more than 300 feet in length.

(4) For sites defined under (2) above, the outer perimeter of the occupied site shall be presumed to be the closer, measured from the point where the observed behaviors or conditions listed in (1) above occurred, of the following:

(a) 1.5 miles from the point where the observed behaviors or conditions listed in (1) above occurred; or

(b) The beginning of any gap greater than 300 feet wide lacking one or more of the distinguishing vegetative characteristics important to murrelets; or

(c) The beginning of any narrow area of suitable marbled murrelet habitat, comparable to the area where the observed behaviors or conditions listed in (1) above occurred, less than 300 feet in width and more than 300 feet in length.

(5) In determining the existence, location and status of occupied marbled murrelet sites, the department shall consult with the department of fish and wildlife and use only those sites documented in substantial compliance with guidelines or protocols and quality control methods established by and available from the department of fish and wildlife.

"Old forest habitat" see WAC 222-16-085 (1)(a).

"Operator" shall mean any person engaging in forest practices except an employee with wages as his/her sole compensation.

"Ordinary high-water mark" means the mark on the shores of all waters, which will be found by examining the beds and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation: Provided, That in any area where the ordinary high-water mark cannot be found, the ordinary high-water mark adjoining saltwater shall be the line of mean high tide and the ordinary high-water mark adjoining freshwater shall be the line of mean high-water.

"Other forest chemicals" means fire retardants when used to control burning (other than water), nontoxic repellents, oil, dust-control agents (other than water), salt, and other chemicals used in forest management, except pesticides and fertilizers, that may present hazards to the environment.

"Park" means any park included on the parks register maintained by the department pursuant to WAC 222-20-100(2). Developed park recreation area means any park area developed for high density outdoor recreation use.

"Partial cutting" means the removal of a portion of the merchantable volume in a stand of timber so as to leave an uneven-aged stand of well-distributed residual, healthy trees that will reasonably utilize the productivity of the soil. Partial cutting does not include seedtree or shelterwood or other types of regeneration cutting.

"Perennial initiation point" means the place where perennial flow begins on a Type 4 Water.

"Perennial streams." See WAC 222-16-030*(4).

"Pesticide" means any insecticide, herbicide, fungicide, or rodenticide but does not include nontoxic repellents or other forest chemicals.

"Plantable area" is an area capable of supporting a commercial stand of timber excluding lands devoted to permanent roads, utility rights-of-way, that portion of riparian management zones where scarification is not permitted, and any other area devoted to a use incompatible with commercial timber growing.

"Power equipment" means all machinery operated with fuel burning or electrical motors, including heavy machinery, chain saws, portable generators, pumps, and powered backpack devices.

"Preferred tree species" means the following species listed in descending order of priority for each timber habitat type:

<u>Ponderosa pine habitat type</u>	<u>Mixed conifer habitat type</u>
<u>all hardwoods</u>	<u>all hardwoods</u>
<u>ponderosa pine</u>	<u>Douglas-fir</u>
<u>Douglas-fir</u>	<u>western larch</u>
<u>western red cedar</u>	<u>ponderosa pine</u>
	<u>western red cedar</u>
	<u>white pine</u>
	<u>lodgepole pine</u>

"Public resources" means water, fish, and wildlife and in addition shall mean capital improvements of the state or its political subdivisions.

"Qualified surveyor" means an individual who has successfully completed the marbled murrelet field training course offered by the department of fish and wildlife or its equivalent.

"Rehabilitation" means the act of renewing, or making usable and reforesting forest land which was poorly stocked or previously nonstocked with commercial species.

"Relief culvert" means a structure to relieve surface runoff from roadside ditches to prevent excessive buildup in water volume and velocity.

"Resource characteristics" means the following specific measurable characteristics of fish, water, and capital improvements of the state or its political subdivisions:

For fish and water:

Physical fish habitat, including temperature and turbidity;

Turbidity in hatchery water supplies; and

Turbidity and volume for areas of water supply.

For capital improvements of the state or its political subdivisions:

Physical or structural integrity.

If the methodology is developed and added to the manual to analyze the cumulative effects of forest practices on other characteristics of fish, water, and capital improvements of the state or its subdivisions, the board shall amend this list to include these characteristics.

"Riparian management zone (RMZ)" means:

(1) For Western Washington

(a) The area within one site potential tree height of a Type 1, 2 or 3 Water measured horizontally from the bankfull width or the CMZ, whichever is greater; and

(b) The area protected for Type 4 Waters.

(2) In Eastern Washington

(a) The area within one site potential tree height of a Type 1, 2 or 3 Water measured horizontally from the bankfull width or the CMZ, whichever is greater; and

(b) The area protected for Type 4 Waters.

(3) For both Western and Eastern Washington, the area within the equipment limitation zone on Type 4 and Type 5 Waters.

(4) For exempt 20 acre parcels, a specified area alongside Type 1, 2 and 3 Waters where specific measures are taken to protect water quality and fish and wildlife habitat.

"RMZ core zone" means:

(1) For Western Washington, the 50 foot buffer measured horizontally outside of the bankfull width or the channel migration zone, whichever is greater, of a Type 1, 2 or 3 Water. (See WAC 222-30-021.)

(2) For Eastern Washington, the 30 foot buffer measured horizontally outside of the bankfull width or the channel migration zone, whichever is greater, of a Type 1, 2 or 3 Water. (See WAC 222-30-022.)

"RMZ inner zone" means:

(1) For Western Washington, the area measured horizontally from the outside boundary of the core zone of a Type 1, 2 or 3 Water to the outer limit of the inner zone. The outer limit of the inner zone is determined based on the width of the affected water, site class and the management option chosen for timber harvest within the inner zone. (See WAC 222-30-021.)

(2) For Eastern Washington, the area measured horizontally between the outer boundary of the core zone and a line 45 feet (for streams less than 15 feet wide) or 70 feet (for streams more than 15 feet wide) from the bankfull width or the channel migration zone, whichever is greater. (See WAC 222-30-022.)

"RMZ outer zone" means the area measured horizontally between the outer extent of the inner zone and a line one site potential tree height in length from the bankfull width or the channel migration zone, whichever is greater. (See WAC 222-30-021 and 222-30-022.)

"Road construction" means any new road construction or reconstruction of existing roads.

"Rodenticide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate rodents or any other vertebrate animal which the director of the state department of agriculture may declare by regulation to be a pest.

"Salvage" means the removal of snags, down logs, windthrow, or dead and dying material.

"Scarification" means loosening the topsoil and/or disrupting the forest floor in preparation for regeneration.

"Seasonal streams." See WAC 222-16-030*(5).

"Sensitive sites" means one of the following:

PROPOSED

(1) **Headwall seep** is a seep located at the toe of a cliff or other steep topographical feature and at the head of a Type 4 Water which connects to the stream channel network via overland flow, and is characterized by loose substrate and fractured bedrock with perennial water at or near the surface throughout the year.

(2) **Side-slope seep** is a seep within 100 feet of a Type 4 Water located on side-slopes which are greater than 20 percent, connected to the stream channel network via overland flow, and characterized by loose substrate and fractured bedrock with perennial water at or near the surface throughout the year. Water delivery to the Type 4 channel is visible at the surface.

(3) **Side-slope spring** is an identified spring within 100 feet of a Type 4 Water which is the initiation point for a stream and is connected to the stream's channel network via a perennial channelized flow.

(4) **Perennial initiation points.** See WAC 222-16-010 and guidelines in the board manual section 7.

(5) **Alluvial fan** means an erosional land form consisting of cone-shaped deposit of water-borne, often coarse-sized sediments.

(a) The upstream end of the fan (cone apex) is typically characterized by a distinct increase in channel width where a stream emerges from a narrow valley;

(b) The downstream edge of the fan is defined as the sediment confluence with a Type 1, 2 or 3 Water; and

(c) The lateral margins of a fan are characterized by distinct local changes in sediment elevation and often show disturbed vegetation.

Alluvial fan does not include features that were formed under climatic or geologic conditions which are not currently present or that are no longer dynamic. (See the board manual section 7 for guidelines on how to identify these sensitive sites in the field.)

"Shorelines of the state" shall have the same meaning as in RCW 90.58.030 (Shoreline Management Act).

"Side casting" means the act of moving excavated material to the side and depositing such material within the limits of construction or dumping over the side and outside the limits of construction.

"Site class" means a grouping of site indices that define the width of the riparian zones:

(1) For Western Washington

<u>Site class</u>	<u>50-year site index range</u> (state soil survey)
I	137+
II	119-136
III	97-118
IV	76-96
V	<75

(2) For Eastern Washington

<u>Site class</u>	<u>100-year site index range</u> (state soil survey)
I	120+

100-year site index range

<u>Site class</u>	<u>(state soil survey)</u>
II	101-120
III	81-100
IV	61-80
V	<60

For purposes of this definition, the site index at any location will be the site index reported by the *Washington State Department of Natural Resources State Soil Survey*, and detailed in the associated forest soil summary sheets.

"Site preparation" means those activities associated with the removal of slash in preparing a site for planting and shall include scarification and/or slash burning.

"Skid trail" means a route used by tracked or wheeled skidders to move logs to a landing or road.

"Slash" means pieces of woody material containing more than 3 cubic feet resulting from forest practice activities.

"SOSEA goals" means the goals specified for a spotted owl special emphasis area as identified on the SOSEA maps (see WAC 222-16-086). SOSEA goals provide for demographic and/or dispersal support as necessary to complement the northern spotted owl protection strategies on federal land within or adjacent to the SOSEA.

"Spoil" means excess material removed as overburden or generated during road or landing construction which is not used within limits of construction.

"Spotted owl dispersal habitat" see WAC 222-16-085(2).

"Spotted owl special emphasis areas (SOSEA)" means the geographic areas as mapped in WAC 222-16-086. Detailed maps of the SOSEAs indicating the boundaries and goals are available from the department at its regional offices.

"Stop work order" means the "stop work order" defined in RCW 76.09.080 of the act and may be issued by the department to stop violations of the forest practices chapter or to prevent damage and/or to correct and/or compensate for damages to public resources resulting from forest practices.

"Stream-adjacent parallel roads" means roads in a riparian management zone on a property that have an alignment that is parallel to the general alignment of the stream, including roads used by others under easements or cooperative road agreements. Also included are stream crossings where the alignment of the road continues to parallel the stream. Not included are federal, state, county or municipal roads that are not subject to forest practices rules, or roads of another adjacent landowner.

"Sub-mature habitat" see WAC 222-16-085 (1)(b).

"Suitable marbled murrelet habitat" means a contiguous forested area containing trees capable of providing nesting opportunities:

(1) With all of the following indicators unless the department, in consultation with the department of fish and wildlife, has determined that the habitat is not likely to be occupied by marbled murrelets:

PROPOSED

- (a) Within 50 miles of marine waters;
- (b) At least 40% of the dominant and codominant trees are Douglas-fir, western hemlock, western red cedar or sitka spruce;
- (c) Two or more nesting platforms per acre;
- (d) At least 7 acres in size, including the contiguous forested area within 300 feet of nesting platforms, with similar forest stand characteristics (age, species composition, forest structure) to the forested area in which the nesting platforms occur.

"**Suitable spotted owl habitat**" see WAC 222-16-085(1).

"Threaten public safety" means to increase the risk to the public at large from snow avalanches, identified in consultation with the department of transportation or a local government, or landslides or debris torrents caused or triggered by forest practices.

"**Threatened or endangered species**" means all species of wildlife listed as "threatened" or "endangered" by the United States Secretary of the Interior or Commerce, and all species of wildlife designated as "threatened" or "endangered" by the Washington fish and wildlife commission.

"**Timber**" shall mean forest trees, standing or down, of a commercial species, including Christmas trees.

"**Water bar**" means a diversion ditch and/or hump in a trail or road for the purpose of carrying surface water runoff into the vegetation duff, ditch, or other dispersion area so that it does not gain the volume and velocity which causes soil movement and erosion.

"**Watershed administrative unit (WAU)**" means an area shown on the map specified in WAC 222-22-020(1).

"**Watershed analysis**" means, for a given WAU, the assessment completed under WAC 222-22-050 or 222-22-060 together with the prescriptions selected under WAC 222-22-070 and shall include assessments completed under WAC 222-22-050 where there are no areas of resource sensitivity.

"**Weed**" is any plant which tends to overgrow or choke out more desirable vegetation.

~~"Western Washington" means the ((lands of the state lying west of the administrative line described in the definition of Eastern Washington.))~~ geographic area of Washington west of the Cascade crest and the drainages defined in Eastern Washington."

"**Wetland**" means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, such as swamps, bogs, fens, and similar areas. This includes wetlands created, restored, or enhanced as part of a mitigation procedure. This does not include constructed wetlands or the following surface waters of the state intentionally constructed from wetland sites: Irrigation and drainage ditches, grass lined swales, canals, agricultural detention facilities, farm ponds, and landscape amenities.

"**Wetland functions**" include the protection of water quality and quantity, providing fish and wildlife habitat, and the production of timber.

"**Wetland management zone**" means a specified area adjacent to Type A and B Wetlands where specific measures are taken to protect the wetland functions.

"**Wildlife**" means all species of the animal kingdom whose members exist in Washington in a wild state. The term "wildlife" includes, but is not limited to, any mammal, bird, reptile, amphibian, fish, or invertebrate, at any stage of development. The term "wildlife" does not include feral domestic mammals or the family Muridae of the order Rodentia (old world rats and mice).

"**Wildlife reserve trees**" means those defective, dead, damaged, or dying trees which provide or have the potential to provide habitat for those wildlife species dependent on standing trees. Wildlife reserve trees are categorized as follows:

Type 1 wildlife reserve trees are defective or deformed live trees that have observably sound tops, limbs, trunks, and roots. They may have part of the top broken out or have evidence of other severe defects that include: "Cat face," animal chewing, old logging wounds, weather injury, insect attack, or lightning strike. Unless approved by the landowner, only green trees with visible cavities, nests, or obvious severe defects capable of supporting cavity dependent species shall be considered as Type 1 wildlife reserve trees. These trees must be stable and pose the least hazard for workers.

Type 2 wildlife reserve trees are dead Type 1 trees with sound tops, limbs, trunks, and roots.

Type 3 wildlife reserve trees are live or dead trees with unstable tops or upper portions. Unless approved by the landowner, only green trees with visible cavities, nests, or obvious severe defects capable of supporting cavity dependent species shall be considered as Type 3 wildlife reserve trees. Although the roots and main portion of the trunk are sound, these reserve trees pose high hazard because of the defect in live or dead wood higher up in the tree.

Type 4 wildlife reserve trees are live or dead trees with unstable trunks or roots, with or without bark. This includes "soft snags" as well as live trees with unstable roots caused by root rot or fire. These trees are unstable and pose a high hazard to workers.

"**Windthrow**" means a natural process by which trees are uprooted or sustain severe trunk damage by the wind.

"Yarding corridor" means a narrow, linear path through a riparian management zone to allow suspended cables necessary to support cable logging methods or suspended or partially suspended logs to be transported through these areas by cable logging methods.

"**Young forest marginal habitat**" see WAC 222-16-085 (1)(b).

AMENDATORY SECTION (Amending WSR 97-24-091, filed 12/3/97, effective 1/3/98)

WAC 222-16-030 Water typing system. *The department in cooperation with the departments of fish and wildlife, and ecology, and in consultation with affected Indian tribes ~~((shall))~~ will classify streams, lakes and ponds ~~((and prepare stream classification)).~~ The department will prepare new water type maps showing the location of ((Type 1, 2, 3 and 4

Waters)) waters within the ((various)) forested areas of the state. ((Such)) The maps will be based on a multiparameter, field-verified geographic information system (GIS) logistic regression model. The multiparameter model will be "habitat driven" and will use geomorphic parameters such as basin size, gradient, elevation and other indicators. Water type maps will be updated every five years to better reflect observed, in-field conditions. If on-the-ground observations by an on-site interdisciplinary team using nonlethal methods identifies fish, or if they find that habitat is not accessible due to naturally occurring conditions and no fish reside above the blockage, then a water type change may occur. Water types previously field verified as fish-bearing will not be recategorized as nonfish-habitat. Electro-fishing to prove the presence or absence of fish will no longer affect stream type determinations.

Until the habitat-driven water type maps mentioned above are available, the current maps will continue to be used. These maps shall be available for public inspection at region offices of the department. The waters will be classified using the following criteria, until the habitat-driven water type maps are available. If a dispute arises concerning a water type the department shall make available informal conferences, which shall include the departments of fish and wildlife, and ecology, and affected Indian tribes and those contesting the adopted water types. These conferences shall be established under procedures established in WAC 222-46-020.

*(1) "Type 1 Water" means all waters, within their ordinary high-water mark, as inventoried as "shorelines of the state" under chapter 90.58 RCW and the rules promulgated pursuant to chapter 90.58 RCW, but not including those waters' associated wetlands as defined in chapter 90.58 RCW.

*(2) "Type 2 Water" ((shall)) means segments of natural waters which are not classified as Type 1 Water and have a high fish, wildlife, or human use. These are segments of natural waters and periodically inundated areas of their associated wetlands, which:

(a) Are diverted for domestic use by more than 100 residential or camping units or by a public accommodation facility licensed to serve more than 100 persons, where such diversion is determined by the department to be a valid appropriation of water and the only practical water source for such users. Such waters shall be considered to be Type 2 Water upstream from the point of such diversion for 1,500 feet or until the drainage area is reduced by 50 percent, whichever is less;

(b) Are diverted for use by federal, state, tribal or private fish hatcheries. Such waters shall be considered Type 2 Water upstream from the point of diversion for 1,500 feet, including tributaries if highly significant for protection of downstream water quality. The department may allow additional harvest beyond the requirements of Type 2 Water designation provided the department determines after a land-owner-requested on-site assessment by the department of fish and wildlife, department of ecology, the affected tribes and interested parties that:

(i) The management practices proposed by the land-owner will adequately protect water quality for the fish hatchery; and

(ii) Such additional harvest meets the requirements of the water type designation that would apply in the absence of the hatchery;

(c) Are within a federal, state, local, or private campground having more than 30 camping units: Provided, That the water shall not be considered to enter a campground until it reaches the boundary of the park lands available for public use and comes within 100 feet of a camping unit, trail or other park improvement;

((e)) (d) Are used by substantial numbers of ((anadromous or resident game)) fish for spawning, rearing or migration. Waters having the following characteristics are presumed to have highly significant fish populations:

(i) Stream segments having a defined channel 20 feet or greater ((in width between the ordinary high water marks)) within the bankfull width and having a gradient of less than 4 percent.

(ii) Lakes, ponds, or impoundments having a surface area of 1 acre or greater at seasonal low water; or

((d)) (e) Are used by salmonids for off-channel habitat. These areas are critical to the maintenance of optimum survival of juvenile salmonids. This habitat shall be identified based on the following criteria:

(i) The site must be connected to a stream bearing salmonids and accessible during some period of the year; and

(ii) The off-channel water must be accessible to juvenile salmonids through a drainage with less than a 5% gradient.

*(3) "Type 3 Water" ((shall)) means segments of natural waters which are not classified as Type 1 or 2 Water and have a moderate to slight fish, wildlife, and human use. These are segments of natural waters and periodically inundated areas of their associated wetlands which:

(a) Are diverted for domestic use by more than 10 residential or camping units or by a public accommodation facility licensed to serve more than 10 persons, where such diversion is determined by the department to be a valid appropriation of water and the only practical water source for such users. Such waters shall be considered to be Type 3 Water upstream from the point of such diversion for 1,500 feet or until the drainage area is reduced by 50 percent, whichever is less;

(b) Are used by significant numbers of ((anadromous)) fish for spawning, rearing or migration. ((Waters having the following characteristics are presumed to have significant anadromous fish use:

(i) Stream segments having a defined channel of 5 feet or greater in width between the ordinary high water marks; and having a gradient of less than 12 percent and not upstream of a falls of more than 10 vertical feet.

(ii) Ponds or impoundments having a surface area of less than 1 acre at seasonal low water and having an outlet to an anadromous fish stream.

(c) Are used by significant numbers of resident game fish. Waters with the following characteristics are presumed to have significant resident game fish use:))

(i) Waters having the following characteristics are presumed to have fish use:

(A) Stream segments having a defined channel of ~~((10))~~ 2 feet or greater ~~((in width between the ordinary high water marks; and a summer low flow greater than 0.3 cubic feet per second;))~~ within the bankfull width in Western Washington; or 3 feet or greater in width within the bankfull width in Eastern Washington; and having a gradient of ~~((less than 12))~~ 16 percent or less.

~~((ii))~~ (B) Stream segments having a defined channel of 2 feet or greater within the bankfull width in Western Washington; or 3 feet or greater within the bankfull width in Eastern Washington, and having a gradient greater than 16 percent and less than or equal to 20 percent, and having greater than 50 acres in contributing basin size in Western Washington or greater than 175 acres contributing basin size in Eastern Washington, based on hydrographic boundaries;

(C) Ponds or impoundments having a surface area of less than 1 acre at seasonal low water and having an outlet to a fish stream;

(D) Ponds or impoundments having a surface area greater than 0.5 acre at seasonal low water~~((; or))~~.

~~((d))~~ Are highly significant for protection of downstream water quality. Tributaries which contribute greater than 20 percent of the flow to a Type 1 or 2 Water are presumed to be significant for 1,500 feet from their confluence with the Type 1 or 2 Water or until their drainage area is less than 50 percent of their drainage area at the point of confluence, whichever is less.)) (ii) The department shall waive or modify the characteristics in (i) of this subsection where:

(A) Waters have confirmed, long term, naturally occurring water quality parameters incapable of supporting fish;

(B) Snowmelt streams have short flow cycles that do not support successful life history phases of fish. These streams typically have no flow in the winter months and discontinue flow by June 1; or

(C) Sufficient information about a geographic region is available to support a departure from the characteristics in (i) of this subsection, as determined in consultation with the department of fish and wildlife, department of ecology, affected tribes and interested parties.

*~~(4)~~ "Type 4 Water" ~~((classification shall be applied to segments of natural waters which are not classified as Type 1, 2 or 3, and for the purpose of protecting water quality downstream are classified as Type 4 Water upstream until the channel width becomes less than 2 feet in width between the ordinary high water marks. Their significance lies in their influence on water quality downstream in Type 1, 2, and 3 Waters. These may be perennial or intermittent.))~~ means all segments of natural waters within the bankfull width of defined channels that are not Type 1, 2 or 3 Waters and which are perennial waters of nonfish-bearing streams. Perennial waters means waters downstream from a perennial initiation point. (See board manual, section 13, for the protocol for defining the upper extent of a perennial stream.)

If the point of initiation of perennial flow using indicators such as nonmigrating seeps or springs cannot be identified with simple, nontechnical observations, then the following shall apply:

(a) Western Washington Type 4 Waters are perennial streams if their basin size is greater than the following minimums:

(i) 13 Acres in the coastal zone (which corresponds to the Sitka spruce zone defined in Franklin and Dyrness, 1973); or

(ii) 52 Acres for all other Western Washington locations.

(b) Eastern Washington Type 4 Waters are perennial streams if their basin size is greater than 300 acres.

*~~(5)~~ "Type 5 Waters" ~~((classification shall be applied to all natural waters not classified as Type 1, 2, 3 or 4; including streams with or without well defined channels, areas of perennial or intermittent seepage, ponds, natural sinks and drainageways having short periods of spring or storm runoff.))~~ include all segments of natural waters within the bankfull width of defined channels that are not Type 1, 2, 3 or 4 Waters and which are seasonal nonfish bearing streams. "Seasonal stream" means those streams that are not perennial but are physically connected by a defined channel system to downstream waters so that water or sediment initially delivered to these waters may eventually be delivered to a Type 1, 2, 3 or 4 Water.

*~~(6)~~ For purposes of this section:

(a) "Residential unit" means a home, apartment, residential condominium unit or mobile home, serving as the principal place of residence.

(b) "Camping unit" means an area intended and used for:

(i) Overnight camping or picnicking by the public containing at least a fireplace, picnic table and access to water and sanitary facilities; or

(ii) A permanent home or condominium unit or mobile home not qualifying as a "residential unit" because of part time occupancy.

(c) "Resident game fish" means game fish as described in the Washington game code that spend their life cycle in fresh water. Steelhead, searun cutthroat and Dolly Varden trout are anadromous game fish and should not be confused with resident game fish.

(d) "Public accommodation facility" means a business establishment open to and licensed to serve the public, such as a restaurant, tavern, motel or hotel.

(e) "Natural waters" only excludes water conveyance systems which are artificially constructed and actively maintained for irrigation.

(f) "Seasonal low flow" and "seasonal low water" mean the conditions of the 7-day, 2-year low water situation, as measured or estimated by accepted hydrologic techniques recognized by the department.

(g) "Channel width and gradient" means a measurement over a representative section of at least 500 linear feet with at least 10 evenly spaced measurement points along the normal stream channel but excluding unusually wide areas of negligible gradient such as marshy or swampy areas, beaver ponds and impoundments. Channel gradient may be determined utilizing stream profiles plotted from United States geological survey topographic maps.

(h) "Intermittent streams" means those segments of streams that normally go dry.

PROPOSED

AMENDATORY SECTION (Amending WSR 97-24-091, filed 12/3/97, effective 1/3/98)

WAC 222-16-035 Wetland typing system. *The department in cooperation with the departments of fish and wildlife, and ecology, and affected Indian tribes shall classify wetlands. The wetlands will be classified in order to distinguish those which require wetland management zones and those which do not. Wetlands which require wetland management zones shall be identified using the following criteria. ~~((Accurate delineation of wetlands in accordance with the manual shall be required only where necessary to determine whether replacement by substitution or enhancement is required pursuant to WAC 222-24-025(10) and shall be limited to the area of wetland proposed to be filled. For the purposes of determining acreage to classify or type wetlands under this section, approximate determination using aerial photographs and maps, including the national wetlands inventory, shall be sufficient. In addition, the innermost boundary of the wetland management zone on Type A or B wetlands may be determined by either of two methods: Delineation of the wetland edge, or identifying the point where the crown cover changes from less than 30% to 30% or more. Except where necessary to determine whether replacement by substitution or enhancement is required pursuant to WAC 222-24-025(10), accurate delineation shall not be required under this Title 222 WAC for activities regulated by these rules, including but not limited to the location of roads, landings, culverts, and cross drains. Landowners are encouraged to leave vegetation in these forested wetlands in undisturbed leave areas where possible. When so requested by any affected landowners, applicant or aggrieved person, the department shall make available informal conferences, which shall include the departments of fish and wildlife, and ecology, and affected Indian tribes and those contesting the adopted wetland types. These conferences shall be established under procedures established in WAC 222-46-020.))~~

***(1) "Nonforested wetlands"** means any wetland or portion thereof that has, or if the trees were mature would have, a crown closure of less than 30 percent.

(a) **"Type A Wetland"** classification shall be applied to all nonforested wetlands which:

(i) Are greater than 0.5 acre in size, including any acreage of open water where the water is completely surrounded by the wetland; and

(ii) Are associated with at least 0.5 acre of ponded or standing open water. The open water must be present on the site for at least 7 consecutive days between April 1 and October 1 to be considered for the purposes of these rules; or

(b) **"Type B Wetland"** classification shall be applied to all other nonforested wetlands greater than 0.25 acre.

***(2) "Forested wetland"** means any wetland or portion thereof that has, or if the trees were mature would have, a crown closure of 30 percent or more.

***(3) "All forested and nonforested bogs" greater than 0.25 acres shall be considered Type A Wetlands.**

***(4) For the purposes of determining acreage to classify or type wetlands under this section, approximate determination using aerial photographs and maps, including the**

national wetlands inventory, shall be sufficient. In addition, the innermost boundary of the wetland management zone on Type A or B Wetlands may be determined by either of two methods: Delineation of the wetland edge, or identifying the point where the crown cover changes from less than 30 percent to 30 percent or more.

***(5) Landowners are encouraged to leave vegetation in these forested wetlands in undisturbed leave areas where possible.**

***(6) When so requested by any affected landowners, applicant or aggrieved person, the department shall make available informal conferences, which shall include the departments of fish and wildlife, and ecology, and affected Indian tribes and those contesting the adopted wetland types. These conferences shall be established under procedures established in WAC 222-46-020.**

NEW SECTION

WAC 222-16-036 Wetland delineation. Accurate delineation of wetlands is required in connection with any forest practices application where the proposed activities relate to timber harvest or road construction.

***(1) Landowners must map all forested wetlands and Type A and B Wetlands where more than one-tenth (0.1) acre of such wetlands will be impacted by filling and where mitigation for such filling is required.**

***(2) Landowners must map all forested wetlands (regardless of size) that are associated with an affected riparian management zone, including those parts of the forested wetlands that lie within the harvest unit but outside of the riparian management zone.**

***(3) Landowners must map all forested wetlands within the boundaries of the land to be covered by the application that are 3 acres or more in size.**

***(4) All such mapping must be performed to the wetland delineation and mapping standards outlined in the board manual, section 8.**

AMENDATORY SECTION (Amending WSR 98-07-047, filed 3/13/98, effective 5/1/98)

WAC 222-16-050 Classes of forest practices. There are 4 classes of forest practices created by the act. All forest practices (including those in Classes I and II) must be conducted in accordance with the forest practices regulations.

(1) "Class IV - special." Application to conduct forest practices involving the following circumstances requires an environmental checklist in compliance with the State Environmental Policy Act (SEPA), and SEPA guidelines, as they have been determined to have potential for a substantial impact on the environment. It may be determined that additional information or a detailed environmental statement is required before these forest practices may be conducted.

***(a) Aerial application of pesticides in a manner identified as having the potential for a substantial impact on the environment under WAC 222-16-070 or ground application of a pesticide within a Type A or B wetland.**

(b) Specific forest practices listed in WAC 222-16-080 on lands designated as:

(i) Critical wildlife habitat (state) of threatened or endangered species; or

(ii) Critical habitat (federal) of threatened or endangered species except those excluded by the board under WAC 222-16-080(3).

(c) Harvesting, road construction, aerial application of pesticides and site preparation on all lands within the boundaries of any national park, state park, or any park of a local governmental entity, except harvest of less than 5 MBF within any developed park recreation area and park managed salvage of merchantable forest products.

~~*(d) ((Construction of roads, landings, rock quarries, gravel pits, borrow pits, and spoil disposal areas on slide prone areas as defined in WAC 222-24-020(6) and field verified by the department, in a watershed administrative unit that has not undergone a watershed analysis under chapter 222-22 WAC, when such slide prone areas occur on an uninterrupted slope above water typed pursuant to WAC 222-16-030, Type A or Type B Wetland, or capital improvement of the state or its political subdivisions where there is potential for a substantial debris flow or mass failure to cause significant impact to public resources.~~

~~*(e) Timber harvest in a watershed administrative unit that has not undergone a watershed analysis under chapter 222-22 WAC, on slide prone areas, field verified by the department, where soils, geologic structure, and local hydrology indicate that canopy removal has the potential for increasing slope instability, when such areas occur on an uninterrupted slope above any water typed pursuant to WAC 222-16-030, Type A or Type B Wetland, or a capital improvement of the state or its political subdivisions where there is a potential for a substantial debris flow or mass failure to cause significant impact to public resources.~~

~~(f)) Timber harvest, or construction of roads, landings, gravel pits, rock quarries, or spoil disposal areas, on potentially unstable slopes or landforms that has the potential to deliver sediment or debris to a public resource in a manner that could threaten public safety, as field verified by the department.~~

~~(i) The potentially unstable slopes or landforms are:~~

~~(A) Inner gorges, convergent headwalls, or bedrock hollows with slopes steeper than 35° (70%);~~

~~(B) Toes of deep-seated landslides, with slopes steeper than 33° (65%);~~

~~(C) Ground water recharge areas for glacial deep-seated landslides;~~

~~(D) Outer edges of meander bends along valley walls or high terraces of an unconfined meandering stream; or~~

~~(E) Any areas containing features indicating the presence of potential slope instability which cumulatively indicate the presence of unstable slopes.~~

~~(ii) The department will base its classification decision on professional knowledge of the area, reports or other information provided by the applicant or other resources such as soils, geologic or hazard zonation maps. Except that an application would not be classified as Class IV-Special for potentially unstable slopes or landforms under this subsection if:~~

(A) The proposed forest practice is located within a WAU that is subject to an approved watershed analysis;

(B) The forest practices are to be conducted in accordance with an approved prescription from the watershed analysis (or as modified through the 5-year review process); and

(C) The applicable prescription is specific to the site or situation, as opposed to a prescription that calls for additional analysis. The need for an expert to determine whether the site contains specific landforms will not be considered "additional analysis," as long as specific prescriptions are established for such landforms.

(e) Timber harvest, in a watershed administrative unit that has not undergone a watershed analysis under chapter 222-22 WAC, construction of roads, landings, rock quarries, gravel pits, borrow pits, and spoil disposal areas on snow avalanche slopes within those areas designated by the department, in consultation with department of transportation, as high avalanche hazard.

~~((g))~~ (f) Timber harvest, construction of roads, landings, rock quarries, gravel pits, borrow pits, and spoil disposal areas on archaeological or historic sites registered with the Washington state office of archaeology and historic preservation, or on sites containing evidence of Native American cairns, graves, or glyptic records, as provided for in chapters 27.44 and 27.53 RCW. The department shall consult with affected Indian tribes in identifying such sites.

~~((*h))~~ (g) Forest practices subject to a watershed analysis conducted under chapter 222-22 WAC in an area of resource sensitivity identified in that analysis which deviates from the prescriptions (which may include an alternate plan) in the watershed analysis.

~~((*i))~~ (h) Filling or draining of more than 0.5 acre of a wetland.

(2) "Class IV - general." Applications involving the following circumstances are "Class IV - general" forest practices unless they are listed in "Class IV - special." Upon receipt of an application, the department will determine the lead agency for purposes of compliance with the State Environmental Policy Act pursuant to WAC 197-11-924 and 197-11-938(4) and RCW 43.21C.037(2). Such applications are subject to a 30-day period for approval unless the lead agency determines a detailed statement under RCW 43.21C.030 (2)(c) is required. Upon receipt, if the department determines the application is for a proposal that will require a license from a county/city acting under the powers enumerated in RCW 76.09.240, the department shall notify the applicable county/city under WAC 197-11-924 that the department has determined according to WAC 197-11-938(4) that the county/city is the lead agency for purposes of compliance with State Environmental Policy Act.

(a) Forest practices (other than those in Class I) on lands platted after January 1, 1960, or on lands being converted to another use.

(b) Forest practices which would otherwise be Class III, but which are taking place on lands which are not to be reforested because of likelihood of future conversion to urban development. (See WAC 222-16-060 and 222-34-050.)

PROPOSED

(3) "Class I." Those operations that have been determined to have no direct potential for damaging a public resource are Class I forest practices. When the conditions listed in "Class IV - Special" are not present, these operations may be commenced without notification or application.

(a) Culture and harvest of Christmas trees and seedlings.

*(b) Road maintenance except: (i) Replacement of bridges and culverts across Type 1, 2, 3 or flowing Type 4 Waters; or (ii) movement of material that has a direct potential for entering Type 1, 2, 3 or flowing Type 4 Waters or Type A or B Wetlands.

*(c) Construction of landings less than 1 acre in size, if not within a shoreline area of a Type 1 Water, the riparian management zone of a Type 2 or 3 Water, the ordinary high-water mark of a Type 4 Water, a wetland management zone, a wetland, or the CRGNSA special management area.

*(d) Construction of less than 600 feet of road on a side-slope of 40 percent or less if the limits of construction are not within the shoreline area of a Type 1 Water, the riparian management zone of a Type 2 or Type 3 Water, the ordinary high-water mark of a Type 4 Water, a wetland management zone, a wetland, or the CRGNSA special management area.

*(e) Installation or removal of a portable water crossing structure where such installation does not take place within the shoreline area of a Type 1 Water and does not involve disturbance of the beds or banks of any waters.

*(f) Initial installation and replacement of relief culverts and other drainage control facilities not requiring a hydraulic permit.

(g) Rocking an existing road.

(h) Loading and hauling timber from landings or decks.

(i) Precommercial thinning and pruning, if not within the CRGNSA special management area.

(j) Tree planting and seeding.

(k) Cutting and/or removal of less than 5,000 board feet of timber (including live, dead and down material) for personal use (i.e., firewood, fence posts, etc.) in any 12-month period, if not within the CRGNSA special management area.

(l) Emergency fire control and suppression.

(m) Slash burning pursuant to a burning permit (RCW 76.04.205).

*(n) Other slash control and site preparation not involving either off-road use of tractors on slopes exceeding 40 percent or off-road use of tractors within the shorelines of a Type 1 Water, the riparian management zone of any Type 2 or 3 Water, or the ordinary high-water mark of a Type 4 Water, a wetland management zone, a wetland, or the CRGNSA special management area.

*(o) Ground application of chemicals, if not within the CRGNSA special management area. (See WAC 222-38-020 and 222-38-030.)

*(p) Aerial application of chemicals (except insecticides), outside of the CRGNSA special management area when applied to not more than 40 contiguous acres if the application is part of a combined or cooperative project with another landowner and where the application does not take place within 100 feet of lands used for farming, or within 200 feet of a residence, unless such farmland or residence is

owned by the forest landowner. Provisions of chapter 222-38 WAC shall apply.

(q) Forestry research studies and evaluation tests by an established research organization.

*(r) Any of the following if none of the operation or limits of construction takes place within the shoreline area of a Type 1 Water or the riparian management zone of a Type 2 or 3 Water, the ordinary high-water mark of a Type 4 Water or flowing Type 5 Water, or within the CRGNSA special management area and the operation does not involve off-road use of tractor or wheeled skidding systems on a sideslope of greater than 40 percent:

(i) Any forest practices within the boundaries of existing golf courses.

(ii) Any forest practices within the boundaries of existing cemeteries which are approved by the cemetery board.

(iii) Any forest practices involving a single landowner where contiguous ownership is less than two acres in size.

(s) Removal of beaver structures from culverts on active and inactive roads. A hydraulics project approval from the Washington department of fish and wildlife may be required.

(4) "Class II." Certain forest practices have been determined to have a less than ordinary potential to damage a public resource and may be conducted as Class II forest practices: *Provided*, That no forest practice enumerated below may be conducted as a Class II forest practice if the operation requires a hydraulic project approval (RCW 75.20.100) or is within a "shorelines of the state," or involves a bond in lieu of landowners signature (other than renewals). Such forest practices require an application. No forest practice enumerated below may be conducted as a "Class II" forest practice if it takes place on lands platted after January 1, 1960, or on lands being converted to another use. Such forest practices require a Class IV application. Class II forest practices are the following:

(a) Renewal of a prior Class II notification where no change in the nature and extent of the forest practices is required under rules effective at the time of renewal.

(b) Renewal of a previously approved Class III or IV forest practice application where:

(i) No modification of the uncompleted operation is proposed;

(ii) No notices to comply, stop work orders or other enforcement actions are outstanding with respect to the prior application; and

(iii) No change in the nature and extent of the forest practice is required under rules effective at the time of renewal. Renewal of a previously approved multiyear permit for forest practices within a WAU with an approved watershed analysis requires completion of a necessary 5-year review of the watershed analysis.

*(c) Any of the following if none of the operation or limits of construction takes place within the riparian management zone of a Type 2 or 3 Water, within the ordinary high-water mark of a Type 4 Water, within a wetland management zone, within a wetland, or within the CRGNSA special management area:

(i) Construction of advance fire trails.

(ii) Opening a new pit of, or extending an existing pit by, less than 1 acre.

* (d) Any of the following if none of the operation or limits of construction takes place within the riparian management zone of a Type 2 or 3 Water, within the ordinary high-water mark of a Type 4 Water, within a wetland management zone or within a wetland; and if none of the operations involve off-road use of tractor or wheeled skidding systems on a sideslope of greater than 40 percent:

Salvage of logging residue.

* (e) Any of the following if none of the operation or limits of construction takes place within the riparian management zone of a Type 2 or 3 Water, within the ordinary high-water mark of a Type 4 Water, within a wetland management zone, within a wetland, or within the CRGNSA special management area, and if none of the operations involve off-road use of tractor or wheeled skidding systems on a sideslope of greater than 40 percent, and if none of the operations are located on lands with a likelihood of future conversion (see WAC 222-16-060):

(i) West of the Cascade summit, partial cutting of 40 percent or less of the live timber volume.

(ii) East of the Cascade summit, partial cutting of 5,000 board feet per acre or less.

(iii) Salvage of dead, down, or dying timber if less than 40 percent of the total timber volume is removed in any 12-month period.

(iv) Any harvest on less than 40 acres.

(v) Construction of 600 or more feet of road, provided that the department shall be notified at least 2 business days before commencement of the construction.

(5) "Class III." Forest practices not listed under Classes IV, I or II above are "Class III" forest practices. Among Class III forest practices are the following:

(a) Those requiring hydraulic project approval (RCW 75.20.100).

* (b) Those within the shorelines of the state other than those in a Class I forest practice.

* (c) Aerial application of insecticides, except where classified as a Class IV forest practice.

* (d) Aerial application of chemicals (except insecticides), except where classified as Class I or IV forest practices.

* (e) Harvest or salvage of timber except where classed as Class I, II or IV forest practices.

* (f) All road construction and reconstruction except as listed in Classes I, II and IV forest practices.

(g) Opening of new pits or extensions of existing pits over 1 acre.

* (h) Road maintenance involving:

(i) Replacement of bridges or culverts across Type 1, 2, 3, or flowing Type 4 Waters; or

(ii) Movement of material that has a direct potential for entering Type 1, 2, 3 or flowing Type 4 Waters or Type A or B Wetlands.

(i) Operations involving an applicant's bond in lieu of a landowner's signature.

(j) Site preparation or slash abatement not listed in Classes I or IV forest practices.

(k) Harvesting, road construction, site preparation or aerial application of pesticides on lands which contain cultural, historic or archaeological resources which, at the time the application or notification is filed, are:

(i) On or are eligible for listing on the National Register of Historic Places; or

(ii) Have been identified to the department as being of interest to an affected Indian tribe.

(l) Harvesting exceeding 19 acres in a designated difficult regeneration area.

(m) Utilization of an alternate plan. See WAC 222-12-040.

* (n) Any filling of wetlands, except where classified as Class IV forest practices.

* (o) Multiyear permits.

AMENDATORY SECTION (Amending WSR 97-24-091, filed 12/3/97, effective 1/3/98)

WAC 222-16-080 Critical wildlife habitats (state) and critical habitat (federal) of threatened and endangered species. (1) Critical wildlife habitats (state) of threatened or endangered species and specific forest practices designated as Class IV-Special are as follows:

(a) Bald eagle - harvesting, road construction, aerial application of pesticides, or site preparation within 0.5 mile of a known active nest site, documented by the department of fish and wildlife, between the dates of January 1 and August 15 or 0.25 mile at other times of the year; and within 0.25 mile of a communal roosting site. Communal roosting sites shall not include refuse or garbage dumping sites.

(b) Gray wolf - harvesting, road construction, or site preparation within 1 mile of a known active den site, documented by the department of fish and wildlife, between the dates of March 15 and July 30 or 0.25 mile from the den site at other times of the year.

(c) Grizzly bear - harvesting, road construction, aerial application of pesticides, or site preparation within 1 mile of a known active den site, documented by the department of fish and wildlife, between the dates of October 1 and May 30 or 0.25 mile at other times of the year.

(d) Mountain caribou - harvesting, road construction, aerial application of pesticides, or site preparation within 0.25 mile of a known active breeding area, documented by the department of fish and wildlife.

(e) Oregon silverspot butterfly - harvesting, road construction, aerial or ground application of pesticides, or site preparation within 0.25 mile of an individual occurrence, documented by the department of fish and wildlife.

(f) Peregrine falcon - harvesting, road construction, aerial application of pesticides, or site preparation within 0.5 mile of a known active nest site, documented by the department of fish and wildlife, between the dates of March 1 and July 30; or harvesting, road construction, or aerial application of pesticides within 0.25 mile of the nest site at other times of the year.

(g) Sandhill crane - harvesting, road construction, aerial application of pesticides, or site preparation within 0.25 mile

of a known active nesting area, documented by the department of fish and wildlife.

(h) Northern spotted owl - the following shall apply through June 30, 1996: Harvesting, road construction, or aerial application of pesticides on the most suitable 500 acres of nesting, roosting, and foraging habitat surrounding the northern spotted owl site center. The most suitable habitat shall be determined by the department in cooperation with the department of fish and wildlife, tribes, and others with applicable expertise. Consideration shall be given to habitat quality, proximity to the activity center and contiguity in selecting the most suitable 500 acres of habitat.

Beginning July 1, 1996, the following shall apply for the northern spotted owl:

(i) **Within a SOSEA boundary** (see maps in WAC 222-16-086), except as indicated in (h)(ii) of this subsection, harvesting, road construction, or aerial application of pesticides on suitable spotted owl habitat within a median home range circle that is centered within the SOSEA or on adjacent federal lands.

(ii) **Within the Entiat SOSEA**, harvesting, road construction, or aerial application of pesticides within the areas indicated for demographic support (see WAC 222-16-086(2)) on suitable spotted owl habitat located within a median home range circle that is centered within the demographic support area.

(iii) **Outside of a SOSEA**, harvesting, road construction, or aerial application of pesticides, between March 1 and August 31 on the seventy acres of highest quality suitable spotted owl habitat surrounding a northern spotted owl site center located outside a SOSEA. The highest quality suitable habitat shall be determined by the department in cooperation with the department of fish and wildlife. Consideration shall be given to habitat quality, proximity to the activity center and contiguity.

(iv) **Small parcel northern spotted owl exemption.** Forest practices proposed on the lands owned or controlled by a landowner whose forest land ownership within the SOSEA is less than or equal to 500 acres and where the forest practice is not within 0.7 mile of a northern spotted owl site center shall not be considered to be on lands designated as critical wildlife habitat (state) for northern spotted owls.

(i) Western pond turtle - harvesting, road construction, aerial application of pesticides, or site preparation within 0.25 mile of a known individual occurrence, documented by the department of wildlife.

(j) Marbled murrelet.

(i) Harvesting, other than removal of down trees outside of the critical nesting season, or road construction within an occupied marbled murrelet site.

(ii) Harvesting, other than removal of down trees outside of the critical nesting season, or road construction within suitable marbled murrelet habitat within a marbled murrelet detection area.

(iii) Harvesting, other than removal of down trees outside of the critical nesting season, or road construction within suitable marbled murrelet habitat containing 7 platforms per acre outside a marbled murrelet detection area.

(iv) Harvesting, other than removal of down trees outside of the critical nesting season, or road construction outside a marbled murrelet detection area within a marbled murrelet special landscape and within suitable marbled murrelet habitat with 5 or more platforms per acre.

(v) Harvesting within a 300 foot managed buffer zone adjacent to an occupied marbled murrelet site that results in less than a residual stand stem density of 75 trees per acre greater than 6 inches in dbh; provided that 25 of which shall be greater than 12 inches dbh including 5 trees greater than 20 inches in dbh, where they exist. The primary consideration for the design of managed buffer zone widths and leave tree retention patterns shall be to mediate edge effects. The width of the buffer zone may be reduced in some areas to a minimum of 200 feet and extended to a maximum of 400 feet as long as the average of 300 feet is maintained.

(vi) Except that the following shall not be critical wildlife habitat (state):

(A) Where a landowner owns less than 500 acres of forest land within 50 miles of saltwater and the land does not contain an occupied marbled murrelet site; or

(B) Where a protocol survey (see WAC 222-12-090(14)) has been conducted and no murrelets were detected. The landowner is then relieved from further survey requirements. However, if an occupied marbled murrelet site is established, this exemption is void.

(2) The following critical habitats (federal) designated by the United States Secretary of the Interior or Commerce, or specific forest practices within those habitats, have been determined to not have the potential for a substantial impact on the environment:

Marbled murrelet critical habitat 50 C.F.R. §17.95(b), 61 Fed. Reg. 26256 as a result of provisions of the state's marbled murrelet rule.

(3) For the purpose of identifying forest practices which have the potential for a substantial impact on the environment with regard to threatened or endangered species newly listed by the Washington fish and wildlife commission and/or the United States Secretary of the Interior or Commerce, the department shall after consultation with the department of fish and wildlife, prepare and submit to the board a proposed list of critical wildlife habitats (state) of threatened or endangered species. This list shall be submitted to the board within 15 days of the listing of the species. The department shall, at a minimum, consider potential impacts of forest practices on habitats essential to meeting the life requisites for each species listed as threatened or endangered. Those critical wildlife habitats (state) adopted by the board shall be added to the list in subsection (1) of this section. See WAC 222-16-050 (1)(b)(i).

(4) For the purpose of identifying any areas and/or forest practices within critical habitats (federal) designated by the United States Secretary of the Interior or Commerce which do not have the potential for a substantial impact on the environment, the department shall, after consultation with the department of fish and wildlife, submit to the board a proposed list of any forest practices and/or areas proposed for exclusion from Class IV - special forest practices. The department shall submit the list to the board within 120 days of the date the United States Secretary of the Interior or Com-

merce publishes a final rule designating critical habitat (federal) in the Federal Register. Those critical habitats excluded by the board from Class IV - Special shall be added to the list in subsection (2) of this section. See WAC 222-16-050 (1)(b)(ii).

(5)(a) Except for bald eagles under subsection (1)(a) of this section, the critical wildlife habitats (state) of threatened and endangered species and specific forest practices designated in subsection (1) of this section are intended to be interim. These interim designations shall expire for a given species on the earliest of:

(i) The effective date of a regulatory system for wildlife protection referred to in (b) of this subsection or of substantive rules on the species.

(ii) The delisting of a threatened or endangered species by the Washington fish and wildlife commission.

(b) The board shall examine current wildlife protection and department authority to protect wildlife and develop and recommend a regulatory system, including baseline rules for wildlife protection. To the extent possible, this system shall:

(i) Use the best science and management advice available;

(ii) Use a landscape approach to wildlife protection;

(iii) Be designed to avoid the potential for substantial impact to the environment;

(iv) Protect known populations of threatened and endangered species of wildlife from negative effects of forest practices consistent with RCW 76.09.010; and

(v) Consider and be consistent with recovery plans adopted by the department of fish and wildlife pursuant to RCW 77.12.020(6) or habitat conservation plans or 16 U.S.C. 1533(d) rule changes of the Endangered Species Act.

(6) Regardless of any other provision in this section, forest practices applications shall not be classified as Class IV-Special based on critical wildlife habitat (state) (WAC 222-16-080(1)) or critical habitat (federal) (WAC 222-16-050 (1)(b)(ii)) for a species. If the forest practices are consistent with one or more of the following ((proposed for protection of the species)):

(a) ~~((A habitat conservation plan and permit or an incidental take statement covering such species approved by the Secretary of the Interior or Commerce pursuant to 16 U.S.C. §1536 (b) or 1539 (a); an "unlisted species agreement" covering such species approved by the U.S. Fish and Wildlife Service or National Marine Fisheries Service; or a "no take letter" or other cooperative or conservation agreement entered into with a federal or state fish and wildlife agency pursuant to its statutory authority for fish and wildlife protection that addresses the needs of the affected species and that is subject to review under the National Environmental Protection Act, 42 U.S.C. §4321 et seq., or the State Environmental Policy Act, chapter 43.21C RCW, as applicable;)) Documents addressing the needs of the affected species so long as the documents have been reviewed under the National Environmental Policy Act, 42 U.S.C. section 4321 et seq.:~~

(i) A habitat conservation plan and permit; or an incidental take statement covering such species approved by the Secretary of the Interior or Commerce pursuant to 16 U.S.C. § 1536 (b) or 1539 (a); or

(ii) An "unlisted species agreement" covering such species approved by the U.S. Fish and Wildlife Service or National Marine Fisheries Service; or

(b) Documents addressing the needs of the affected species so long as they have been reviewed under the State Environmental Policy Act;

(i) A landscape management plan; or

(ii) Another cooperative or conservation agreement entered into with a state resource agency pursuant to its statutory authority for fish and wildlife protection;

(c) A rule adopted by the U.S. Fish and Wildlife Service for the conservation of a particular threatened species pursuant to 16 U.S.C. 1533(d);

~~((e))~~ (d) A special wildlife management plan (SWMP) developed by the landowner and approved by the department in consultation with the department of fish and wildlife;

~~((d))~~ (e) A bald eagle management plan approved under WAC 232-12-292;

~~((e))~~ (f) A landowner option plan (LOP) for northern spotted owls developed pursuant to WAC 222-16-100(1); or

~~((f))~~ (g) A cooperative habitat enhancement agreement (CHEA) developed pursuant to WAC 222-16-105.

In those situations where one of the options above has been used, forest practices applications may still be classified as Class IV-Special based upon the presence of one or more of the factors listed in WAC 222-16-050(1), other than critical wildlife habitat (state) or critical habitat (federal) for the species covered by the existing plan.

(7) The department, in consultation with the department of fish and wildlife, shall review each SOSEA to determine whether the goals for that SOSEA are being met through approved plans, permits, statements, letters, or agreements referred to in subsection (6) of this section. Based on the consultation, the department shall recommend to the board the suspension, deletion, modification or reestablishment of the applicable SOSEA from the rules. The department shall conduct a review for a particular SOSEA upon approval of a landowner option plan, a petition from a landowner in the SOSEA, or under its own initiative.

(8) The department, in consultation with the department of fish and wildlife, shall report annually to the board on the status of the northern spotted owl to determine whether circumstances exist that substantially interfere with meeting the goals of the SOSEAs.

AMENDATORY SECTION (Amending WSR 98-07-047, filed 3/13/98, effective 5/1/98)

WAC 222-20-010 Applications and notifications—Policy. (1) **No Class II, III or IV forest practices** shall be commenced or continued unless the department has received a notification for Class II forest practices, or approved an application for Class III or IV forest practices pursuant to the act. Where the time limit for the department to act on the application has expired, and none of the conditions in WAC 222-20-020(1) exist, the operation may commence. (NOTE: OTHER LAWS AND REGULATIONS AND/OR PERMIT REQUIREMENTS MAY APPLY. SEE CHAPTER 222-50 WAC.)

(2) **The department shall** prescribe the form and contents of the notification and application, which shall specify

what information is needed for a notification, and the information required for the department to approve or disapprove the application.

(3) **Applications and notifications** for operations not converting to another use shall be signed by the landowner, the timber owner and the operator, or the operator and accompanied by a consent form signed by the timber owner and the landowner. A consent form may be another document if it is signed by the landowner(s) and it contains a statement acknowledging that he/she is familiar with the Forest Practices Act, including the provisions dealing with conversion to another use (RCW 76.09.060(3)). Where the application is not signed by the landowner, the department shall, provided all the other requirements contained in chapter 222-20 WAC are met, approve the application without the signature of the landowner if:

(a) The operator or timber owner provides legal evidence of timber rights, ownership, or other legal rights;

(b) The timber owner or operator posts a bond, in an amount determined by and a form acceptable to the department, securing compliance with the requirements of the forest practices regulations; and

(c) The operator or timber owner provides evidence of reasonably advance notification to the landowner of the proposed forest practice and that the landowner has been requested to sign the application, a copy of which has been made available to the landowner: Provided, That in lieu of such evidence the applicant may submit a sworn statement indicating inability to locate the landowner after a reasonable good faith attempt to locate and notify the landowner of the proposed forest practice.

(4) **Where an application** for a conversion is not signed by the landowner or accompanied by a consent form, as outlined in subsection (3) of this section, the department shall not approve the application. Applications and notifications for the development or maintenance of utility rights of way shall not be considered to be conversions.

(5) **Transfer of the** approved application or notification to a new landowner, timber owner or operator requires written notice by the original landowner or applicant to the department and should include the original application or notification number. This written notice shall be in a form acceptable to the department and shall contain an affirmation signed by the new landowner, timber owner, or operator, as applicable, that he/she agrees to be bound by all conditions on the approved application or notification. In the case of a transfer of an application previously approved without the landowner's signature the new timber owner or operator must submit a bond securing compliance with the requirements of the forest practices regulations as determined necessary by the department. If an application or notification indicates that the landowner or timber owner is also the operator, or an operator signed the application, no notice need be given regarding any change in subcontractors or similar independent contractors working under the supervision of the operator of record.

(6) **Applications and notifications** must be delivered to the department at the appropriate region office. Delivery should be in person or by registered or certified mail.

(7) **Applications and notifications** shall be considered received on the date and time shown on any registered or certified mail receipt, or the written receipt given at the time of personal delivery, or at the time of receipt by general mail delivery. Applications or notifications that are not complete, or are inaccurate will not be considered officially received until the applicant furnishes the necessary information to complete the application. A review statement from the U.S. Forest Service that evaluates compliance of the forest practices with the CRGNSA special management area guidelines is necessary information for an application or notification within the CRGNSA special management area. The review statement requirement shall be waived if the applicant can demonstrate the U.S. Forest Service received a complete plan application and failed to act within 45 days. An environmental checklist (WAC 197-11-315) is necessary information for all Class IV applications. A local government entity clearing and/or grading permit is necessary information for all Class IV applications on lands that will be converted to a use other than commercial timber production or on lands which have been platted after January 1, 1960, if the local government entity has jurisdiction and has an ordinance requiring such permit. If a notification or application is delivered in person to the department by the operator or the operator's authorized agent, the department shall immediately provide a dated receipt. In all other cases, the department shall immediately mail a dated receipt to the applicant.

(8) An operator's name, if known, must be included on any forest practices application or notification. The landowner must provide notice of hiring or change of operator to the department within 48 hours. The department shall promptly notify the landowner if the operator is subject to a notice of intent to disapprove under WAC 222-46-070(1). Once notified, the landowner will not permit the operator, who is subject to a notice of intent to disapprove, to conduct the forest practices specified in the application or notification, or any other forest practices until such notice of intent to disapprove is removed by the department.

NEW SECTION

WAC 222-20-015 Multiyear permits. (1) Where a watershed analysis has been approved for a WAU under WAC 222-22-080, landowner(s) may apply for a multiyear permit. The information provided and level of detail must be comparable to that required for a two-year permit. At a minimum, the application must include:

(a) A description of the forest practices to be conducted during the period requested for the permit, and a map(s) showing their locations; and

(b) Prescriptions must be identified where operations are proposed within or include areas of resource sensitivity.

(2) A landowner may apply for a multiyear permit to perform road maintenance or abandonment if the landowner has an approved road maintenance and abandonment plan where the schedule for implementing the plan is longer than two years. The information provided and level of detail must be comparable to that required for two-year permits under WAC 222-24-050.

AMENDATORY SECTION (Amending Order 535, filed 11/16/87, effective 1/1/88)

WAC 222-20-020 Application time limits. (1) A **properly completed application** shall be approved, conditioned or disapproved within 30 calendar days for Class III and Class IV forest practices, except:

(a) To the extent the department is prohibited from approving the application by the act.

(b) For "Class IV" applications when the department or the lead agency has determined that a detailed environmental statement must be made, the application must be approved, conditioned or disapproved within 60 days, unless the commissioner of public lands promulgates a formal order specifying a later date for completion of the detailed environmental statement and final action on the application. At least 10 days before promulgation of such an order extending the time, the applicant shall be given written notice that the department is requesting such extension; giving the reasons the process cannot be completed within such period; and stating that the applicant may comment in writing to the commissioner of public lands or obtain an informal conference with the department regarding the proposed extension.

(c) When they involve lands platted after January 1, 1960, or lands to be converted, the applicable time limit shall be no less than 14 business days from transmittal to the county unless the county has waived its right to object or has consented to approval of the application.

(2) **Unless the county** has waived its rights under the act or consents to approval, the department shall not approve an application involving lands platted after January 1, 1960, in the process of being platted or proposed to be converted to another use until at least 14 business days from the date of transmittal to the county.

(3) **Where a notification** is submitted for operations which the department determines involve Class III or IV forest practices, the department shall issue a stop work order or take other appropriate action. If the operations were otherwise in compliance with the act and forest practices regulations, no penalty should be imposed for those operations which occurred prior to the enforcement action: Provided, That no damage to a public resource resulted from such operations, and the operations commenced more than 5 days from receipt by the department of the notification.

(4) **If the department** fails to approve or disapprove an application or any portion thereof within the applicable time limit, the application shall be deemed approved and the operation may commence: Provided, That this provision shall not apply where:

(a) The county objects and the application involves lands platted after January 1, 1960, or lands to be converted where the county's right of objection is 14 business days which may be longer than the approval time limit.

(b) The department is prohibited from approving the application by the act.

(c) Compliance with the State Environmental Policy Act requires additional time.

(5) **If seasonal field** conditions prevent the department from being able to properly evaluate the application, the

department may disapprove the application until field conditions allow for an on-site review.

(6) An application for a multiyear permit must be approved, conditioned or disapproved by the department within 45 days of receiving a complete application.

NEW SECTION

WAC 222-20-055 Continuing forest land obligations. Continuing forest land obligations include reforestation, road maintenance and abandonment plans, and harvest strategies on perennial nonfish habitat waters in Eastern Washington.

(1) Prior to the sale or transfer of land or perpetual timber rights subject to continuing forest land obligations under the Forest Practices Act and rules, the seller must notify the buyer of the existence and nature of such a continuing obligation and the buyer must sign a notice of continuing forest land obligation indicating the buyer's knowledge of the obligations. The notice must be:

- (a) On a form prepared by the department;
- (b) Sent to the department by the seller at the time of sale or transfer of land or perpetual timber rights; and
- (c) Retained by the department.

(2) If the seller fails to notify the buyer about the continuing forest land obligation, the seller must pay the buyer's costs related to continuing forest land obligations, including all legal costs and reasonable attorneys' fees incurred by the buyer in enforcing the continuing forest land obligation against the seller.

(3) Failure by the seller to send the required notice to the department at the time of sale will be prima facie evidence in an action by the buyer against the seller for costs related to the continuing forest land obligation prior to sale.

AMENDATORY SECTION (Amending WSR 92-23-056, filed 11/17/92, effective 12/18/92)

WAC 222-20-080 Application and notification expiration. The approval given by the department to an application to conduct a forest practice shall be effective for a term of two years from the date of approval, with the exception of multiyear permits. Multiyear permits based on a completed watershed analysis will be effective only until the completion of the 5-year review of the assessment and prescriptions under WAC 222-22-090 (4)(a), when it is necessary. A notification is also effective for a term of two years from the date of receipt.

AMENDATORY SECTION (Amending WSR 94-01-134, filed 12/20/93, effective 1/1/94)

WAC 222-22-070 Prescription recommendation. *(1) For each WAU for which a watershed analysis is undertaken, the department, or forest land owner acting under WAC 222-22-040(3), shall assemble a team of field managers qualified under WAC 222-22-030(1). The team shall include persons qualified in the disciplines indicated as necessary in ~~((the methodology))~~ watershed analysis methods, and shall generally include persons qualified in:

- (a) Forest resource management;

PROPOSED

- (b) Forest harvest and road systems engineering;
- (c) Forest hydrology; and
- (d) Fisheries science or management.

Any owner, and any cooperating group of owners, of ten percent or more of the nonfederal forest land acreage in the WAU and any affected Indian tribe shall be entitled to include one qualified individual to participate on the team at its own expense.

* (2) Each forest land owner in a WAU shall have the right to submit to the department or the forest land owner conducting the watershed analysis prescriptions for areas of resource sensitivity on its land. If these prescriptions are received within the time period described in subsection (4) of this section, they shall be considered for inclusion in the watershed analysis.

* (3) For each identified area of resource sensitivity, the field managers' team shall, in consultation with the level 1 and level 2 teams, if any, select and recommend to the department prescriptions. These prescriptions shall be reasonably designed to minimize, or to prevent or avoid, as set forth in table 1 in WAC 222-22-050 (2)(d), the likelihood of adverse change and deliverability that has the potential to cause a material, adverse effect to resource characteristics in accordance with the following:

(a) The prescriptions shall be designed to provide forest land owners and operators with as much flexibility as is reasonably possible while addressing the area of resource sensitivity. The prescriptions should, where appropriate, include, but not be limited to, plans for road abandonment, orphaned roads, and road maintenance and plans, restoration opportunity for applying prescriptions to recognized land features identified in the WAU as areas of resource sensitivity but not fully mapped;

(b) Each set of prescriptions shall provide for an option for an alternate plan under WAC 222-12-040, which the applicant shows meets or exceeds the protection provided by the other prescriptions approved for a given area of resource sensitivity; and

(c) The regulation of forest practices and cumulative effects under this chapter shall not require mitigation for activities or events not regulated under chapter 76.09 RCW. Any hazardous condition subject to forest practices identified in a watershed analysis requiring corrective action shall be referred to the department for consideration under RCW 76.09.300 et seq.

(d) The forests and fish riparian emergency rules, when effective, supersede all existing watershed analysis riparian prescriptions. (See WAC 222-30-021 and 222-30-022.) No new riparian prescriptions will be written after completion of the riparian management zone assessment report during a watershed analysis.

* (4) The field managers' team shall submit the recommended prescriptions to the department within 30 days of the submission to the department of the level 2 assessment under WAC 222-22-060 or within 21 days of the submission to the department of the level 1 assessment under WAC 222-22-050.

NEW SECTION

WAC 222-22-075 Monitoring. *In connection with any new watershed analysis, monitoring will be required to be completed but implementation of this module would be voluntary unless otherwise required by existing laws and regulations, or required by an HCP implementation agreement. Implementation of the monitoring module will be encouraged when needed as part of the state-wide effectiveness monitoring program.

NEW SECTION

WAC 222-22-076 *Restoration. As prescriptions are developed, restoration opportunities will also be identified based on the watershed resource assessment.

AMENDATORY SECTION (Amending WSR 97-24-091, filed 12/3/97, effective 1/3/98)

WAC 222-22-080 *Approval of watershed analysis.
 (1) Upon receipt of the recommended prescriptions resulting from a level 2 assessment under WAC 222-22-060 or a level 1 assessment under WAC 222-22-050 where a level 2 assessment will not be conducted, the department shall select prescriptions. The department shall circulate the draft watershed analysis to the departments of ecology; fish and wildlife, affected Indian tribes, local government entities, forest land owners in the WAU, and the public for review and comment. The prescriptions recommended by the field managers' team shall be given substantial weight. Within thirty days of receipt of the prescriptions, the department shall review comments, revise the watershed analysis as appropriate, and approve or disapprove the watershed analysis for the WAU.

* (2) The department should notify any governmental agency or Indian tribe having jurisdiction over activities which are not regulated under chapter 76.09 RCW but which are identified in the draft analysis as having a potential for an adverse impact on identified fish, water, and capital improvements of the state or its political subdivisions.

* (3) The department shall approve the draft watershed analysis unless it finds:

(a) For any level 1 assessment or level 2 assessment, that:

(i) The team failed in a material respect to apply the methodology, indices of resource condition, or checklists set forth in the manual; or

(ii) A team meeting the criteria promulgated by the department and using the defined methodologies, indices of resource conditions, and checklists set forth in the manual could not reasonably have come to the conclusions identified in the draft level 1 or level 2 assessment; and

(b) For the prescriptions, that they will not accomplish the purposes and policies of this chapter and of the Forest Practices Act, chapter 76.09 RCW.

(c) In making its findings under this subsection, the department shall take into account its ability to revise assessments under WAC 222-22-090(3).

* (4) If the department does not approve the draft watershed analysis, it shall set forth in writing a detailed explanation of the reasons for its disapproval.

(5) All watershed analyses must be reviewed under SEPA on a nonproject basis. SEPA review may take place concurrently with the public review in subsection (1) of this section.

AMENDATORY SECTION (Amending WSR 97-24-091, filed 12/3/97, effective 1/3/98)

WAC 222-22-090 Use and review of watershed analysis. *(1) Where a watershed analysis has been completed for a WAU under this chapter:

(a) Any landowner within the WAU may apply for a multi-year permit to conduct forest practices according to the watershed analysis prescriptions. This permit is not renewable if a five-year review is found necessary by the department and has not been completed.

(b) Nonmulti-year forest practices applications and notifications submitted to the department shall indicate whether an area of resource sensitivity will be affected and, if so, which prescription the operator, timber owner, or forest land owner shall use in conducting the forest practice in the area of resource sensitivity;

~~((b))~~ (c) The department shall assist operators, timber owners, and forest land owners in obtaining governmental permits required for the prescription (see WAC 222-50-020 and 222-50-030);

~~((e))~~ (d) The department shall confirm that the prescription selected under (a) of this subsection was one of the prescriptions approved for the area of resource sensitivity under WAC 222-22-080 and shall require the use of the prescription; and

~~((d))~~ (e) The department shall not further condition forest practice applications and notifications in an area of resource sensitivity in a WAU where the applicant will use a prescription contained in the watershed analysis nor shall the department further condition forest practice applications and notifications outside an area of resource sensitivity in a WAU, except for reasons other than the watershed processes and fish, water, and capital improvements of the state or its political subdivisions analyzed in the watershed analysis in the WAU, and except to correct mapping errors, misidentification of soils, landforms, vegetation, or stream features, or other similar factual errors.

*(2) Pending completion of a watershed analysis for a WAU, the department shall process forest practices notifications and applications in accordance with the other chapters of this title, except that applications and notifications received for forest practices on a WAU after the date notice is mailed under WAC 222-22-040(4) commencing a watershed analysis on the WAU shall be conditioned to require compliance with interim, draft, and final prescriptions, as available.

Processing and approval of applications and notifications shall not be delayed by reason of review, approval, or appeal of a watershed analysis.

*(3) The board encourages cooperative and voluntary monitoring. Evaluation of resource conditions may be conducted by qualified specialists, analysts, and field managers

as determined under WAC 222-22-030. Subsequent watershed analysis and management strategies in response to areas where recovery is not occurring shall be conducted in accordance with this chapter.

*(4) Where the condition of resource characteristics in a WAU are fair or poor, the department shall evaluate the effectiveness of the prescriptions applied under this chapter to the WAU in providing for the protection and recovery of the resource characteristic. If the department finds that the prescriptions are not providing for such protection and recovery over a period of 3 years, the department shall repeat the watershed analysis in the WAU. Aside from the foregoing, once a watershed analysis is completed on a WAU, it shall be revised in whole or in part upon the earliest of the following to occur:

(a) Five years after the date the watershed analysis is final, if necessary;

(b) The occurrence of a natural disaster having a material adverse effect on the resource characteristics of the WAU;

(c) Deterioration in the condition of a resource characteristic in the WAU measured over a 12-month period or no improvement in a resource characteristic in fair or poor condition in the WAU measured over a 12-month period unless the department determines, in cooperation with the departments of ecology, fish and wildlife, affected Indian tribes, forest land owners, and the public, that a longer period is reasonably necessary to allow the prescriptions selected to produce improvement; or

(d) The request of an owner of forest land in the WAU which wishes to conduct a watershed analysis at its own expense.

Revision of an approved watershed analysis shall be conducted in accordance with the processes, methods, and standards set forth in this chapter, except that the revised watershed analysis shall be conducted only on the areas affected in the case of revisions under (b) or (c) of this subsection, and may be conducted on areas smaller than the entire WAU in the case of revisions under (a) and (d) of this subsection. The areas on which the watershed analysis revision is to be conducted shall be determined by the department and clearly delineated on a map before beginning the assessment revision. Forest practices shall be conditioned under the current watershed analysis pending the completion of any revisions.

AMENDATORY SECTION (Amending WSR 94-01-134, filed 12/20/93, effective 1/1/94)

WAC 222-24-010 Policy. *(1) A well designed, located, constructed, and maintained system of forest roads is essential to forest management and protection of the public resources. To protect water quality and aquatic habitat, roads must be constructed and maintained in a manner that will minimize impacts to public resources through disconnecting roads from water, eliminating the entry of sediment to water, maintaining water flow in the natural drainage, and routing any subsurface flow that is captured by roads and their ditches back onto the forest floor, and providing fish passage. The road construction and maintenance rules in this chapter assist in achieving these goals, along with the best management practices in the board manual, section 3. If these goals

are not achieved using the applied BMPs, additional management strategies must be employed to protect public resources. Riparian areas contain some of the more productive conditions for growing timber, are heavily used by wildlife and provide essential habitat for fish and wildlife and essential functions in the protection of water quality. Wetland areas serve several significant functions in addition to timber production: Providing fish and wildlife habitat, protecting water quality, moderating and preserving water quantity. Wetlands may also contain unique or rare ecological systems.

~~*(2) ((All road and landing construction within wetlands shall be conducted so that choices are made in the following descending order of preference:~~

~~(a) Avoid impacts by selecting the least environmentally damaging landing location, road location and road length; or~~

~~(b) Minimize impacts by such things as reducing the subgrade width, fill acreage and spoil areas; or~~

~~(c) Restore affected areas by removing temporary fills or road sections upon the completion of the project; or~~

~~(d) Reduce or eliminate impacts over time by preserving or maintaining areas; or~~

~~(e) Replace affected areas by creating new wetlands or enhancing existing wetlands.~~

~~*(3) An accurate delineation of wetland boundaries shall not be required under this section except where necessary to determine acreage of road or landing construction which fills or drains more than 0.5 acre of a wetland. Landowners are encouraged to voluntarily increase wetland acreage and functions over the long term.~~

~~*(4)) Extra protection is required during road construction and maintenance to protect ((these)) public resources and timber growing potential. Landowners and fisheries and wildlife managers are encouraged to cooperate ((to develop)) in the development of road management and abandonment plans. Landowners are further encouraged to cooperate in sharing roads to minimize road mileage and avoid duplicative road construction.~~

~~((*(5))~~ ***(3)** This section covers the location, design, construction, maintenance and abandonment of forest roads, bridges, stream crossings, quarries, borrow pits, and disposal sites used for forest road construction and is intended to assist landowners in proper road planning, construction and maintenance so as to protect public resources.

(Note: Other laws and regulations and/or permit requirements may apply. See chapter 222-50 WAC.)

NEW SECTION

WAC 222-24-015 Construction in wetlands. ***(1)** In order to assure that there is no net loss of wetland function, all road and landing construction near or within wetlands must be conducted so that selection of choices are made in the following order with avoidance being the most preferred and replacement being the least preferred alternative:

(a) Avoid impacts by selecting the least environmentally damaging landing location, road location and road length. Landowners must attempt to minimize road length concurrently with the attempt to avoid wetlands; or

(b) Minimize impacts by reducing the subgrade width, fill acreage and spoil areas; or

(c) Restore affected areas by removing temporary fills or road sections upon the completion of the project; or

(d) Reduce or eliminate impacts over time by preserving or maintaining areas; or

(e) Replace affected areas by creating new wetlands or enhancing existing wetlands.

***(2) An accurate delineation** of wetland boundaries will not be required under this section except where necessary to determine acreage of road or landing construction which fills or drains more than (0.1) one tenth acre of a wetland. All such mapping must follow the delineation and mapping standards outlined in the board manual, section 8.

***(3)** Approximate determination of wetland boundaries, following the guidelines in the board manual, shall be required for the purpose of avoidance during design and construction of roads. Landowners should attempt to minimize road length concurrently with the attempt to avoid wetlands. Delineation, following the guidelines in the board manual, shall be required to determine the length of road constructed within a wetland in order to determine acreage when replacement by substitution or enhancement of a wetland is required. The requirement for accurate delineation shall be limited to the area of the wetland proposed to be filled.

***(4) Filling or draining** more than 0.5 acre of a wetland requires replacement by substitution or enhancement of the lost wetland functions. (See the board manual, section 9.) The objective of successful replacement by substitution of lost wetland area will be generally on a two-for-one basis and of the same type and in the same general location. The objective of enhancing wetlands function is to provide for an equivalent amount of function to replace that which is lost. See WAC 222-16-050 (1)(i).

AMENDATORY SECTION (Amending WSR 92-15-011, filed 7/2/92, effective 8/2/92)

WAC 222-24-020 Road location and design. (1) Fit the road to the topography so that a minimum of alterations to the natural features will occur.

~~*(2) ((Minimize roads along or within narrow canyons, riparian management zones, wetlands and wetland management zones.~~

~~(a))~~ Except where crossings are necessary, roads shall not be located within natural drainage channels, channel migration zones and riparian management zones when there would be substantial loss or damage to fish or wildlife habitat unless the department has determined that alternatives will cause greater damage to public resources.

~~((b) Roads shall not be located in wetlands when there would be substantial loss or damage to wetland functions or acreage unless the department has determined that alternatives will cause greater damage to public resources.~~

~~(c) Approximate determination of wetland boundaries shall be required for the purpose of avoidance during design and construction of roads. Landowners should attempt to minimize road length concurrently with the attempt to avoid wetlands. Delineation shall be required to determine the length of road constructed within a wetland in order to determine acreage when replacement by substitution or enhance-~~

ment of a wetland is required. The requirement for accurate delineation shall be limited to the area of the wetland proposed to be filled.))

*(3) Roads shall not be constructed in bogs or low nutrient fens.

*(4) Roads shall not be located in wetlands if there would be substantial loss or damage to wetland functions or acreage, unless the department has determined that alternatives will cause greater damage to public resources.

*(5) Minimize the number of stream crossings.

((*(4)) *(6) Where stream crossings are necessary:

(a) Design stream crossings to minimize alterations to natural features;

(b) Locate and design culverts to minimize sediment delivery; and

(c) Whenever practical, cross streams at right angles to the main channel.

((*(5)) *(7) Avoid duplicative roads by keeping the total amount of construction to a minimum. Use existing roads whenever practical and avoid isolating patches of timber which, when removed, may require unnecessary road construction.

((*(6) Where feasible, do not locate roads on excessively steep or unstable slopes or known slide prone areas as determined by the department. The department shall determine whether slopes are unstable using available soils information, or from evidence of geologically recent slumps or slides, or where the natural slope exceeds the angle of repose for the particular soil types present, or where springs or seeps may indicate unstable conditions are present in or above the construction site.

Essential road construction will be accomplished by end hauling, over hauling, or other special road construction techniques unless the department determines there is potential for damage to public resources under WAC 222-16-050 (1)(e).))

*(8) All new road construction on side slopes that exceed 60 percent which have the potential to deliver sediment to any typed water or wetland must utilize full bench construction techniques, including end hauling, over hauling or other special techniques. The department may waive the full bench construction requirement if a site review is conducted and the absence of delivery potential to any typed water or wetlands is determined.

(9) Use the minimum design standard that produces a road sufficient to carry the anticipated traffic load with reasonable safety.

*(10) Subgrade width should average not more than 32 feet for double lane roads and 20 feet for single lane roads, exclusive of ditches, plus any additional width necessary for safe operations on curves and turnouts. Where road location in wetlands is unavoidable (see WAC 222-24-015 (1)(b)), minimize subgrade width.

(11) Balance excavation and embankments so that as much of the excavated material as is practical will be deposited in the roadway fill sections. Where full bench construction is necessary, design suitable embankments so that the excavated material may be end hauled to appropriate deposit areas.

(12) Cut and fill slopes must be designed and constructed in a manner that will assure a high likelihood of remaining stable throughout the life of the road.

*(13) All roads should be outsloped or ditched on the uphill side and appropriate surface drainage shall be provided by the use of adequate drainage structures such as: Cross drains, ditches, drivable dips, relief culverts, water bars, diversion ditches, or other such structures demonstrated to be equally effective.

*(14) Drainage structures shall not discharge onto erodible soils, or over fill slopes unless adequate outfall protection is provided.

*(15) Relief culverts installed on forest roads shall meet the following minimum specifications: (See the board manual, section 3 for culvert spacing.)

(a) Be at least 18 inches in diameter or equivalent in western Washington and 15 inches in diameter or equivalent in eastern Washington.

(b) Be installed in a manner that efficiently captures ditchline flow and passes it to the outside of the road.

*(16) Ditch diversion. Where roadside ditches slope toward water, or Type A or B Wetland, a ditch relief structure must be located as close to the stream crossing or wetland as possible so it drains off before reaching the stream. The relief structure must allow the sediment to be deposited onto the forest floor and not carry surface water or sediment into the stream channel or wetland.

*(17) Outslope the road surface where practical. Where outsloping is not practical, provide a ditch with cross drains on the inside of the road, except where roads are constructed in rock or other materials not readily susceptible to erosion.

*(18) Crown or slope the road to prevent the accumulation of water on the road surface.

*(19) Install rock armor headwall inlets on all stream-crossing culverts where the stream gradient above the crossing is greater than 6 percent.

*(20) Install rock armored headwalls and rock armored ditchblocks for cross drain culverts located on erodible soils or where the affected road has a gradient greater than 6 percent.

*(21) Install drainage structures at locations where seeps and springs are known or discovered during construction to route accumulated surface water across the road prism. The water from the seeps and springs must be returned to the forest floor as close to the point of origin as reasonably practicable.

*(22) The department may require additional information for proposed road construction as part of a complete application, including:

(a) A map with detailed topographic information showing the location and alignment of the road in relation to all typed water and wetlands as required in WAC 222-16-035;

(b) Location, size, alignment and number of water crossing and drainage structures;

(c) Detailed plans for bridges, large culverts or other complex elements of the proposal may be required; and

(d) Other information identified by the department.

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NEW SECTION

WAC 222-24-026 Temporary roads. (1) A temporary road is intended for use during one dry season.

(2) It must be constructed in a manner to facilitate closure and abandonment when the intended use is completed.

* (3) It must be designed to provide the same level of protection for public resources during the length of its intended use.

(4) **All temporary roads** must be identified on the forest practices application or notification, along with an abandonment date. Abandonment must be accomplished under WAC 222-24-050(5) to the specifications approved by the department by the date specified in the approved forest practices application.

AMENDATORY SECTION (Amending WSR 97-24-091, filed 12/3/97, effective 1/3/98)

WAC 222-24-030 Road construction. (1) **Right of way timber.** (~~((Merchantable right of way timber))~~) Shall be removed or decked in suitable locations where the decks will not be covered by fill material or act as support for the fill or embankment.

* (2) (~~((Debris burial.~~

~~((a)))~~ In permanent road construction, do not bury:

~~((i)))~~ (a) Loose stumps, logs or chunks containing more than 5 cubic feet in the load-bearing portion of the road, except as puncheon across wetlands or for culvert protection.

~~((ii)))~~ (b) Any significant amount of organic debris within the top 2 feet of the load-bearing portion of the road, except as puncheon across wetlands or for culvert protection.

~~((iii)))~~ (c) Excessive accumulation of debris or slash in any part of the load-bearing portion of the road fill, except as puncheon across wetlands or for culvert protection.

~~((b) In the cases where temporary roads are being constructed across known areas of unstable soils and where possible construction failure would directly impact waters, the requirements in (a), (i), (ii) and (iii) of this subsection shall apply. A temporary road is a roadway which has been opened for the purpose of the forest practice operation in question, and thereafter will be an inactive or abandoned road.))~~

(3) **Compact fills.** During road construction, fills or embankments shall be built up by layering. Each layer shall be compacted by operating the tractor or other construction equipment over the entire surface of the layer. Chemical compacting agents may be used in accordance with WAC 222-38-020.

* (4) **Stabilize soils.** (~~((When soil, exposed by road construction, appears to be unstable or erodible and is so located that slides, slips, slumps, or sediment may reasonably be expected to enter Type 1, 2, 3 or 4 Water and thereby cause damage to a public resource, then such exposed soil areas shall be seeded with grass, clover, or other ground cover, or be treated by erosion control measures acceptable to the department. A void introduction of nonnative plant species, as listed in the board manual, to wetlands and wetland management zones.))~~) Erodible soil disturbed during road construction and located where it could reasonably be expected to enter the stream network must be seeded with noninvasive

plant species. The use of local area native species, adapted for rapid revegetation is preferred. Treatment with other erosion control measures may be approved by the department.

* (5) **Channel clearance.** Clear stream channel of all debris and slash generated (~~((during))~~) by the operations prior to the removal of equipment from the vicinity, or the winter season, whichever is first.

* (6) **Drainage.**

(a) All required ditches, culverts, cross drains, drainage dips, water bars, and diversion ditches shall be installed concurrently with the construction of the roadway.

(b) Uncompleted road construction to be left over the winter season or other extended periods of time shall be drained by outsliping or cross draining. Water bars and/or dispersion ditches may also be used to minimize eroding of the construction area and stream siltation. Water movement within wetlands must be maintained.

* (7) **Moisture conditions.** Construction shall be accomplished when moisture and soil conditions are not likely to result in excessive erosion and/or soil movement, so as to avoid damage to public resources.

* (8) **End haul/sidecasts.** End haul or overhaul construction is required where significant amounts of sidecast material would rest below the (~~((50-year))~~) 100-year flood level of a Type 1, 2, 3, or 4 Water, within the boundary of a Type A or Type B Wetland or wetland management zones or where the department determines there is a potential for mass soil failure from overloading on unstable slopes or from erosion of side cast material causing damage to the public resources.

* (9) **Waste disposal.** When spoil, waste and/or other debris is generated during construction, this material shall be deposited or wasted in suitable areas or locations and be governed by the following:

(a) Spoil or other debris shall be deposited above the (~~((50-year))~~) 100-year flood level of Type 1, 2, 3, or 4 Waters or in other suitable locations (~~((so as))~~) to prevent damage to public resources. The material shall be stabilized (~~((by erosion control measures as necessary to prevent the material from entering the waters))~~) using the recommended schedule and procedures found in the board manual, section 3.

(b) All spoils shall be located outside of Type A and Type B Wetlands and their wetland management zones. Spoils shall not be located within the boundaries of forested wetlands without written approval of the department and unless a less environmentally damaging location is unavailable. No spoil area greater than 0.5 acre in size shall be allowed within wetlands. (See WAC 222-24-015, Construction in wetlands.)

(10) **Disturbance avoidance for northern spotted owls.** Road construction, operation of heavy equipment and blasting within a SOSEA boundary shall not be allowed within 0.25 mile of a northern spotted owl site center between March 1 and August 31, provided that, this restriction shall not apply if:

(a) The landowner demonstrates that the owls are not actively nesting during the current nesting season; or

(b) The forest practice is operating in compliance with a plan or agreement developed for the protection of the north-spotted owl under WAC 222-16-080 (6)(a), (e), or (f).

(11) Disturbance avoidance for marbled murrelets.

(a) Road construction and operation of heavy equipment shall not be allowed within 0.25 mile of an occupied marbled murrelet site during the daily peak activity periods within the critical nesting season; and

(b) Blasting shall not be allowed within 0.25 mile of an occupied marbled murrelet site during the critical nesting season.

(c) Provided that, these restrictions shall not apply if the forest practice is operating in compliance with a plan or agreement developed for the protection of the marbled murrelet under WAC 222-16-080 (6)(a) or (c).

AMENDATORY SECTION (Amending WSR 92-15-011, filed 7/2/92, effective 8/2/92)

WAC 222-24-035 Landing location and construction.

*** (1) Landing location:**

Locate landings to prevent damage to public resources. Avoid excessive excavation and filling. Minimize placement and size of landings within wetlands. Landings shall not be located in Type A or B Wetlands or their wetland management zones. (See WAC 222-24-015, Construction in wetlands.)

(2) Landing construction.

(a) Landings requiring sidcast or fill shall be no larger than reasonably necessary for safe operation of the equipment expected to be used.

* (b) Where the average general slopes exceed ~~((65))~~ 60 percent, fill material used in construction of landings shall be free from loose stumps and excessive accumulations of slash and shall be mechanically compacted where necessary and practical in layers by tractor to prevent soil erosion and mass soil movement. Chemical compacting agents may be used in accordance with WAC 222-38-020.

* (c) Truck roads, skid trails, and fire trails shall be out-sloped or cross drained uphill of landings and the water diverted onto the forest floor away from the toe of any landing fill.

* (d) Landings shall be sloped to minimize accumulation of water on the landing.

* (e) Excavation material shall not be sidcast where there is high potential for material to enter Type A or B Wetlands or wetland management zones or ~~((below))~~ within the ~~((ordinary high water mark))~~ bankfull width of any stream or the ~~((50-year))~~ 100-year flood level of Type 1, 2, 3, or 4 Water.

* (f) All spoils shall be located outside of Type A and Type B Wetlands and their wetland management zones. Spoils shall not be located within the boundaries of forested wetlands without written approval of the department and unless a less environmentally damaging location is unavailable. No spoil area greater than 0.5 acre in size shall be allowed within wetlands. (See WAC 222-24-015, Construction of wetlands.)

*** (3) Temporary landings.**

(a) A temporary landing is intended for use during one dry season.

(b) It must be constructed to facilitate abandonment when the intended use is complete or upon seasonal shut-down, whichever is sooner.

(c) It must be designed to provide protection for public resources during the length of its intended use.

(d) Temporary landings must be identified on the forest practices application or notification, along with an abandonment date.

(e) Temporary landings must be abandoned to the specifications approved by the department by the date specified on the approved forest practices application.

AMENDATORY SECTION (Amending WSR 97-24-091, filed 12/3/97, effective 1/3/98)

WAC 222-24-040 Water crossing structures. * (1) ~~((Bridge construction))~~ General provisions for all typed waters.

In addition to the applicable general provisions below, installation, maintenance and removal of water crossing structures in or across the bankfull width of Type 1, 2 or 3 Waters are subject to hydraulic code rules, chapter 220-110 WAC, and require hydraulic project approval issued by the department of fish and wildlife.

(a) Bridges are required for new crossings ~~((of any Type 1 or 2 Waters))~~ and reconstructed crossings of any typed waters regularly used for recreational boating.

~~((Permanent bridges shall not constrict clearly defined channels and shall be designed to pass the 50-year flood level or the road shall be constructed to provide erosion protection from the 50-year flood waters which exceed the water-carrying capacity of the drainage structure.))~~ Structures containing concrete must be sufficiently cured prior to contact with water.

(c) One end of each new or reconstructed permanent log or wood bridge shall be tied or firmly anchored if any of the bridge structure is within 10 vertical feet of the ~~((50-year))~~ 100-year flood level.

~~((Excavation for bridges, placement of sills or abutments, and the placement of stringers or girders shall be accomplished from outside the ordinary high water mark of all waters, except when such operations are authorized by a hydraulic project approval.~~

~~((Earth embankments constructed for use as bridge approaches shall be protected from erosion by high water. Some examples of protection are: Planted or seeded ground cover, bulkheads, rock riprap, or retaining walls.))~~ Alterations or disturbance of the stream bed, bank or bank vegetation must be limited to that necessary to construct the project. All disturbed areas must be stabilized and restored according to the recommended schedule and procedures found in the board manual. This requirement may be modified or waived by the department if precluded by engineering or safety factors.

~~((f))~~ (e) When earthen materials are used for bridge surfacing, only clean sorted gravel may be used, a geotextile lining must be installed and curbs of sufficient size shall be

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installed to ~~((be))~~ a height above the surface material ~~((and))~~ to prevent ~~((such))~~ surface material from falling into the stream bed.

*** (2) Bridges over Type 4 and 5 Waters.** In addition to the applicable general provisions above, installation, maintenance, and removal of permanent bridges in or across Type 4 and 5 Waters are subject to the following:

(a) Permanent bridges must not constrict clearly defined channels and must be designed to pass the 100-year flood. The bridge and its associated embankments and fills must provide sufficient erosion protection to withstand a 100-year flood event.

(b) Excavation for and placement of the bridge foundation and superstructure must be located and conducted from outside the bankfull width. This requirement may be waived by the department if it can be demonstrated that these activities may be conducted in such a manner to prevent damage to public resources.

(c) Earthen embankments constructed for use as bridge approaches must be provided with sufficient erosion protection to withstand a 100-year flood event.

*** (3) Culvert installation for Type 4 and 5 Waters.** In addition to applicable general provisions above, installation, maintenance and removal of permanent culverts in or across Type 4 and 5 Waters are subject to the following provisions:

(a) All permanent culverts ~~((installed in forest roads shall be of a size that is adequate to carry the 50-year flood or the road shall be constructed to provide erosion protection from the 50-year flood waters which exceed the water-carrying capacity of the drainage structure. Refer to))~~ must be designed to pass the 100-year flood event with consideration for the passage of debris likely to be encountered.

(b) The culvert and its associated embankments and fills must have sufficient erosion protection to withstand the 100-year flood event. Erosion protection includes armored overflows or the use of clean coarse fill material. See "Recommended culvert sizes" in section 3 of the forest practices board manual for the size of permanent culverts recommended for use in forest roads.

(c) If the department determines that because of unstable slopes the culvert size shown on that table ~~((is))~~ would be inadequate to protect public resources, it may require a larger culvert ~~((sizes in accordance with the nomograph (chart) contained in the forest practices board manual or with other))~~ designed using generally accepted engineering principles.

~~((a))~~ (d) No permanent culverts shall be installed that are smaller than:

(i) ~~((24 inches in diameter or the equivalent for anadromous fish streams or wetlands where anadromous fish are present.~~

(ii) 18 inches or the equivalent for resident game fish streams:

(iii) 18 inches or the equivalent for all other water or wetland crossings in western Washington:

(iv) 15 inches or the equivalent for all other water or wetland crossings in eastern Washington:

(b)) 24 inches for Type 4 Waters.

(ii) 18 inches for Type 5 Waters in western Washington.

(iii) 15 inches for Type 5 Waters in eastern Washington.

(e) The alignment and slope of the culvert shall parallel the natural flow of the stream whenever possible.

~~((e))~~ When fish life is present, construct the bottom of the culvert at or below the natural stream bed at the inlet and outlet.

(d) Terminate culverts on materials that will not readily erode, such as riprap, the original stream bed (if stable), or other suitable materials.

(e) If water is diverted from its natural channel, return this water to its natural stream bed via culvert, flume, spillway, or the equivalent.

(f) When flumes, downspouts, downfall culverts, etc., are used to protect fill slopes or to return water to its natural courses, the discharge point shall be protected from erosion by: (i) Reducing the velocity of the water, (ii) use of rock spillways, (iii) riprap, (iv) splash plates, or (v) other methods or structures demonstrated to be equally effective.

~~((g))~~ (f) Culverts must be designed and installed so they will not cause scouring of the stream bed and erosion of the banks in the vicinity of the project.

(g) When the culvert installation is within 0.25 mile of a Type 1, 2 or 3 Water or within two miles of a hatchery intake, or when the department determines that installing a culvert in a flowing stream will result in excessive siltation and turbidity, and siltation and turbidity would be reduced if stream flow were diverted, the department shall require the stream flow be diverted using a bypass flume or culvert, or by pumping the stream flow around the work area.

(h) Fill associated with culvert installation must have sufficient erosion protection to withstand the 100-year flood.

(i) Stream beds shall be cleared for a distance of 50 feet upstream from the culvert inlet of such slash or debris that reasonably may be expected to plug the culvert.

~~((h))~~ (j) The entrance of all culverts should have adequate catch basins and headwalls to minimize the possibility of erosion or fill failure.

~~((3))~~ Culverts in anadromous fish streams. In addition to the requirements of subsection (2) of this section, in streams used by anadromous fish:

(a) Culverts shall be either open bottomed or have the bottom covered with gravel and installed at least 6 inches below the natural stream bed at the inlet and outlet.

(b) Closed bottom culverts shall not slope more than 1/2 percent, except as provided in (c) of this subsection; open bottom culverts shall not slope more than the natural slope of the stream bed.

(e) Where multiple culverts are used, one culvert shall be at least 6 inches lower than the other(s).

(d) Culverts shall be set to retain normal stream water depth throughout the culvert length. A downstream control may be required to create pooled water back into the culvert and to insure downstream stream bed stability.

(e) Closed bottom culverts, set at existing stream gradients between 1/2 percent and 3 percent slope shall be designed with baffles for water velocity control, or have an approved designed fishway.

(f) The department, after consultation with the department of fish and wildlife, shall impose any necessary limitations on the time of year in which such culverts may be

~~installed to prevent interference with migration or spawning of anadromous fish.~~

~~(g) Any of the requirements in (a) through (f) of this subsection may be superseded by a hydraulic project approval.)~~

***(4) Temporary water crossings in Type 4 and 5 Waters.** In addition to the applicable general provisions above, installation, maintenance and removal of temporary bridges or other structures in or across Type 4 and 5 Waters are subject to the following:

(a) A temporary water crossing is intended for use during one dry season.

(b) It must be constructed to facilitate abandonment when the intended use is complete or upon seasonal shut-down, whichever is sooner.

(c) Temporary water crossings must be identified on the forest practices application or notification, along with an abandonment date.

(d) Temporary water crossings must be abandoned to the specifications approved by the department by the date specified on the approved forest practices application.

~~((a))~~ (e) Temporary (bridges and culverts, adequate to carry the highest anticipated flow in lieu of carrying the 50-year flood,) water crossings may be used:

(i) In ~~((the westside region))~~ western Washington if installed after June 1 and removed by September 30 of the same year.

(ii) In ~~((the eastside region))~~ eastern Washington if installed after the spring runoff and removed prior to the snow buildup which could feed a heavy runoff.

(iii) At other times, when the department and applicant can agree to specific dates of installation and removal.

~~((b))~~ (f) Temporary water crossings must be designed to pass the highest peak flow event expected to occur during the length of its intended use.

(g) When the culvert installation is within 0.25 mile of a Type 1, 2 or 3 Water or within two miles of a hatchery intake, or when the department determines that installing a culvert in a flowing stream will result in excessive siltation and turbidity, and siltation and turbidity would be reduced if stream flow were diverted, the department shall require the stream flow be diverted using a bypass flume or culvert, or by pumping the stream flow around the work area.

(h) Temporary ~~((bridges and culverts))~~ water crossings shall be promptly removed ~~((upon completion of use,))~~ and ~~((the approaches))~~ abandoned to the specifications approved by the department upon completion of use or by the date specified in the approved forest practices application, whichever is earlier. Approaches to the crossing shall be water barred and stabilized at the time of the crossing removal. The department may waive removal of the water crossing if the applicant secures an amended forest practices application, and the structure and its approaches meet all of the requirements of a permanent water crossing structure.

~~((e))~~ (i) Temporary wetland crossings shall be abandoned and restored based on a written plan approved by the department prior to construction.

*(5) Properly prepared and maintained fords may be used in Type 4 and 5 Waters during periods of low water ~~((providing a hydraulic permit is acquired)).~~

(a) Entry and exit points for each ford must be located as close along the stream as possible, but will not exceed 100 feet of each other.

(b) Ford locations must be shown on the forest practices application.

(c) Best management practices for construction, maintenance and use will be utilized as appropriate or as required by conditions on the approved forest practices application.

AMENDATORY SECTION (Amending WSR 97-24-091, filed 12/3/97, effective 1/3/98).

WAC 222-24-050 *Road maintenance. The goals for road maintenance are established in WAC 222-24-010. All forest roads must be improved and maintained to the standards of this chapter within 15 years of the effective date of these rules. Guidelines for how to meet these goals and standards are in the board manual, section 3. Work performed toward meeting the standards must generally be even flow over the 15-year period with priorities for achieving the most benefit to public resources early in the period. Replacement will not be required for existing culverts functioning with little risk to public resources or for culverts installed under an approved forest practices application or notification if they have been properly maintained and are capable of passing fish, until the end of the culvert's functional life.

~~((+))~~ **Road maintenance and abandonment plan.** All forest roads must be maintained to meet road construction standards in chapter 222-24 WAC within 15 years of the effective date of this rule.

~~((a))~~ The landowner when notified by the department shall submit a plan for road maintenance and abandonment for those drainages or road systems the department determines based on physical evidence to have a potential to damage public resources. The plan is subject to annual review and shall include:

- (i) Ownership maps showing the road or road system;
- (ii) Road status, whether active, inactive, abandoned or planned for abandonment;
- (iii) Maintenance schedule and priorities for the year; and
- (iv) Plan for further maintenance and reconstruction beyond the current year for repair of extensive damage.

(b) The plan shall be submitted to the department region office on or before June 30, 1988, and each June 30th thereafter unless the department agrees that no further plans are necessary.

(c) The department will review the plan annually with the landowner to determine whether it will be effective and is being implemented.

(d) Such plans shall also be reviewed with departments of ecology, fish and wildlife, and affected Indian tribes, any of whom may request an informal conference with the landowner.

*(2) Active roads. An active road is a forest road being actively used for hauling of logs, pulpwood, chips, or other major forest products or rock and other road building materials. To the extent necessary to prevent damage to public

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resources, the following maintenance shall be conducted on such roads:

(a) Culverts and ditches shall be kept functional.

(b) Road surface shall be maintained as necessary to minimize erosion of the surface and the subgrade.

(c) During and on completion of operations, road surface shall be crowned, outsloped, or water barred and berms removed from the outside edge except those intentionally constructed for protection of fills.

*** (3) Inactive roads.** An inactive road is a forest road on which commercial hauling is discontinued for 1 or more logging seasons, and the forest landowner desires continuation of access for fire control, forest management activities, Christmas tree growing operations, occasional or incidental use for minor forest products harvesting or similar activities on such inactive roads:

(a) Before the first winter rainy season following termination of active use, nonfunctional ditches and culverts shall be cleared and the road surface shall be crowned, outsloped, water barred or otherwise left in a condition not conducive to accelerated erosion or interrupt water movement within wetlands; and

(b) Thereafter, except as provided in (c) of this subsection, the landowner shall clear or repair ditches or culverts which he/she knows or should know to be nonfunctional and causing or likely to cause material damage to a public resource.

(c) The landowner shall not be liable for penalties or monetary damages, under the act, for damage occurring from a condition brought about by public use, unless he/she fails to make repairs as directed by a notice to comply.

*** (4) Additional culverts/maintenance.** If the department determines based on physical evidence that the above maintenance has been or will be inadequate to protect public resources and that additional measures will provide adequate protection it shall require the landowner or operator to either elect to:

(a) Install additional or larger culverts or other drainage improvements as deemed necessary by the department; or

(b) Agree to an additional road maintenance program. Such improvements in drainage or maintenance may be required only after a field inspection and opportunity for an informal conference.

*** (5) Abandoned roads.** An abandoned road is a forest road which the forest landowner has abandoned in accordance with procedures of (a) through (c) of this subsection. Roads are exempt from maintenance only after (c) of this subsection is completed:

(a) Roads are outsloped, water barred, or otherwise left in a condition suitable to control erosion and maintain water movement within wetlands; and

(b) Ditches are left in a suitable condition to reduce erosion; and

(c) The road is blocked so that four wheel highway vehicles can not pass the point of closure at the time of abandonment; and

(d) Bridges, culverts, and fills on all waters are removed, except where the department determines other measures would provide adequate protection to public resources.

(e) The department shall determine whether the road has been abandoned according to procedures of this subsection. If the department determines the road is properly abandoned, it shall within thirty days notify the landowner in writing that the road is officially abandoned.

*** (6) Brush control.** Chemical control of roadside brush shall not be done where chemicals will directly enter any Type 1, 2, or 3 or flowing Type 4 or 5 Water or Type A or B Wetlands. Refer to WAC 222-38-020 for additional information.

*** (7) Road surface treatment.**

(a) Apply oil to the road surface only when the temperature is above 55 degrees F and during the season when there is a minimal chance of rain for the next 48 hours. Use of waste oil is subject to RCW 70.951.060(5).

(b) Water the road surface prior to application of oil to assist in penetration.

(c) Construct a temporary berm along the road shoulder wherever needed to control runoff of the applied chemical.

(d) Take extreme care to avoid excess application of road chemicals. Shut off the flow at all bridges.

(e) When cleaning out chemical storage tanks or the application equipment tanks used for storage and application of road treatment materials, dispose of the rinse water fluids on the road surface or in a place safe from potential contamination of water.

(f) The use of dry road chemicals shall be in compliance with WAC 222-38-020.)

NEW SECTION

WAC 222-24-051 Road maintenance schedule. All forest roads must be covered under a road maintenance and abandonment plan within 5 years of the effective date of this rule or 2005. This includes all roads that were constructed or used for forest practices after 1974 and all orphan roads.

* (1) Landowners with 500 acres or more of forest land in a DNR region must maintain a schedule of submitting plans to the department that cover 20% of their roads each year.

* (2) Landowners with less than 500 acres of forest land in a DNR region must submit a road maintenance and abandonment plan covering their entire ownership within the DNR region and a complete list of all ownership and acres by parcel in the state prior to or concurrently with a forest practice notification or application for proposed road construction or harvest activities. Once the plan is approved, the landowner must attach or reference the approved road maintenance and abandonment plan when submitting subsequent applications. For those portions of their ownership that fall within an WAU covered by an approved watershed analysis plan, chapter 222-22 WAC, landowners may follow the WAU road maintenance plan, providing the roads they own are covered by the plan. See the board manual section 3 for road maintenance and abandonment plan outline.

* (3) Road systems or drainages in which improvement, abandonment or maintenance have the highest potential benefit to the public resource are the highest priority. Work on roads that affect the following are presumed to be the highest priority:

(a) Basins containing, or road systems potentially affecting, waters which either contain a listed threatened or endangered fish species under the federal or state law or a water body listed on the current 303(d) water quality impaired list for road related issues.

(b) Basins containing, or road systems potentially affecting, sensitive geology/soils areas with a history of slope failures.

(c) Road systems or basins where other restoration projects are in progress or may be planned coincident to the implementation of the proposed road plan.

(d) Road systems or basins likely to have the highest use in connection with future forest practices.

* (4) Road maintenance and abandonment plans must pay particular attention to:

(a) Roads that deliver sediment to typed water or block fish passage;

(b) Roads or ditchlines that intercept ground water; and

(c) Roads that deliver surface water to any typed waters.

* (5) Road maintenance and abandonment plans must include:

(a) Ownership maps showing all forest roads, including orphan roads' planned and potential abandonment, all typed water, Type A and B Wetlands that are adjacent to or crossed by roads, stream adjacent roads and an inventory of the existing condition; and

(b) Detailed description of the first five years work with a schedule to complete the entire plan within fifteen years; and

(c) Standard practices for routine road maintenance; and

(d) Storm maintenance strategy that includes prestorm planning, emergency maintenance and post storm recovery; and

(e) Inventory and assessment of the risk to public resources or public safety of orphaned roads; and

(f) Forest practice application for all detailed work covered by the plan for up to 5 years.

* (6) Priorities for road maintenance work within plans are:

(a) Removing blockages to fish passage;

(b) Limiting sediment delivery/mass wasting;

(c) Disconnecting road drainage from typed waters;

(d) Repairing or maintaining stream-adjacent parallel roads with an emphasis on minimizing or eliminating water and sediment delivery;

(e) Improve hydrologic connectivity to minimize interruption of surface water drainage, interception of subsurface water, and pirating of water from one basin to another; and

(f) Operational considerations.

* (7) Initial plans must be submitted to the department no later than March 30, 2001.

* (8) By March 30 of each year, landowners must report work accomplishments for the previous year and submit modifications to existing plans for the department's review and approval.

* (9) The department will:

(a) Facilitate an annual water resource inventory area (WRIA) meeting with landowners, the department of fish and wildlife, the department of ecology, affected tribes, the National Marine Fisheries Service, the U.S. Fish and Wildlife

Service, affected counties, local U.S. Forest Service, watershed councils, and other interested parties. The purpose of the meeting is to:

(i) Suggest priorities for road maintenance and abandonment planning; and

(ii) Exchange information on road maintenance and stream restoration projects.

(b) Review the progress of the plans annually with the landowner to determine if the plan is being implemented as approved; and

(c) Notify the landowner within 45 days of the plans' submittal of any concerns that need further work and/or approval.

* (10) A forest practice application submitted with a road maintenance plan will be treated as a multiyear permit. The application will be reviewed, approved, conditioned and/or disapproved within 45 days of acceptance. The application will be reviewed in consultation with department of ecology, department of fish and wildlife, affected tribes and interested parties.

* (11) Regardless of the schedule for plan development, roads that are currently used or proposed to be used for timber hauling must be maintained in a condition that protects public resources. If the department determines that log haul on such a road will cause or has the potential to cause material damage to a public resource, the department may require the applicant to submit a plan to address specific issues or segments on the haul route.

* (12) If a landowner is found to be out of compliance with the work schedule of an approved road maintenance and abandonment and the department determines that this work is necessary to protect public resources, then the department will exercise its authority under WAC 222-46-030 (notice to comply) and WAC 222-46-040 (stop work order) to restrict use of the affected road segment.

(a) The landowner may submit an alternative maintenance plan for maintenance and abandonment and request permission to use the road for log haul.

(b) The department must approve use of the road if the alternative maintenance plan provides protection of the public resource and maintains the overall schedule of maintenance of the road system or basin.

* (13) If a landowner is notified by the department that their road(s) has the potential to damage public resources, the landowner must, within 90 days, submit to the department for review and approval a plan or plans for those drainages or road systems within the area identified by the department.

NEW SECTION

WAC 222-24-052 Maintenance for specific roads and structures. * (1) **Forest roads.** A forest road is a road that is used or has been used since 1974 for hauling of logs, pulp wood, chips, or other major forest products or rock and other road building materials; or provides access for fire control, forest management activities, Christmas tree growing operations, or occasional or incidental use for harvesting minor forest products or similar activities. To the extent necessary to prevent damage to public resources, the following mainte-

nance shall be conducted on forest roads, except as addressed in subsections *(5) and *(6) of this section:

- (a) Drainage structures shall be kept functional.
- (b) Ground water that has been captured by ditchline must be diverted onto the forest floor by using ditchouts, culverts or drivable dips.
- (c) Road surface must be maintained as necessary to:
 - (i) Minimize erosion of the surface and the subgrade;
 - (ii) Minimize direct delivery of surface water to typed water;
 - (iii) Minimize sediment entry to typed water;
 - (iv) Direct any ground water that is captured by the road surface onto the forest floor; and
 - (v) Maintain the appropriate road design for its location to meet the goals of this subsection, such as:

- (A) Outsloping;
- (B) Drivable dips;
- (C) Insloping; or
- (D) Crowning.

(d) During and on completion of the following operations, the road surface shall be crowned, outsloped, or water barred and berms removed from the outside edge except those intentionally constructed for protection of fills:

- (i) Log, pulp, chip, or specialized forest product haul;
- (ii) Rock haul; and
- (iii) Road building.

(e) Before the first winter rainy season following termination of operations, drainage structures must be cleared and the road surface must be crowned, outsloped, water barred or otherwise left in a condition which prevents accelerated erosion, interruption of water movement within wetlands, mass wasting, or direct delivery of water or sediment to a typed water. (See the board manual section 3 for specific guidance.)

(f) Thereafter, except as provided in (d) of this subsection, the landowner must clear or repair ditches or drainage structures that are known or should be known to be nonfunctional and causing or likely to cause material damage to a public resource.

(g) The landowner will not be liable for penalties or monetary damages, under the act, for damage occurring from a condition brought about by public use, unless the landowner fails to make repairs as directed by a notice to comply.

***(2) Additional drainage structure maintenance.** If the department determines, based on a field inspection and physical evidence, that the above road maintenance has been or will be inadequate to protect public resources, and that additional measures will provide adequate protection, the department will require the landowner or operator to install additional or larger drainage structures or other drainage improvements identified as necessary by the department.

***(3) Abandoned roads.** An abandoned road is a road which the forest landowner has abandoned in accordance with procedures of (a) through (e) of this subsection. Roads are exempt from maintenance under this section only after (e) of this subsection is completed.

(a) Roads are outsloped, water barred, or otherwise left in a condition suitable to control erosion and maintain water movement within wetlands and natural drainages;

(b) Ditches are left in a suitable condition to reduce erosion;

(c) The road is blocked so that four wheel highway vehicles cannot pass the point of closure at the time of abandonment;

(d) Water crossing structures and fills on all typed waters are removed, except where the department determines other measures would provide adequate protection to public resources; and

(e) The department shall determine whether the road has been abandoned according to procedures of this subsection. If the department determines the road is properly abandoned, it must notify the landowner in writing within thirty days that the road is officially abandoned.

***(4) Orphaned roads.** An orphaned road is a road or railroad grade that the forest landowner has not used for forest practices activities since 1974. Many of these roads are overgrown or closed off, but have not satisfied the abandonment process.

(a) An inventory and assessment of the risk to public resources or public safety must be completed by the landowner in conjunction with the road maintenance and abandonment plan.

(b) Five years after the effective date of this rule, when the extent of any problems associated with the orphaned roads is known, the hazard-reduction statute will be evaluated to determine if it is still needed and if funds for cost-sharing are needed to effect repair or abandonment of orphan roads. See RCW 76.09.300.

(c) Landowners are not obligated under this rule to repair or abandon such roads before the end of the five year period, but they can voluntarily take this action.

***(5) Brush control.** Chemical control of roadside brush shall not be done where chemicals will directly enter any Type 1, 2, or 3 or flowing Type 4 or 5 Water or Type A or B Wetlands. See WAC 222-38-020 for additional information.

***(6) Road surface treatment.**

(a) Apply oil to the road surface only when the temperature is above 55 degrees F and during the season when there is a minimal chance of rain for the next 48 hours. Use of waste oil is subject to RCW 70.951.060(5).

(b) Water the road surface prior to application of oil to assist in penetration.

(c) Construct a temporary berm along the road shoulder wherever needed to control runoff of the applied chemical.

(d) Take extreme care to avoid excess application of road chemicals. Shut off the flow at all bridges.

(e) Dispose of the rinse water fluids on the road surface or in a place safe from potential contamination of water when cleaning out chemical storage and application equipment tanks used for storage and application of road treatment materials.

(f) Comply with WAC 222-38-020 when using dry road chemicals.

AMENDATORY SECTION (Amending WSR 92-15-011, filed 7/2/92, effective 8/2/92)

WAC 222-24-060 Rock quarries, gravel pits, borrow pits, and spoil disposal areas. Not covered by the Surface Mine Reclamation Act of 1971 (chapter 78.44 RCW).

***(1) Location of pits.** Except as approved by the department, rock quarries and gravel pits opened after January 1, 1975 shall be located above the (~~(50-year)~~) 100-year flood level.

***(2) Location of spoil disposal areas.** Except as approved by the department, spoil disposal areas shall be located:

(a) Above the (~~(50-year)~~) 100-year flood level.

(b) Where the final slope after disposal will be no steeper than 1 1/2:1.

(c) Where practical, on areas having low potential timber productivity.

(d) Where the risk of soil erosion and mass soil movement is minimal.

(e) All spoils shall be placed to allow drainage without additional water ponding.

(f) All spoils shall be located outside of Type A and Type B Wetlands and their wetland management zones. Spoils shall not be located within the boundaries of forested wetlands without written approval of the department and unless a less environmentally damaging location is unavailable. No spoil area greater than 0.5 acre in size shall be allowed within wetlands. (See WAC 222-24-015.)

***(3) Pit drainage.** During construction and use of rock quarries, gravel pits, or borrow pits, runoff water shall be either diverted onto the forest floor or be passed through one or more settling basins as approved by the department.

(4) **Rehabilitation required.** All rock quarries, gravel pits, spoil disposal areas and borrow pits used after January 1, 1975 shall be reclaimed within 2 years from the time the rock or gravel source is either exhausted or abandoned.

***(5) Rehabilitation standards.** Where rehabilitation is required:

(a) Remove all deleterious material that has potential for damaging the public resource, the soil productivity, or that would prevent reforestation of an otherwise plantable area.

(b) Grade slopes to less than the angle of repose unless otherwise approved.

(c) Reforest in accordance with chapter 222-34 WAC to the extent practical.

(d) Seed unreforested exposed erodible soils with grass, clover or other ground cover.

***(6) Major spoil disposal operations.** Where a spoil disposal operation involves more than 1,000 cubic yards of spoils:

(a) The spoils shall be placed to provide drainage onto the forest floor without water ponding within the disposal area;

(b) The site shall be reforested in accordance with chapter 222-34 WAC to the extent practical; and

(c) If significant erosion of the spoils develops, the eroding areas shall be water barred and any unreforested areas

shall be matted, mulched, or seeded with grass or ground cover.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 222-24-025 Road design.

AMENDATORY SECTION (Amending WSR 92-15-011, filed 7/2/92, effective 8/2/92)

WAC 222-30-010 Policy—Timber harvesting. ***(1)** This (~~(section)~~) chapter covers all removal of timber from forest lands in commercial operations, commercial thinning, salvage of timber, relogging merchantable material left after prior harvests, postharvest cleanup, and clearing of merchantable timber from lands being converted to other uses. It does not cover removal of incidental vegetation or removal of firewood for personal use. To the extent practical the department shall coordinate the activities on a multiple disciplinary planning approach. (~~The riparian management zone requirements specified in this section are designed to provide protection for water quality and fisheries and wildlife habitat through ensuring present and future supplies of large organic debris for streams, snags, canopy cover, and a multistoried diverse forest adjacent to Type 1, 2 and 3 Waters.~~)

***(2)** The goal of riparian rules is to protect covered resources and related habitat to achieve restoration of high levels of riparian function and maintenance of these levels once achieved. The riparian functions include bank stability, the recruitment of woody debris, leaf litter fall, nutrients, sediment filtering, shade, and other riparian features that are important to both riparian forest and aquatic system conditions.

***(3)** The rules provide for the conversion and/or treatment of riparian forests which may be understocked, overstocked or uncharacteristically hardwood dominated while maintaining minimum acceptable levels of function on a landscape scale. The diversity of riparian forests across the landscapes is addressed by tailoring riparian prescriptions to the site productivity and tree community at any site.

***(4)** Wetland areas serve several significant functions in addition to timber production: Providing fish and wildlife habitat, protecting water quality, moderating and preserving water quantity. Wetlands may also contain unique or rare ecological systems. The wetland management zone and wetland requirements specified in this (~~(section)~~) chapter are designed to protect these wetland functions (~~when measured over the length of a harvest rotation, although some of the functions may be reduced until the midpoint of the timber rotation cycle~~). Landowners are encouraged to voluntarily increase wetland acreage and functions over the long-term.

(Note: Other laws or regulations and/or permit requirements may apply. See chapter 222-50 WAC.)

PROPOSED

AMENDATORY SECTION (Amending WSR 97-24-091, filed 12/3/97, effective 1/3/98)

WAC 222-30-020 Harvest unit planning and design.

(1) **Logging system.** The logging system should be appropriate for the terrain, soils, and timber type so yarding or skidding can be economically accomplished in compliance with these ((regulations)) rules.

* (2) **Landing locations.** Locate landings to prevent damage to public resources. Avoid excessive excavation and filling.

* (3) **Western Washington riparian management zones.** ((These zones shall be measured horizontally from the ordinary high water mark of Type 1, 2 or 3 Water and extend to the line where vegetation changes from wetland to upland plant community, or the line required to leave sufficient shade as required by WAC 222-30-040, whichever is greater, but shall not be less than 25 feet in width nor more than the maximum widths described in (e) of this subsection; provided that the riparian management zone width shall be expanded as necessary to include wetlands or ponds adjacent to the stream. When the riparian management zone overlaps a Type A or B Wetland or a wetland management zone, the requirement which best protects public resources shall apply.

~~(a) Harvest units shall be designed so that felling, bucking, yarding or skidding, and reforestation can be accomplished in accordance with these regulations, including those regulations relating to stream bank integrity and shade requirements to maintain stream temperature. Where the need for additional actions or restrictions adjacent to waters not covered by the following become evident, WAC 222-12-050 and 222-12-060 may apply.~~

~~(b) When requested in writing by the applicant, the department shall assist in preparation of an alternate plan for the riparian management zone.~~

~~(c) Within the riparian management zone, there shall be trees left for wildlife and fisheries habitat as provided for in the chart below. Fifty percent or more of the trees shall be live and undamaged on completion of the harvest. The leave trees shall be randomly distributed where feasible; some clumping is allowed to accommodate operational considerations. The number, size, species and ratio of leave trees; deciduous to conifer, is specified by the bed material and average width of the water type within the harvest unit. Trees left according to (d) of this subsection may be included in the number of required leave trees in this subsection.~~

PROPOSED

Western Washington Riparian Leave Tree Requirements

Water Type/ Average Width	RMZ Maximum Width	Ratio of Conifer to Deciduous/ Minimum Size Leave Trees	# Trees/1000 ft. each side	
			Gravel/ Cobble < 10" Diameter	Boulder/Bedrock
1 & 2 Water 75' & over	100'	representative of stand	50 trees	25 trees
1 & 2 Water under 75'	75'	representative of stand	100 trees	50 trees
3 Water 5' & over	50'	2 to 1/ 12" or next largest available	75 trees	25 trees
3 Water less than 5'	25'	1 to 1/ 6" or next largest available	25 trees	25 trees

"Or next largest available" requires that the next largest trees to those specified in the rule be left standing when those available are smaller than the sizes specified. Ponds or lakes which are Type 1, 2 or 3 Waters shall have the same leave tree requirements as boulder/bedrock streams.

(d) For wildlife habitat within the riparian management zone, leave an average of 5 undisturbed and uncut wildlife trees per acre at the ratio of 1 deciduous tree to 1 conifer tree equal in size to the largest existing trees of those species

within the zone. Where the 1 to 1 ratio is not possible, then substitute either species present. Forty percent or more of the leave trees shall be live and undamaged on completion of harvest. Wildlife trees shall be left in clumps whenever possible.

~~(e) When 10 percent or more of the harvest unit lies within any combination of a riparian management zone of Type 1, 2 or 3 Waters or a wetland management zone and the harvest unit is a clearcutting of 30 acres or less, leave not less~~

than 50 percent of the trees required in (c) of this subsection.) (See WAC 222-30-021 and 222-30-023(1).)

*** (4) Eastern Washington riparian management zones.** ((These zones shall be measured horizontally from the ordinary high water mark of Type 1, 2 or 3 Waters and extend to the line where vegetation changes from wetland to upland plant community, or to the line required to leave sufficient shade as required by WAC 222-30-040, whichever is greater, but shall not be less than the minimum width nor more than the maximum widths described in (c) of this subsection, provided that the riparian management zone width shall be expanded as necessary to include wetlands or ponds adjacent to the stream. When the riparian management zone overlaps a Type A or B Wetland or a wetland management zone, the requirement which best protects public resources shall apply.

(a) Harvest units shall be designed so that felling, bucking, yarding or skidding, and reforestation can be accomplished in accordance with these regulations, including those regulations relating to stream bank integrity and shade requirements to maintain stream temperature. Where the need for additional actions or restrictions adjacent to waters not covered by the following become evident, WAC 222-12-050 and 222-12-060 may apply.

(b) When requested in writing by the applicant, the department shall assist in preparation of an alternate plan for the riparian management zone.

(c) Within the riparian management zone, there shall be trees left for wildlife and fisheries habitat as provided for below. Fifty percent or more of the trees shall be live and undamaged on completion of the harvest. The leave trees shall be randomly distributed where feasible; some clumping is allowed to accommodate operational considerations.

(i) The width of the riparian management zone shall be based on the adjacent harvest type as defined in WAC 222-16-010 "Partial cutting." When the adjacent unit harvest type is:

Partial cutting—The riparian management zone width shall be a minimum of 30 feet to a maximum of 50 feet on each side of the stream.

Other harvest types—The riparian management zone shall average 50 feet in width on each side of the stream with a minimum width of 30 feet and a maximum of 300 feet on each side of the stream.

(ii) **Leave tree requirements within the riparian management zones of Type 1, 2 or 3 Waters:**

(A) Leave all trees 12 inches or less in diameter breast height (dbh); and

(B) Leave all wildlife reserve trees within the riparian management zone where operations in the vicinity do not violate the state safety regulations (chapter 296-54 WAC and chapter 49.17 RCW administered by department of labor and industries, safety division); and

(C) Leave 16 live conifer trees/acre between 12 inches dbh and 20 inches dbh distributed by size, as representative of the stand; and

(D) Leave 3 live conifer trees/acre 20 inches dbh or larger and the 2 largest live deciduous trees/acre 16 inches dbh or larger. Where these deciduous trees do not exist, and

where 2 wildlife reserve trees/acre 20 inches or larger do not exist, substitute 2 live conifer trees/acre 20 inches dbh or larger. If live conifer trees of 20 inches dbh or larger do not exist within the riparian management zone, then substitute the 5 largest live conifer trees/acre; and

(E) Leave 3 live deciduous trees/acre between 12 inches and 16 inches dbh where they exist.

(iii) **Minimum leave tree requirements per acre for Type 1, 2 and 3 Waters.** Trees left for (c)(ii) of this subsection shall be included in the minimum counts:

(A) On streams with a boulder/bedrock bed, the minimum leave tree requirements shall be 75 trees/acre 4 inches dbh or larger.

(B) On streams with a gravel/cobble (less than 10 inches diameter) bed, the minimum leave tree requirement shall be 135 trees/acre 4 inches dbh or larger.

(C) On lakes or ponds the minimum leave tree requirement shall be 75 trees/acre 4 inches dbh or larger.

Note: (See the Forest Practices Board Manual for assistance in calculating trees/acre and average RMZ widths.)

(d) When 10 percent or more of the harvest unit lies within any combination of a riparian management zone of Type 1, 2 or 3 Waters or a wetland management zone and either the harvest unit is a clearcutting of 30 acres or less or the harvest unit is a partial cutting of 80 acres or less, leave not less than 50 percent of the trees required in (c) of this subsection. (See WAC 222-16-010 "Partial cutting.") (See WAC 222-30-022 and 222-30-023(2).)

*** (5) Riparian leave tree areas.** ((The department will require trees to be left along Type 4 Water where such practices are necessary to protect public resources. Where such practices are necessary leave at least 25 conifer or deciduous trees, 6 inches in diameter or larger, on each side of every 1000 feet of stream length within 25 feet of the stream. The leave trees may be arranged to accommodate the operation.)) (See WAC 222-30-021, 222-30-022, and 222-30-023.)

*** (6) Forested wetlands.** Within the wetland, unless otherwise approved in writing by the department, harvest methods shall be limited to low impact harvest or cable systems. Where feasible, at least one end of the log shall be suspended during yarding.

(a) When forested wetlands are included within the harvest area, landowners are encouraged to leave a portion (30 to 70%) of the wildlife reserve tree requirement for the harvest area within a wetland. In order to retain undisturbed habitat within forested wetlands, these trees should be left in clumps. Leave tree areas should be clumped adjacent to streams, riparian management zones, or wetland management zones where possible and they exist within forested wetlands. Green recruitment trees should be representative of the size and species found within the wetland. Leave nonmerchantable trees standing where feasible.

(b) If a RMZ or WMZ lies within a forested wetland, the leave tree requirement associated with those areas may be counted toward the percentages in (a) of this subsection.

(c) Where riparian associated wetlands are present in the outer zone of a RMZ, trees may be left in the zone to maximize wetland function. See WAC 222-30-021 *(1)(c)(ii).

PROPOSED

(d) If the conditions described in (a) and (b) of this subsection are met, the distribution requirements for wildlife reserve trees and green recruitment trees (subsection (11)(e) of this section) are modified as follows: For purposes of distribution, no point within the harvest unit shall be more than 1000 feet from a wildlife reserve tree and green recruitment tree retention area.

((d)) (e) Approximate determination of the boundaries of forested wetlands greater than ((5)) 3 acres shall be required. Approximate boundaries and areas shall be deemed to be sufficient for harvest operations.

((e)) (f) The department shall consult with the department of fish and wildlife and affected Indian tribes about site specific impacts of forest practices on wetland-sensitive species in forested wetlands.

* (7) **Wetland management zones (WMZ).** These zones shall apply to Type A and B Wetlands, as indicated in (a) of this subsection, and shall be measured horizontally from the wetland edge or the point where the nonforested wetland becomes a forested wetland, as determined by the method described in the board manual, and shall be of an average width as described in (a) of this subsection. These zones shall not be less than the minimum nor more than the maximum widths described in (a) of this subsection. When these zones overlap a riparian management zone the requirement which best protects public resources shall apply.

* (a) Wetland management zones (WMZ) shall have variable widths based on the size of the wetland and the wetland type, described as follows:

PROPOSED

Wetland Management Zones

Wetland Type	Acres of Nonforested Wetland*	Maximum WMZ Width	Average WMZ Width	Minimum WMZ Width
A (including bogs)	Greater than 5	200 feet	100 feet	50 feet
A (including bogs)	0.5 to 5	100 feet	50 feet	25 feet
A (bogs only)	0.25 to 0.5	100 feet	50 feet	25 feet
B	Greater than 5	100 feet	50 feet	25 feet
B	0.5 to 5			25 feet
B	0.25 to 0.5	No WMZ required	No WMZ required	

*For bogs, both forested and non-forested acres are included.

Wetland Management Zones

<u>Wetland Type</u>	<u>Acres of Nonforested Wetland*</u>	<u>Maximum WMZ Width</u>	<u>Average WMZ Width</u>	<u>Minimum WMZ Width</u>
A (including bogs)	Greater than 5	200 feet	100 feet	50 feet
A (including bogs)	0.5 to 5	100 feet	50 feet	25 feet
A (bogs only)	0.25 to 0.5	100 feet	50 feet	25 feet
~B	Greater than 5	100 feet	50 feet	25 feet
B	0.5 to 5			25 feet
B	0.25 to 0.5	No WMZ required	No WMZ required	

*For bogs, both forested and nonforested acres are included.

(b) Within the WMZ, leave a total of 75 trees per acre of WMZ greater than 6 inches dbh in Western Washington and greater than 4 inches dbh in Eastern Washington, 25 of which shall be greater than 12 inches dbh including 5 trees greater than 20 inches dbh, where they exist. Leave trees shall be representative of the species found within the WMZ.

(c) Retain wildlife reserve trees where feasible. Type 1 and 3 wildlife reserve trees may be counted among, and need not exceed, the trees required in (b) of this subsection. Leave all cull logs on site.

(d) Partial-cutting or removal of groups of trees is acceptable within the WMZ. The maximum width of openings created by harvesting within the WMZ shall not exceed 100 feet as measured parallel to the wetland edge. Openings within WMZs shall be no closer than 200 feet. Landowners are encouraged to concentrate leave trees within the WMZ to the wetland edge.

* (e) Tractors, wheeled skidders, or other ground based harvesting systems shall not be used within the minimum WMZ width without written approval of the department.

* (f) When 10% or more of a harvest unit lies within any combination of a wetland management zone or a riparian management zone of Type 1, 2, or 3 Waters and either the harvest unit is a clearcut of 30 acres or less or the harvest unit is a partial cut of 80 acres or less, leave not less than 50% of the trees required in (b) of this subsection.

* (8) **Type A or B Wetlands.** Within the boundaries of Type A or B Wetlands the following shall apply:

(a) Individual trees or forested wetland areas less than 0.5 acre in size may occur. These trees have a high habitat value to the nonforested wetland. Leave individual trees or forested wetlands less than 0.5 acre. These trees may be counted toward the WMZ requirements.

(b) Harvest of upland areas or forested wetlands which are surrounded by Type A or B Wetlands must be conducted in accordance with a plan, approved in writing by the department.

(c) No timber shall be felled into or cable yarded across Type A or B Wetlands without written approval of the department.

(d) Harvest shall not be allowed within a Type A Wetland which meets the definition of a bog.

(9) **Future productivity.** Harvesting shall leave the land in a condition conducive to future timber production except:

(a) To the degree required for riparian management zones; or

(b) Where the lands are being converted to another use or classified urban lands as specified in WAC 222-34-050.

(10) **Wildlife habitat.** This subsection is designed to encourage timber harvest practices that would protect wildlife habitats, provided, that such action shall not unreasonably restrict landowners action without compensation.

(a) The applicant should make every reasonable effort to cooperate with the department of fish and wildlife to identify critical wildlife habitats (state) as defined by the board. Where these habitats are known to the applicant, they shall be identified in the application or notification.

(b) Harvesting methods and patterns in established big game winter ranges should be designed to insure adequate access routes and escape cover where practical.

(i) Where practical, cutting units should be designed to conform with topographical features.

(ii) Where practical on established big game winter ranges, cutting units should be dispersed over the area to provide cover, access for wildlife, and to increase edge effect.

(11) **Wildlife reserve tree management.** In areas where leaving wildlife reserve trees under this section will not create a significant fire hazard, or significant hazard to overhead power lines and operations that are proposed in the vicinity of wildlife reserve trees will not create a significant safety or residential hazard nor conflict with achieving conformance with the limitation of or performance with the provisions of chapter 76.04 RCW (snag falling law) and chapter 49.17 RCW (safety), wildlife reserve trees will be left to protect habitat for cavity nesting wildlife in accordance with the following:

(a) In Western Washington, for each acre harvested 3 wildlife reserve trees, 2 green recruitment trees, and 2 down logs shall be left. In Eastern Washington for each acre harvested 2 wildlife reserve trees, 2 green recruitment trees, and 2 down logs shall be left. Type 1 wildlife reserve trees may be counted, at the landowner's option, either as a wildlife reserve tree or as a green recruitment tree. If adequate wildlife reserve trees are not available, no additional green recruitment trees will be required as substitutes. Landowners shall not under any circumstances be required to leave more than 2 green recruitment trees per acre for the purpose of wildlife reserve tree recruitment, or be required to leave Type 3 or 4 wildlife reserve trees.

PROPOSED

PROPOSED

(b) In Western Washington, only those wildlife reserve trees 10 or more feet in height and 12 or more inches dbh shall be counted toward wildlife reserve tree retention requirements. In Eastern Washington, only those wildlife reserve trees 10 or more feet in height and 10 or more inches dbh shall be counted toward wildlife reserve tree retention requirements. Green recruitment trees, 10 or more inches dbh and 30 or more feet in height and with at least 1/3 of their height in live crown, left standing after harvest may be counted toward green recruitment tree requirements. Green recruitment trees and/or wildlife reserve trees left to meet other requirements of the rules or those left voluntarily by the landowner shall be counted toward satisfying the requirements of this section. Large, live defective trees with broken tops, cavities, and other severe defects are preferred as green recruitment trees. Only down logs with a small end diameter greater than or equal to 12 inches and a length greater than or equal to 20 feet or equivalent volume shall be counted under (a) of this subsection. Large cull logs are preferred as down logs.

(c) In the areas where wildlife reserve trees are left, the largest diameter wildlife reserve trees shall be retained to meet the specific needs of cavity nesters. Where the opportunity exists, larger trees with numerous cavities should be retained and count as recruitment trees.

(d) In order to facilitate safe and efficient harvesting operations, wildlife reserve trees and recruitment trees may be left in clumps. For purposes of distribution, no point within the harvest unit shall be more than 800 feet from a wildlife reserve tree or green recruitment tree retention area. Subject to this distribution requirement, the location of these retention areas and the selection of recruitment trees shall be at the landowner's discretion. Closer spacing of retention areas through voluntary action of the landowner is encouraged. Wildlife reserve tree and green recruitment tree retention areas may include, but are not limited to, riparian management zones, riparian leave tree areas, other regulatory leave areas, or voluntary leave areas that contain wildlife reserve trees and/or green recruitment trees.

(e) In order to provide for safety, landowners may remove any Type 3 or 4 wildlife reserve tree which poses a threat to humans working, recreating, or residing within the hazard area of that tree. In order to provide for fire safety, the distribution of wildlife reserve tree retention areas, described in (d) of this subsection, may be modified as necessary based on a wildlife reserve tree management plan proposed by the landowner and approved by the department.

*(12) Channel migration zones. No harvest, construction or salvage will be permitted within the boundaries of a channel migration zone except for the construction and maintenance of road crossings in accordance with applicable rules and the creation and use of yarding corridors consistent with WAC 222-30-020 *(5)(a), 222-30-060(1), and chapter 220-110 WAC.

NEW SECTION

WAC 222-30-021 Western Washington riparian management zones. These rules apply to all typed waters on

forest land in Western Washington, except as provided in WAC 222-30-023. RMZs are measured horizontally from the bankfull width or channel migration zone, whichever is greater, and extend to the limits as described in this section. See the board manual section 7 for riparian design and layout guidelines.

***(1) Western Washington RMZs for Type 1, 2 and 3 Waters** have three zones: The core zone is adjacent to the water, the inner zone is the middle zone, and the outer zone is furthest from the water. (See definitions in WAC 222-16-010.) RMZ dimensions vary depending on the site class of the land adjacent to the typed water, the management harvest option, and the stream size. See tables for management options 1 and 2 below.

None of the limitations on harvest in each of the three zones listed below will preclude or limit the construction and maintenance of roads for the purpose of crossing streams in WAC 222-24-030 and 222-24-050, or the creation and use of yarding corridors in WAC 222-30-060(1).

(a) Core zones provide these riparian functions: Bank stability, shade, sediment control, and large woody debris. No timber harvest or construction is allowed in the core zone except operations related to forest roads as detailed in subsection (1) of this section. Any trees cut for or damaged by yarding corridors in the core zone must be left on the site. Any trees cut as a result of road construction to cross a stream may be removed from the site, unless used as part of a large woody debris placement strategy or needed to reach stand requirements.

(b) Inner zones provide these riparian functions: Large woody debris, shade, sediment control, nutrients, and litter fall. Any timber harvest in the inner zone must retain or improve riparian forest conditions as needed to provide for fish habitat, amphibian habitat and water quality. Forest practices in the inner zone must be conducted in such a way as to meet or exceed stand requirements. The width of the inner zone is determined by site class, stream width, and management option. Timber harvest in this zone must be consistent with the stand requirements in order to reach the desired future condition targets.

"Stand requirement" means the number of trees per acre and basal area requirement by site class that provide target riparian stand conditions at the desired future condition (DFC). The basal area targets are calculated for the summation of the trees in the core and inner zone. To calculate whether a particular stand is on a trajectory toward the desired future condition, growth modeling is necessary. Growth modeling involves identifying the current stand characteristics including number of trees by diameter class, percent conifer and hardwood, and age of stand. See the board manual section 7. **Target stand requirements are:**

Site Class	DFC target basal area per acre (at 140 years)	Minimum trees per acre
I	285	
II	275	
III	258	
IV	224	

Site Class	DFC target basal area per acre (at 140 years)	Minimum trees per acre
V	190	

(i) **When basal area stand requirements are not met, then no harvest is permitted in the inner zone.** Only when basal area exceeds stand requirements can either management option 1 or management option 2 (as explained below) take place. Widths of inner and outer zones differ between management option 1 and management option 2. See tables on management option 1 and 2 for more details.

(ii) **If trees can be harvested and removed from the inner zone** because of surplus basal area consistent with the stand requirement, the harvest and removal of the trees must be undertaken consistent with one of two options:

(A) **Option 1. Thinning from below.** The objective of thinning is to distribute stand requirement trees in such a way as to shorten the time required to meet large wood, fish habi-

tat and water quality needs. This is achieved by increasing the potential for leave trees to grow larger than they otherwise would without thinning. Thinning harvest under option 1 must comply with the following:

(I) Residual trees left in the combined core and inner zones must meet stand requirements necessary to be on a pathway to desired future condition. See board manual section 7 for guidelines.

(II) Thinning must be from below, meaning the smallest dbh trees are selected for harvest first, then progressing to successively larger diameters.

(III) Thinning cannot decrease the proportion of conifer in the stand.

(IV) Shade retention to meet the shade rule must be confirmed by the landowner for any harvest inside of 75 feet from the bankfull width or CMZ, whichever is greater.

(V) The number of residual trees per acre in the inner zone will equal or exceed _____.

Option 1. Thinning from below.

Site class	RMZ width	Core zone width (measured from bankfull width or CMZ of water)	Inner zone width (measured from outer edge of core zone)		Outer zone width (measured from outer edge of inner zone)	
			stream width ≤10'	stream width >10'	stream width <10'	stream width >10'
			I	200'	50'	83'
II	170'	50'	63'	78'	57'	42'
III	140'	50'	43'	55'	47'	35'
IV	110'	50'	23'	33'	37'	27'
V	90'	50'	10'	18'	30'	22'

(B) **Option 2. Leaving trees closest to the water (packing).** Management option 2 applies only to riparian management zones for site class I, II, and III on streams that are less than or equal to 10 feet wide and RMZs in site class I and II for streams greater than 10 feet wide. Harvest must comply with the following:

(I) Harvest is not permitted within 30 feet of the core zone for streams less than or equal to 10 feet wide and harvest is not permitted within 50 feet of the core zone for streams greater than 10 feet wide;

(II) Residual leave trees in the combined core and inner zone must meet stand requirements necessary to be on a pathway to desired future condition. See board manual section 7 for calculating stand requirements;

(III) The area harvested becomes part of the outer zone and must comply with all outer zone rules. See table in (c) of this subsection for leave tree requirements in the outer zone. The trees left in the harvest area, to meet outer zone requirements, do not count toward satisfaction of stand requirements for the core and inner zones;

(IV) Trees are selected for harvest starting from the outer most portion of the inner zone first then progressively closer to the stream.

(V) If (I) of this subsection results in surplus basal area per the stand requirement, the landowner may take credit for the surplus by harvesting additional riparian leave trees required to be left in the adjacent outer zone on a basal area-for-basal area basis. The number of leave trees in the outer zone can be reduced only to a minimum of 10 trees per acre.

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Option 2. Leaving trees closest to water (packing).

Site class	RMZ width	Core zone width (measured from bankfull width or CMZ of water)	Inner zone width				Outer zone width (measured from outer edge of inner zone)	
			stream width ≤10'	stream width ≤10'	stream width >10'	stream width ≥10'	stream width <10'	stream width >10'
				minimum floor distance		minimum floor distance		
			(measured from outer edge of core zone)	(measured from bankfull width or CMZ of water)	(measured from outer edge of core zone)	(measured from bankfull width or CMZ of water)		
I	200'	50'	84'	30'	84'	50'	66'	66'
II	170'	50'	64'	30'	70'	50'	56'	50'
III	140'	50'	44'	30'	**	**	46'	**

**Option 2 for site class III on streams >10' is not available.

(iii) Where the basal area components of the stand requirement cannot be met within the sum of the areas in the inner and core zone due to the presence of a stream-adjacent parallel road in the inner or core zone a determination must be made of the approximate basal area that would have been present in the inner and core zones if the road was not occupying space in the core or inner zone and the shortfall in the basal area component of the stand requirement. See definition of "stream-adjacent parallel road" in WAC 222-16-010.

(A) Trees containing basal area equal to the amount determined in (iii) of this subsection will be left elsewhere in the inner or outer zone, or if the zones contain insufficient riparian leave trees, substitute riparian leave trees will be left within one site potential tree height distance of other Type 1, 2 or 3 Waters in the same unit or along Type 4 or 5 Waters in the same unit.

(B) When the stream-adjacent road basal area calculated in (iii) of this subsection results in an excess in basal area (above stand requirement) then the landowner may receive credit for such excess which can be applied on a basal area-by-basal area basis against the landowner's obligation to leave trees in the outer zone of the RMZ of such stream or other waters within the same unit, provided that the number of trees per acre in the outer zone is not reduced to less than 10 trees per acre.

(C) When the basal area requirement cannot be met, as explained above, the shortfall may be reduced through the implementation of an acceptable large woody debris placement plan. See board manual section 7 for guidelines.

(iv) If a harvest operation includes both the use of yarding corridors and harvest activities within the RMZ, all calculations of basal area, including basal area components of stand requirements, will be determined as if the yarding corridors were constructed prior to any other harvest activities planned by such operation. If trees cut or damaged by yarding are taken from excess basal area, these trees can be removed from the inner zone. Trees cut or damaged by yarding in a unit which does not meet the basal area target of the stand requirements cannot be removed from the inner zone.

Any trees cut or damaged by yarding in the core zone may not be removed.

(c) Outer zones provide these functions: Large woody debris (LWD) recruitment and protection from windthrow. Timber harvest in the outer zone must leave 20 riparian leave trees per acre after harvest. "Riparian leave trees" are trees that must be left after harvest in the outer zone in Eastern and Western Washington:

Outer zone riparian leave tree requirements

Application	Leave tree spacing	Tree species	Minimum dbh required
Outer zone	Dispersed	Conifer	12" dbh or greater
Outer zone	Clumped	Conifer	12" dbh or greater
Protection of sensitive features	Clumped	Trees representative of the overstory including both hardwood and conifer	8" dbh or greater

The 20 riparian leave trees to be left can be reduced in number under the circumstances delineated in (c)(iv) of this subsection. The riparian leave trees must be left on the landscape according to one of the following two strategies. A third strategy is available to landowners who agree to a LWD placement plan.

(i) **Dispersal strategy.** Riparian leave trees, which means conifer species with a diameter measured at breast height (dbh) of 12 inches or greater, must be left dispersed approximately evenly throughout the outer zone.

(ii) **Clumping strategy.** Riparian leave trees must be left clumped in one of two ways: If clumped around one or more of the following sensitive features (if available), then the riparian leave trees must be 8 inches dbh or greater and representative of the overstory, canopy trees in or around the sensitive feature and may include both hardwood and conifer species:

(A) Seeps and springs;

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- (B) Forested wetlands;
- (C) Topographic locations (and orientation) from which leave trees currently on the site will be delivered to the water;
- (D) Areas where riparian leave trees may provide windthrow protection;
- (E) Small unstable, or potentially unstable, slopes not of sufficient area to be detected by other site evaluations. WAC 222-16-050 (1)(d);

(F) Archeological or historical sites registered with the Washington state office of archeology and historic preservation. WAC 222-16-050 (1)(g); or

(G) Sites containing evidence of Native American cairns, graves or glyptic records. WAC 222-16-050 (1)(g).

If at the landowners option, trees are clumped away from sensitive features, then the riparian leave trees must be of conifer species with a dbh of 12 inches or greater.

If sensitive features are not present, then clumps must be well distributed throughout the outer zone. When placing clumps, the applicant will consider operational and biological concerns. Tree counts must be satisfied regardless of the presence of stream-adjacent parallel roads in the outer zone.

(iii) **Large woody debris in-channel placement strategy.** A landowner may design a LWD placement plan in cooperation with the department of fish and wildlife. The plan must be consistent with guidelines in the board manual section 7. When the department of fish and wildlife approves the plan, the landowner may reduce the number of trees required to be left in the outer zone to the extent provided in the approved LWD placement plan. Reduction of trees in the outer zone must not go below a minimum of 10 trees per acre. If this strategy is chosen, a complete forest practices application must include a copy of the WDFW approved plan.

(iv) **Twenty riparian leave trees must be left after harvest** with the exception of the following:

(A) If a landowner agrees to implement a placement strategy, see (iii) of this subsection.

(B) If trees are left in an associated channel migration zone, the landowner may reduce the number of trees required to be left according to the following:

(I) Offsets will be measured on a basal area-for-basal area basis.

(II) Conifer in a CMZ equal to or greater than 6" dbh will offset conifer in the outer zone at a one-to-one ratio.

(III) Hardwood in a CMZ equal to or greater than 10" dbh will offset hardwood in the outer zone at a one-to-one ratio.

(IV) Hardwood in a CMZ equal to or greater than 10" dbh will offset conifer in the outer zone at a three-to-one ratio.

***(2) Western Washington RMZs for Type 4 and 5 Waters.**

(a) An **equipment limitation zone** is a 30-foot wide buffer measured horizontally from the bankfull width of a Type 4 or 5 Water where equipment is limited. It applies to all perennial and seasonal streams.

(i) On-site mitigation is required if any of the following activities disturbs more than 10% of the zone:

- (A) Ground based equipment;
- (B) Skid trails;

- (C) Stream crossings (other than existing roads); or
- (D) Cabled logs that are partially suspended.

(ii) The department may require mitigation for any amount of soil disturbance that could result in significant delivery of sediment to any water.

(iii) Mitigation must be designed to replace the equivalent of lost functions especially prevention of sediment delivery. Examples include water bars, grass seeding, mulching, etc.

(b) **Sensitive site RMZs on Type 4 Waters.** Forest practices must be conducted to protect sensitive sites as detailed below:

(i) A 50-foot, no-harvest buffer, measured horizontally from the bankfull width, will be established along each side of the Type 4 Water as follows:

Required no-harvest, 50-foot buffers on Type 4 Waters.

Length of Type 4 Water from intersection of Type 1, 2 or 3 Water	Length of 50' buffer required on Type 4 Water
Greater than 1000'	500'
Greater than 300' but less than 1000'	Distance of the greater of 300' or 50% of the entire length of the Type 4 Water
Less than or equal to 300'	The entire length of Type 4 Water

(ii) No timber harvest is permitted in an area within 50 feet of the outer perimeter of a soil zone perennially saturated from a headwall seep.

(iii) No timber harvest is permitted in an area within 50 feet of the outer perimeter of a soil zone perennially saturated from a side-slope seep.

(iv) No timber harvest is permitted in an area within 50 feet of a side-slope spring.

(v) No timber harvest is permitted within a 100-foot by 100-foot buffer patch centered on a perennial initiation point.

(vi) No timber harvest is permitted within an alluvial fan.

(vii) No timber harvest is permitted within a 100-foot by 100-foot buffer patch centered on the point of intersection of two or more Type 4 Waters.

(viii) If sensitive sites do not add up to at least 50% of the length of the Type 4 Waters within a proposed operating area, then additional priority areas must be added until the total RMZ on Type 4 Waters equals at least 50% of the length of the Type 4 Waters within the proposed operating area. The landowner must select the necessary priority areas for additional buffers according to the following priorities:

(A) Low gradient areas;

(B) Perennial water reaches of nonsedimentary rock with gradients greater than 20% in the tailed frog habitat range;

(C) Hyporheic and ground water influence zones; and

(D) Areas downstream from other buffered areas.

Except for the construction and maintenance of road crossings and the creation and use of yarding corridors, no timber harvest will be allowed in the designated priority areas. Landowners must leave additional acres equal to the number of acres (including partial acres) occupied by an

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existing, stream-adjacent parallel road within a designated priority area buffer.

(c) None of the limitations on harvest in or around sensitive sites listed in (b) of this subsection will preclude or limit:

(i) The construction and maintenance of roads for the purpose of crossing streams in WAC 222-24-030 and 222-24-050.

(ii) The creation and use of yarding corridors in WAC 222-30-060(1).

To the extent reasonably practical, the operation will both avoid creating yarding corridors or road crossings through sensitive sites and associated buffers and avoid management activities which would result in soil compaction, the loss of protective vegetation or sedimentation in perennially moist areas.

Where yarding corridors or road crossings through sensitive sites and their buffers cannot reasonably be avoided, the buffer area must be expanded to protect the sensitive site by an area equivalent to the disturbed area or by providing comparable functions through other management initiated efforts.

Landowners must leave additional acres equal to the number of acres (including partial acres) occupied by an existing, stream-adjacent parallel road within a sensitive site buffer.

NEW SECTION

WAC 222-30-022 *Eastern Washington riparian management zones. These rules apply to all typed waters on forest land in Eastern Washington, except as provided in WAC 222-30-023. RMZs are measured horizontally from the outer edge of the bankfull width or channel migration zone, whichever is greater, and extend to the limits as described in the following section.

Eastern Washington RMZ for streams less than 15 feet

Site Class	RMZ Width	Core Zone From bankfull width or CMZ, whichever is greater	Inner Zone Width < 15'	Outer Zone Width
I	130'	30'	45'	55'
II	110'	30'	45'	35'
III	90'	30'	45'	15'
IV	75'	30'	45'	0'
V	75'	30'	45'	0'

Eastern Washington RMZ for streams greater than or equal to 15 feet

Site Class	RMZ Width	Core Zone From bankfull width or CMZ, whichever is greater	Inner Zone Width ≥ 15'	Outer Zone Width
I	130'	30'	70'	30'
II	110'	30'	70'	10'

Site Class	RMZ Width	Core Zone From bankfull width or CMZ, whichever is greater	Inner Zone Width ≥ 15'	Outer Zone Width
III	100'	30'	70'	0'
IV	100'	30'	70'	0'
V	100'	30'	70'	0'

***(1) Eastern Washington RMZs on Type 1, 2 and 3 Waters** have three zones: The core zone is adjacent to the water, the inner zone is the middle zone, and the outer zone is furthest from the water. Permitted forest practices vary by timber habitat type and site class.

None of the limitations on harvest in each of the three zones listed below will preclude or limit the construction and maintenance of roads for the purpose of crossing streams in accordance with WAC 222-24-030 and 222-24-050, or the creation and use of yarding corridors in accordance with WAC 222-30-060(1).

(a) **Core zones provide these riparian functions: Bank stability, shade, sediment control, and large woody debris.** The core zone extends 30 feet measured horizontally from the edge of the bankfull width or outer edge of the CMZ, whichever is greater, for all timber habitat types. No harvest or construction is allowed in the core zone except as detailed in subsection (1) of this section. Any trees cut for or damaged by yarding corridors must be left on site. Any trees cut as a result of road construction to cross a stream may be removed from the site unless used as part of a large woody debris replacement strategy.

(b) **Inner zones provide these riparian functions: Large woody debris, shade, sediment control, nutrients and litter fall.** Width and leave tree requirements of the inner zone vary by timber habitat type as outlined below.

(i) **Ponderosa pine habitat type.**

(A) The width of the inner zone is 70 feet measured horizontally from the outer edge of the core zone on streams greater than 15 feet bankfull width or 45 feet measured horizontally from the outer edge of the core zone on streams with a bankfull width of 15 feet or less.

(B) No harvest within the inner zone is permitted unless the basal area of conifer and hardwoods is greater than 110 square feet per acre for trees greater than 6 inches dbh or unless the basal area of conifer and hardwoods is less than 60 square feet per acre for trees greater than 6 inches dbh.

(C) If the basal area is greater than 110 square feet, harvest is permitted. The harvest must leave at least 50 trees per acre and a basal area of at least 60 square feet per acre as follows:

(I) The 21 largest trees must be left. The remaining 29 trees must be greater than or equal to 10 inches dbh. If there are not 29 10-inch dbh trees, then all 10-inch dbh trees must be left plus the largest remaining trees.

(II) If additional trees are needed to meet the minimum basal area of 60 square feet in (C) of this subsection, then trees greater than 6 inches dbh must be selected based on the following priority order:

- Provide shade to water;

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- Lean towards the water;
- Preferred species, as defined in WAC 222-16-010;
- Evenly distributed across the inner zone.

No more than 100 trees per acre are required to be left if it takes more than 100 trees to reach a basal area of 60 square feet per acre.

(D) If the basal area is less than 60 square feet and there are more than 100 trees per acre, harvest is permitted. The harvest must leave 100 trees per acre as follows:

(I) The first 50 trees per acre to be left must be as follows: The 21 largest trees must be left. The remaining 29 trees must be greater than or equal to 10 inches dbh. If there are not 29 10-inch dbh trees, then all 10-inch dbh trees must be left plus the largest remaining trees.

(II) An additional 50 trees per acre are required greater than 6 inches dbh based on the following priority order:

- Provide shade to water;
- Lean towards the water;
- Preferred species, as defined in WAC 222-16-010;
- Evenly distributed across the inner zone.

(E) Twelve tons of down wood per acre must be left as follows:

(I) Six pieces greater than 16 inches diameter and 20 feet in length; and

(II) Four pieces greater than 6 inches in diameter and 20 feet in length.

Note: If the minimum tonnage is not present prior to harvest activities, the landowner must state this fact on the forest practices application.

(F) See **stream-adjacent parallel roads for all timber habitat types** in (iv) of this subsection if there is a stream-adjacent parallel road in this zone.

(ii) **Mixed conifer habitat type.**

(A) The width of the inner zone is 70 feet measured horizontally from the outer edge of the core zone on streams greater than 15 feet bankfull width or 45 feet measured horizontally from the outer edge of the core zone on streams with a bankfull width of 15 feet or less.

(B) No harvest is permitted within the inner zone unless the basal area of conifer and hardwoods for trees greater than 6 inches dbh is:

(I) Greater than 110 or less than 70 square feet per acre on low site indexes (site index less than 90); or

(II) Greater than 130 or less than 90 square feet per acre on medium site indexes (site index between 90 and 110); or

(III) Greater than 150 or less than 110 square feet per acre on high site indexes (site index greater than 110).

(C) If the basal area meets the maximum requirements in (B) of this subsection, harvest is permitted. Harvest must leave at least 50 trees per acre with at least a basal area of 70 square feet per acre on low site indexes or 90 square feet per acre on medium site indexes or 110 square feet per acre on high site indexes and down wood as follows:

(I) The 21 largest trees must be left. The remaining 29 trees must be greater than or equal to 10 inches dbh. If there are not 29 10-inch dbh trees, then all 10-inch dbh trees must be left plus the largest remaining trees.

(II) If more than 50 trees are needed to meet the basal area minimum in (B) of this subsection trees greater than 6

inches dbh must be selected based on the following priority order:

- Provide shade to water;
- Lean towards the water;
- Preferred species, as defined in WAC 222-16-010; or
- Evenly distributed across the inner zone.

No more than 120 trees per acre are required to be left if it takes more than 120 trees to reach the minimum basal area required in (B) of this subsection.

(D) If the basal area is less than the minimum requirements in (B) of this subsection, and there are more than 120 trees per acre, harvest is permitted. Harvest must leave 120 trees per acre. The following trees must be left:

(I) The first 50 trees per acre to be left must be as follows: The 21 largest trees must be left. The remaining 29 trees must be greater than or equal to 10-inches dbh. If there are not 29 10-inch dbh trees, then all 10-inch dbh trees must be left plus the largest remaining trees.

(II) An additional 70 trees are required to be left that are greater than 6 inches dbh based on the following priority order:

- Provide shade to water;
- Lean towards the water;
- Preferred species, as defined in WAC 222-16-010; or
- Evenly distributed across the inner zone.

No more than 120 trees per acre are required to be left.

(E) Twenty tons of down wood per acre is required to be left as follows:

(I) 16 pieces greater than 16 inches diameter and 20 feet in length; and

(II) 8 pieces greater than 6 inches in diameter and 20 feet in length.

Note: If the minimum tonnage is not present prior to harvest activities, landowners must identify this in the application for harvest.

(F) See **stream-adjacent parallel roads for all timber habitat types** in (iv) of this subsection if there is a parallel road in this zone.

(iii) **High elevation habitat type.**

(A) Follow requirements for Western Washington riparian management zones, WAC 222-30-021 (1)(b).

(B) Thirty tons of down wood per acre is required to be left as follows:

(I) 8 pieces greater than 16 inches diameter and 20 feet in length; and

(II) 8 pieces greater than 6 inches in diameter and 20 feet in length.

Note: If the minimum tonnage is not present prior to harvest activities, landowners must identify this in the application for harvest.

(C) See **stream-adjacent parallel roads for all timber habitat types** in (iv) of this subsection if there is a parallel road in this zone.

(iv) **Stream-adjacent parallel roads for all timber habitat types in the inner zone.** Where a stream-adjacent parallel road exists in the inner zone and the required basal area cannot be met due to the presence of the road, then the location of the road determines the allowable operations as follows:

(A) For a bankfull width that is equal to or greater than 15 feet:

(I) If the edge of the road closest to the stream is 75 feet or more from the bankfull width of the stream or CMZ, whichever is greater, then no harvest is permitted in the inner zone. Trees within the inner zone on the uphill side of the road are retained for shade, sediment filtering and other riparian functions.

(II) If the edge of the road closest to the stream is less than 75 feet from the bankfull width of the stream or CMZ, whichever is greater, then no harvest is permitted within the inner zone on the stream side of the road. The department will require additional leave trees to be left, near the streams in the unit to be harvested, which are equal in total basal area to the trees lost due to the road. See site specific management activities to replace lost riparian functions or the large woody placement guidelines in the board manual section 7.

(B) For a bankfull width less than 15 feet:

(I) If the edge of the road closest to the stream is 50 feet or more from the bankfull width or CMZ, whichever is greater, then no harvest is permitted in the inner zone. Trees within the inner zone on the uphill side of the road are retained for shade, sediment filtering and other riparian functions.

(II) If the edge of the road closest to the stream is less than 50 feet from the bankfull width or CMZ, whichever is greater, then no harvest is permitted within the inner zone on the streamside of the road. The department will require additional leave trees to be left, near the streams in the unit to be harvested, which are equal in total basal area to the trees lost due to the road. See site specific management activities to replace lost riparian functions or the large woody placement guidelines in the board manual section 7.

Note: The shade rule, WAC 222-30-040, must be met whether or not the inner zone includes a stream-adjacent parallel road.

(c) **Outer zones provide these functions: Large woody debris recruitment and protection from windthrow.** This zone has three categories based on timber habitat type: Ponderosa pine, mixed conifer and high elevation. The width of this zone is 0 to 55 feet measured horizontally from the outer edge of the inner zone depending on the site class and stream width. (See WAC 222-16-010 definition of "RMZ outer zone.")

(i) Tree counts that must be left per acre, regardless of the presence of an existing stream-adjacent parallel road in the zone, are:

(A) Ponderosa pine habitat type - 10 dominant or co-dominant trees.

(B) Mixed conifer habitat type - 15 dominant or co-dominant trees.

(C) High elevation habitat type - See requirements for Western Washington RMZs. WAC 222-30-021 (1)(c).

(ii) Trees must be left on the landscape according to one of the following two strategies:

(A) **Dispersal strategy.** Riparian leave trees, which means conifer species with a diameter measured at breast height (dbh) of 12 inches or greater, must be left dispersed approximately evenly throughout the outer zone.

(B) **Clumping strategy.** Riparian leave trees must be left clumped in one of two ways:

(I) If clumped around one or more of the following **sensitive features** (if available), then the riparian leave trees must be 8 inches dbh or greater and representative of the overstory, canopy trees in or around the sensitive feature. They may include both hardwood and conifer species. The sensitive features are:

- Seeps and springs;
- Forested wetlands;
- Topographic locations (and orientation) from which leave trees currently on the site will be delivered to the water;
- Areas where riparian leave trees may provide windthrow protection;
- Small unstable, or potentially unstable, slopes not of sufficient area to be detected by other site evaluations. See WAC 222-16-050 (1)(d);
- Archeological or historical sites registered with the Washington state office of archeology and historic preservation. See WAC 222-16-050 (1)(g); or
- Sites containing evidence of Native American cairns, graves or glyptic records. See WAC 222-16-050 (1)(g).

(II) If at the landowner's option, trees are clumped away from sensitive features, then the riparian leave trees must be of conifer species with a dbh of 12 inches or greater.

If sensitive features are not present, then clumps must be well distributed throughout the outer zone. When placing clumps, the applicant will consider operational and biological concerns.

***(2) Eastern Washington RMZs on Types 4 and 5 Waters.**

(a) An **equipment limitation zone** is a 30-foot wide buffer measured horizontally from the bankfull width of a Type 4 or 5 Water where equipment is limited. It applies to all perennial and seasonal streams.

(i) On-site mitigation is required if any of the following activities disturbs more than 10% of the zone:

- (A) Ground based equipment;
- (B) Skid trails;
- (C) Stream crossings (other than existing roads); or
- (D) Cabled logs that are partially suspended.

(ii) The department may require mitigation for any amount of soil disturbance that could result in significant delivery of sediment to any water.

(iii) Mitigation must be designed to replace the equivalent of lost functions, especially prevention of sediment delivery. Examples include water bars, grass seeding, mulching, etc.

(b) Type 4 Waters.

(i) Within 50 horizontal feet of the bankfull width of the stream, the landowner must identify either a partial cut and/or clearcut strategy for each unit to be harvested as follows:

(A) For partial cuts:

(I) Basal areas must meet the timber type dependent basal areas required for the Eastern Washington RMZ inner zone.

(II) Where a road exists parallel to the stream, the basal area required in (I) of this subsection is required to be left. (See stream-adjacent parallel roads below.)

(III) The trees to be included in the basal area determination and left after harvest must include:

- The 10 largest trees per acre;
- Up to an additional 40 trees must be greater than or equal to 10 inches dbh, or if all or some of the trees are not at least 10 inches dbh, then the largest of the remaining trees; and

• If the basal area target has not been met with the trees required above, up to an additional 50 trees are required greater than 6 inches in dbh based on the following priority order:

- » Provide streambank stability;
- » Provide shade to water;
- » Lean towards the water;
- » Preferred species, as defined in WAC 222-16-010; or
- » Evenly distributed across the inner zone.

(B) For clearcuts:

(I) The streamside boundary of the clearcut must:

- » Not exceed 30% of the total stream reach in the harvest unit;
- » Not exceed 300 continuous feet in length;
- » Not be located within 500 feet of the intersection of a Type 1, 2 or 3 Water; and
- » Not occur within 50 feet of a defined sensitive site. See WAC 222-16-010.

(II) When the buffer is planned to be clearcut in (I) of this subsection, the landowner must simultaneously designate a no-cut zone in the buffer that is equal in area to the clearcut portion of the buffer.

Note: Once approved by the department, the selected strategy will remain in effect until July 1, 2051. If a landowner transfers title of the harvest unit, the landowner must provide written notice of this continuing obligation to the new owner and send a copy to the department. See WAC 222-20-055.

(c) **Stream-adjacent parallel roads for Type 4 Waters.** If a road exists in a Type 4 RMZ and the basal area required to be left cannot be met within 50 horizontal feet of the bankfull width of the stream due to the presence of the road, then the distance of the road to the stream determines the allowable operations as follows:

(i) A road that measures 30 to 49 horizontal feet from the bankfull width of the stream requires:

(A) A total of 100 horizontal feet of riparian zone (both sides of the stream count towards the total) must be left in a manner to provide maximum functions for nonfish use streams. If harvest is taking place on only one side of the stream, then 50' of RMZ must be left, regardless of presence of a stream-adjacent parallel road.

(B) The location of the riparian zone required in (A) of this subsection will be based on the following:

(I) Preferred: The area between the stream and the stream side edge of the road.

(II) The area that provides the most shade to the channel.

(III) The area that is most likely to deliver large woody debris to the channel.

(ii) A road that measures less than 30 horizontal feet from the bankfull width of the stream requires in addition to

(c)(i)(A) and (B) of this subsection, that all trees between the stream and the streamside edge of the road must be left.

NEW SECTION

WAC 222-30-023 Riparian management zones for exempt 20-acre parcels. On parcels of 20 contiguous acres or less, landowners with total parcel ownership of less than 80 acres shall not be required to leave the riparian buffers described in WAC 222-30-021. As required by RCW 76.13.130, these landowners are subject to the permanent riparian management zone rules in effect as of January 1, 1999, plus an additional fifteen percent leave tree requirement.

***(1) Western Washington RMZs for exempt 20-acre parcels.** Riparian management zones are measured horizontally from the bankfull width of a Type 1, 2 or 3 Water and extend to the line where vegetation changes from wetland to upland plant community, or the line required to leave sufficient shade as required by WAC 222-30-040, whichever is greater, but must not be less than 29 feet in width nor more than the maximum widths described in (c) of this subsection, provided that the riparian management zone width shall be expanded as necessary to include wetlands or ponds adjacent to the stream. When the riparian management zone overlaps a Type A or B Wetland or a wetland management zone, the requirement which best protects public resources shall apply.

(a) Harvest units shall be designed so that felling, bucking, yarding or skidding, and reforestation can be accomplished in accordance with these regulations, including those regulations relating to stream bank integrity and shade requirements to maintain stream temperature. Where the need for additional actions or restrictions adjacent to waters not covered by the following become evident, WAC 222-12-050 and 222-12-060 may apply.

(b) When requested in writing by the applicant, the department shall assist in preparation of an alternate plan for the riparian management zone.

(c) Within the riparian management zone, there shall be trees left for wildlife and fisheries habitat as provided for in the chart below. Fifty percent or more of the trees shall be live and undamaged on completion of the harvest. The leave trees shall be randomly distributed where feasible; some clumping is allowed to accommodate operational considerations. The number, size, species and ratio of leave trees, deciduous to conifer, is specified by the bed material and average width of the water type within the harvest unit. Trees left according to (d) of this subsection may be included in the number of required leave trees in this subsection.

PROPOSED

**Western Washington Riparian Leave Tree Requirements
For exempt 20-acre parcels**

Water Type/Average Width	RMZ Maximum Width	Ratio of Conifer to Deciduous/ Minimum Size Leave Trees	# Trees/1000 ft. each side	
			Gravel/Cobble <10" Diameter	Boulder/Bedrock
1 & 2 Water 75' & over	115'	representative of stand	58 trees	29 trees
1 & 2 Water under 75'	86'	representative of stand	115 trees	60 trees
3 Water 5' & over	58'	2 to 1/12" or next largest available	86 trees	29 trees
3 Water less than 5'	29'	1 to 1/6" or next largest available	29 trees	29 trees

PROPOSED

"Or next largest available" requires that the next largest trees to those specified in the rule be left standing when those available are smaller than the sizes specified.

Ponds or lakes which are Type 1, 2 or 3 Waters shall have the same leave tree requirements as boulder/bedrock streams.

(d) For wildlife habitat within the riparian management zone, leave an average of 5 undisturbed and uncut wildlife trees per acre at the ratio of 1 deciduous tree to 1 conifer tree equal in size to the largest existing trees of those species within the zone. Where the 1 to 1 ratio is not possible, then substitute either species present. Forty percent or more of the leave trees shall be live and undamaged on completion of harvest. Wildlife trees shall be left in clumps whenever possible.

(e) When 10 percent or more of the harvest unit lies within any combination of a riparian management zone of Type 1, 2 or 3 Waters or a wetland management zone and the harvest unit is a clearcutting of 20 acres or less, leave not less than 50 percent of the trees required in (c) of this subsection.

***(2) Eastern Washington riparian management zones for exempt 20-acre parcels.** These zones shall be measured horizontally from the ordinary high-water mark of Type 1, 2 or 3 Waters and extend to the line where vegetation changes from wetland to upland plant community, or to the line required to leave sufficient shade as required by WAC 222-30-040, whichever is greater, but shall not be less than the minimum width nor more than the maximum widths described in (c) of this subsection, provided that the riparian management zone width shall be expanded as necessary to include wetlands or ponds adjacent to the stream. When the riparian management zone overlaps a Type A or B Wetland or a wetland management zone, the requirement which best protects public resources shall apply.

(a) Harvest units shall be designed so that felling, bucking, yarding or skidding, and reforestation can be accomplished in accordance with these regulations, including those regulations relating to stream bank integrity and shade requirements to maintain stream temperature. Where the need for additional actions or restrictions adjacent to waters not covered by the following become evident, WAC 222-12-050 and 222-12-060 may apply.

(b) When requested in writing by the applicant, the department shall assist in preparation of an alternate plan for the riparian management zone.

(c) Within the riparian management zone, there shall be trees left for wildlife and fisheries habitat as provided for below. Fifty percent or more of the trees shall be live and undamaged on completion of the harvest. The leave trees shall be randomly distributed where feasible; some clumping is allowed to accommodate operational considerations.

(i) The width of the riparian management zone shall be based on the adjacent harvest type as defined in WAC 222-16-010 "Partial cutting." When the adjacent unit harvest type is:

Partial cutting - The riparian management zone width shall be a minimum of 35 feet to a maximum of 58 feet on each side of the stream.

Other harvest types - The riparian management zone shall average 58 feet in width on each side of the stream with a minimum width of 35 feet and a maximum of 345 feet on each side of the stream.

(ii) Leave tree requirements within the riparian management zones of Type 1, 2 or 3 Waters:

(A) Leave all trees 12 inches or less in diameter breast height (dbh); and

(B) Leave all wildlife reserve trees within the riparian management zone where operations in the vicinity do not violate the state safety regulations (chapter 296-54 WAC and chapter 49.17 RCW administered by department of labor and industries, safety division); and

(C) Leave 18 live conifer trees/acre between 12 inches dbh and 20 inches dbh distributed by size, as representative of the stand; and

(D) Leave 4 live conifer trees/acre 20 inches dbh or larger and the 2 largest live deciduous trees/acre 16 inches dbh or larger. Where these deciduous trees do not exist, and where 2 wildlife reserve trees/acre 20 inches or larger do not exist, substitute 2 live conifer trees/acre 20 inches dbh or larger. If live conifer trees of 20 inches dbh or larger do not exist within the riparian management zone, then substitute the 5 largest live conifer trees/acre; and

(E) Leave 3 live deciduous trees/acre between 12 inches and 16 inches dbh where they exist.

(iii) Minimum leave tree requirements per acre for Type 1, 2 and 3 Waters. Trees left for (c)(ii) of this subsection shall be included in the minimum counts.

(A) On streams with a boulder/bedrock bed, the minimum leave tree requirements shall be 75 trees/acre 4 inches dbh or larger.

(B) On streams with a gravel/cobble (less than 10 inches diameter) bed, the minimum leave tree requirement shall be 155 trees/acre 4 inches dbh or larger.

(C) On lakes or ponds the minimum leave tree requirement shall be 86 trees/acre 4 inches dbh or larger.

Note: See the board manual for guidelines for calculating trees/acre and average RMZ widths.

(d) When 10 percent or more of the harvest unit lies within any combination of a riparian management zone of Type 1, 2 or 3 Waters or a wetland management zone and the harvest unit is 20 acres or less, leave not less than 50 percent of the trees required in (c) of this subsection. (See WAC 222-16-010 "Partial cutting.")

***(3) Riparian leave tree areas for exempt 20-acre parcels.** The department will require trees to be left along Type 4 Water where such practices are necessary to protect public resources. Where such practices are necessary, leave at least 29 conifer or deciduous trees, 6 inches in diameter or larger, on each side of every 1000 feet of stream length within 29 feet of the stream. The leave trees may be arranged to accommodate the operation.

AMENDATORY SECTION (Amending WSR 93-12-001, filed 5/19/93, effective 6/19/93)

WAC 222-30-040 Shade requirements to maintain ~~((stream))~~ water temperature. *(1) Determination of adequate shade. The temperature prediction method in subsections (2) and (3) of this section shall be used to determine appropriate shade levels for flowing Type 1, 2, and 3 Waters to prevent excessive water temperatures which may have detrimental impact on aquatic resources. No tree may be harvested from the RMZ inner zone of any Type 1, 2 or 3 Water if, according to the methodology, that tree is providing shade to the stream necessary to maintain compliance with temperature standards. If a landowner elects to remove any tree within 75 feet of any Type 1, 2 or 3 Water, the landowner must demonstrate, using the methods in the board manual section 1, that the removal of the tree would not be contrary to the restrictions of this subsection. Note: Within the bull trout overlay, all available shade will be retained within 75 feet of bankfull width or CMZ of the stream. (See board manual section 7.)

*(2) Temperature prediction method. In addition to the riparian management zone requirements, leave trees shall be retained in riparian management zones on flowing Type 1, 2, and 3 Waters as provided by the method described in the board manual which includes the following considerations:

- (a) Minimum shade retention requirements; and
- (b) Regional water temperature characteristics; and
- (c) Elevation; and

(d) Temperature criteria defined for stream classes in chapter 173-201A WAC.

*~~(3)~~ Leave tree requirements for shade. The method described in subsection (2) of this section (~~((shalt))~~) must be used to establish the minimum required shade cover based on site specific characteristics. When site specific data indicate that preharvest conditions do not meet the minimums established by the method, no additional shade removal from riparian management zones will be allowed.

*~~(4)~~ Shade requirements must be satisfied whether or not the inner zone includes a stream-adjacent parallel road. Nothing will preclude or limit the harvest of shade trees in connection with the construction and maintenance of road crossings or the creation and use of yarding corridors. (See WAC 222-30-060(1).)

*~~(5)~~ **Waivers.** The department may waive or modify the shade requirements where:

~~((a)) The applicant agrees to a staggered setting program producing equal or greater shade requirements to maintain stream temperature; or~~

~~(b) The applicant provides alternative means of stream temperature control satisfactory to the department; or~~

~~(e)) The temperature method indicates that additional shade will not affect ~~((stream))~~ water temperature.~~

NEW SECTION

WAC 222-30-045 Salvage logging within riparian management zones. Salvage logging within a riparian management zone is based upon the zone (core, inner or outer) in which the tree was originally located, applicable riparian stand requirements and the extent of previous harvest activities in the zone.

*~~(1)~~ **Salvage logging within the bankfull width of any typed water.** No salvage may take place within the bankfull width of any typed water.

~~(2)~~ **Salvage logging in a core zone or channel migration zone.** No salvage may take place within the RMZ core zone or a channel migration zone, including any portion of those trees that may have fallen outside of these zones.

~~(3)~~ **Salvage logging in the inner zone.** Salvage may not take place within the inner zone if the stand requirements cannot be met by the residual stand. If the proposed salvage involves down tree(s) that originated from the inner zone, salvage of down wood may only be permitted if the down wood was not needed to meet stand requirements in the inner zone. Salvage of any existing down wood may not take place if the unremoved balance of down wood is insufficient to meet the regional down wood guidelines in (a), (b) and (c) of this subsection. Conduct of salvage within the inner zone must be conducted to protect residual undamaged trees within the inner zone. Down wood guidelines for salvage in RMZ inner zones are:

~~(a)~~ **In Western Washington and the Eastern Washington high-elevation habitat type:**

Structural class I & II (Scale I-III)	< 1 foot diameter	1-2 foot diameter	> 2 foot diameter	Total
Number of logs/acre	85	83	26	194

(b) **In Eastern Washington mixed conifer habitat type:** Ninety logs per acre (Class I and II) sized at least 6 inches in diameter at the large end. Logs with diameters greater than 12 to 15 inches are higher value and should be retained as a high proportion where available.

(c) **In Eastern Washington ponderosa pine habitat type:**

Placeholder for guidelines to be developed.

(4) **Salvage logging in the outer zone.** Salvage may not take place within the outer zone if the riparian leave tree requirements cannot be met by the residual stand. If the proposed salvage involves tree(s) that are down that originated from the outer zone, salvage may only be permitted of down wood if the down wood was not needed to meet riparian leave tree requirements in the outer zone.

AMENDATORY SECTION (Amending WSR 97-24-091, filed 12/3/97, effective 1/3/98)

WAC 222-30-060 Cable yarding. *(1) **Type 1, 2 and 3 Waters.** No timber shall be cable yarded in or across a Type 1, 2 or 3 Waters except where the logs will not materially damage the bed of waters, banks or riparian management zones ~~(and removals from Type 1, 2 or 3 Water have hydraulic project approval of the department of fish and wildlife)~~. If yarding across Type 1, 2 or 3 Waters is permitted, then yarding is limited to cable or other aerial logging methods. Any work in or above Type 1, 2 or 3 Waters requires a hydraulics project approval (HPA). Logs must be fully suspended above the water unless otherwise allowed in the applicable HPA. Yarding corridors must be no wider or more numerous than necessary to accommodate safe and efficient transport of logs. Generally, yarding corridors should be located no closer to each other than 150 feet (measured edge to edge) and should be no wider than 30 feet. Safety is a prime consideration in the location of yarding corridors. Total openings resulting from yarding corridors must not exceed 20% of the stream length associated with the forest practices application. When changing cable locations, care must be taken to move cables around or clear of the riparian vegetation to avoid damage to riparian vegetation.

*(2) **Type A or B Wetlands.** No timber shall be cable yarded in or across Type A or B Wetlands without written approval from the department.

*(3) **Deadfalls.** Any logs which are firmly embedded in the bed of a Type 1, 2, 3 and 4 Waters shall not be removed or unnecessarily disturbed without approval of the department of fish and wildlife.

*(4) **Yarding in riparian management zones and wetland management zones.** Where timber is yarded from or across a riparian management zone, or wetland management

zone reasonable care shall be taken to minimize damage to the vegetation providing shade to the stream or open water areas and to minimize disturbance to understory vegetation, stumps and root systems. Where practical and consistent with good safety practices, logs shall be yarded in the direction in which they lie and away from Type A or B Wetlands or Type 1, 2 and 3 Waters until clear of the wetland management zone or riparian management zone.

(5) **Direction of yarding.**

(a) Uphill yarding is preferred.

(b) Where downhill yarding is used, reasonable care shall be taken to lift the leading end of the log to minimize downhill movement of slash and soils.

*(c) When yarding parallel to a Type 1, 2 or 3 Water channel below the 50-year flood level or within the riparian management zone, reasonable care shall be taken to minimize soil disturbance and to prevent logs from rolling into the stream, lake, pond, or riparian management zone.

(6) **Disturbance avoidance for northern spotted owls.**

The operation of heavy equipment within a SOSEA boundary shall not be allowed within 0.25 mile of a northern spotted owl site center between March 1 and August 31 provided that, this restriction shall not apply if:

(a) The landowner demonstrates that the owls are not actively nesting during the current nesting season; or

(b) The forest practice is operating in compliance with a plan or agreement developed for the protection of the northern spotted owl under WAC 222-16-080 (6)(a), (e), or (f).

(7) **Disturbance avoidance for marbled murrelets.**

Yarding or operation of heavy equipment shall not be allowed within 0.25 mile of an occupied marbled murrelet site during the daily peak activity periods within the critical nesting season, provided that, this restriction shall not apply if the forest practice is operating in compliance with a plan or agreement developed for the protection of the marbled murrelet under WAC 222-16-080 (6)(a) or (c).

AMENDATORY SECTION (Amending WSR 92-15-011, filed 7/2/92, effective 8/2/92)

WAC 222-38-010 Policy—Forest chemicals. *(1) Chemicals perform important functions in forest management. The purpose of these regulations is to regulate the handling, storage and application of chemicals in such a way that the public health, lands, fish, wildlife, aquatic habitat, wetland and riparian management zone vegetation will not be damaged, and water quality will not be endangered by contamination. This section in no way modifies the state department of agriculture regulations governing chemicals.

*(2) These rules are intended to implement best management practices designed to eliminate the direct entry of pesticides to water. Best management also includes minimizing the entry of forest chemicals into riparian zones, channel migration zones, wetland management zones or the core or inner zones of riparian management zones. Damage for purposes of this section includes any damage that would inhibit or preclude the existing vegetation from protecting public resources as required under the rules.

(NOTE: OTHER LAWS AND REGULATIONS AND/OR PERMIT REQUIREMENTS MAY APPLY. SEE CHAPTER 222-50 WAC.)

AMENDATORY SECTION (Amending WSR 97-24-091, filed 12/3/97, effective 1/3/98)

WAC 222-38-020 Handling, storage, and application of pesticides. *(1) **No pesticide leakage, contamination, pollution.**

Transportation, handling, storage, loading, application, and disposal of pesticides shall be consistent with applicable label requirements and other state and federal requirements.

***(2) Mixing and loading areas.**

(a) Mix pesticides and clean tanks and equipment only where any accidental spills would not enter surface water or wetlands.

(b) Storage and loading areas should be located where accidental spillage of pesticides will not enter surface water or wetlands. If any pesticide is spilled, immediate appropriate procedures should be taken to contain it.

(c) Use devices or procedures to prevent "back siphoning" such as providing an air gap or reservoir between the water source and the mixing tank.

***(3) Riparian management ((zone)) and wetland management zones.** Pesticide treatments within the riparian management zone core or inner zone or wetland management zone shall be by hand unless the department has approved a site specific plan with another method of treatment.

~~*(4) ((Wetland management zone. Pesticide treatment within the wetland management zone shall be by hand unless the department has approved a site specific plan with another method of treatment.~~

~~*(5)) Aerial application of pesticides.~~

~~(a) To keep pesticides out of the water((, leave a 50 foot)) and wetlands, a buffer ((strip)) will be maintained during operations on all ((typed waters, except segments of Type 4 and 5 Waters with no surface water and other areas of open water, such as ponds or sloughs.)) Type 1, 2 and 3 Waters and Type 4 and 5 surface waters and Type A and B Wetlands, as set forth in (a)(i) of this subsection. To protect riparian vegetation, pesticides must not be applied to the core and inner zone of any Type 1, 2 or 3 Waters or to Type A or B Wetland management zones. In addition, operators must maintain an offset from the outer edge of the inner zone and wetland management zones as set forth in (a)(i) and (ii) of this subsection. (See the forest practices board manual, section 16 for a detailed example.) Where the buffer and offset widths overlap, the distance of offset must be whichever distance is greater from Type 1, 2 or 3 Waters or Type A or B Wetlands for the applicable conditions. Aerial applications of pesticides in and around Type 4 or 5 Waters with surface water and Type B Wetlands must be buffered according to (a)(iii) of this subsection. (Note: These application requirements do not apply to B.t. (*Bacillus thuringiensis*). When applying B.t., the operator must meet all label requirements.)~~

~~(i) Buffers On Type 1, 2 and 3 Waters.~~

		DETERMINING WIND FACTOR (See the board manual section 16 for detailed examples.)			
		Favorable		Calm or Unfavorable	
NOZZLE TYPE	APPLICATION HEIGHT	BUFFER ON WATER	OFFSET FROM INNER ZONE	BUFFER ON WATER	OFFSET FROM INNER ZONE
Regular Nozzle	Low (≤ 16 ft.)	Width of the inner zone	As needed for safety	100 ft., or the inner zone, whichever is greater	50 ft.
	Medium (17-50 ft.)	Width of the inner zone	As needed for safety	250 ft.	N/A
	High (51-65 ft.)	Width of the inner zone	As needed for safety	325 ft.	N/A
Raindrop Nozzle	Low (≤ 16 ft.)	Width of the inner zone	As needed for safety	Width of inner zone	20 ft.
	Medium (17-50 ft.)	Width of the inner zone	As needed for safety	Width of inner zone	20 ft.
	High (51-65 ft.)	Width of the inner zone	As needed for safety	125 ft. or the inner zone, whichever is greater	20 ft.

Note to the reader: Terms describing nozzle types will be clarified.

(ii) Buffers On Type A and B Wetlands.

PROPOSED

PROPOSED

		<u>DETERMINING WIND FACTOR</u> (See the board manual section 16 for detailed examples.)			
		<u>Favorable</u>		<u>Calm or Unfavorable</u>	
<u>NOZZLE TYPE</u>	<u>APPLICATION HEIGHT</u>	<u>BUFFER ON WETLAND</u>	<u>OFFSET FROM WMZ</u>	<u>BUFFER ON WETLAND</u>	<u>OFFSET FROM WMZ</u>
<u>Regular Nozzle</u>	<u>Low (≤ 16 ft.)</u>	<u>Width of the WMZ</u>	<u>As needed for safety</u>	<u>150 ft.</u>	<u>N/A</u>
	<u>Medium (17-50 ft.)</u>	<u>Width of the WMZ</u>	<u>As needed for safety</u>	<u>250 ft.</u>	<u>N/A</u>
	<u>High (51-65 ft.)</u>	<u>Width of the WMZ</u>	<u>As needed for safety</u>	<u>325 ft.</u>	<u>N/A</u>
<u>Raindrop Nozzle</u>	<u>Low (≤ 16 ft.)</u>	<u>Width of the WMZ</u>	<u>As needed for safety</u>	<u>Width of WMZ</u>	<u>20 ft.</u>
	<u>Medium (17-50 ft.)</u>	<u>Width of the WMZ</u>	<u>As needed for safety</u>	<u>Width of WMZ</u>	<u>20 ft.</u>
	<u>High (51-65 ft.)</u>	<u>Width of the WMZ</u>	<u>As needed for safety</u>	<u>125 ft. or the width of the WMZ, whichever is greater</u>	<u>20 ft.</u>

Note to the reader: Terms describing nozzle types will be clarified.

(iii) Buffers On Type 4 or 5 Waters and Type B Wetlands less than 5 acres.

		<u>DETERMINING WIND FACTOR</u> (See the board manual section 16 for detailed examples.)	
		<u>Favorable</u>	<u>Calm or Unfavorable</u>
<u>Nozzle Type</u>		<u>Buffer on wetland</u>	<u>Buffer on wetland</u>
<u>Regular Nozzle</u>		<u>50 ft.</u>	<u>100 ft.</u>
<u>Raindrop Nozzle</u>		<u>50 ft.</u>	<u>70 ft.</u>

Note to the reader: Terms describing nozzle types will be clarified.

(b) ((Apply)) The initial swath of aerial pesticides must be applied parallel to the applicable buffer strip identified in (a)(i) of this subsection unless a deviation is approved in advance by the department. Drift control agents shall be required adjacent to buffer strips. Operators applying aerial pesticides must avoid applications that might result in drift causing direct entry of pesticides into riparian management ((zones)) core and inner zone, Type A and B Wetlands, wetland management zones, and all typed waters((, except segments of Type 4 and 5 Waters with no surface water)).

(c) Operators applying aerial pesticides must use a bucket or spray device capable of immediate shutoff.

(d) Operators applying aerial pesticides must shut off spray equipment during turns and over open water.

(e) Operators applying aerial pesticides near residences or agricultural land must either:

(i) Leave at least a 200 foot no application buffer strip around residences and 100 foot no application buffer strip adjacent to lands used for agriculture ((unless such residence or farmland)); or

(ii) Apply the pesticides using the widest buffer for the applicable wind conditions as determined by the applicable

tables in (a) of this subsection. These provisions do not apply where the residences or agricultural land that could be affected by drift from the aerial application of the pesticide is owned by the forest landowner or where the aerial application is acceptable to the resident or landowner.

(f) The landowner shall identify for the operator the units to be sprayed and the untreated areas within the units with appropriately marked aerial photos or detailed planimetric maps. Before application of the pesticide an over-flight of the area shall be made by the pilot with the marked photos or maps. Stream and wetland buffers required under (a) of this subsection must be clearly visible from the air. The department may require additional field delineation of buffers where the operation is dependent on the use of ground cover features to determine unit area locations and where such ground cover is not readily distinguished from the no spray buffer areas.

(g) Aerial chemical application areas shall be posted by the landowner by signing at significant points of regular access at least 5 days prior to treatment. Posting shall remain at least 15 days after the spraying is complete. The department may require an extended posting period in areas where human use or consumption of plant materials is probable. Posting at formal, signed trailheads that are adjacent to aerially treated units is required. The signs will contain the name

of the product used, date of treatment, a contact telephone number, and any applicable restrictions.

~~(*(6))~~ *(5) Ground application of pesticides with power equipment.

~~(Leave a 25-foot buffer strip on each side of Type A or B Wetlands and all typed waters, except segments of Type 4 and 5 Waters with no surface water.)~~ Ground application of pesticides with power equipment is prohibited within the core and inner zone of Type 1, 2 and 3 Waters, unless prescribed for hardwood conversion or as necessary to meet requirements for noxious weed control. In addition, operators shall maintain a 25 foot no application buffer strip around Type A or B Wetlands and on all sides of all other surface waters. Provided, however, That the department may condition forest practices applications to not require buffering of dry stream segments (i.e., channels with no surface water) where the results of such conditioning would be consistent with the policies stated in WAC 222-38-010 (1) and (2).

~~(*(7))~~ *(6) Hand application of pesticides.

~~(Apply only)~~ Pesticides being applied by hand must only be applied to specific targets, such as vegetation, trees, stumps, and burrows, or as bait or in traps. No pesticides may be applied by hand within the core zone of Type 1, 2 and 3 Waters unless prescribed for hardwood conversion or as necessary to meet requirements for noxious weed control.

~~(*(8))~~ *(7) Limitations on application. Pesticides shall be applied only in accordance with all limitations:

- (a) Printed on the United States Environmental Protection Agency container registration label, and/or
- (b) Established by regulation of the state department of agriculture.
- (c) Established by state and local health departments (in municipal watersheds).
- (d) Established by the Federal Occupational Safety and Health Administration, or the state department of labor and industries, as they relate to safety and health of operating personnel and the public.

(e) The department or the department of agriculture may suspend further use of any equipment responsible for chemical leakage until the deficiency has been corrected to the satisfaction of the department suspending its usage.

~~(*(9))~~ *(8) Container disposal. Pesticide containers shall be either:

- (a) Removed from the forest and disposed of in the manner consistent with label directions; or
- (b) Removed and cleaned for reuse in a manner consistent with any applicable regulations of the state department of agriculture or the state or local health departments.

~~(*(10))~~ *(9) Daily records - aerial application of pesticides. On all aerial applications of pesticides, the operator shall maintain for 7 years daily records of spray operations as required by the state department of agriculture WAC 16-228-190.

~~(*(11))~~ *(10) Reporting of spills. All potentially damaging chemical spills shall be immediately reported to the department of ecology. Emergency telephone numbers for reporting spills shall be available at the department's regional offices.

AMENDATORY SECTION (Amending WSR 93-12-001, filed 5/19/93, effective 6/19/93)

WAC 222-38-030 Handling, storage, and application of fertilizers. ***(1) Storage and loading areas.** Storage and loading areas should be located where accidental spillage of fertilizers will not enter surface water or wetlands. If any fertilizer is spilled, immediate appropriate procedures shall be taken to contain it.

***(2) Riparian management zone and wetland management zone.** Fertilizer treatments within a riparian management zone or wetland management zone shall be by hand unless the department has approved a site specific plan with another method of treatment.

~~*(3) ((Wetland management zone. Fertilizer treatments within a wetland management zone shall be by hand unless the department has approved a site specific plan with another method of treatment.~~

~~*(4))~~ Aerial application of fertilizer.

(a) Proposed fertilization units shall be planned to avoid and to minimize the direct or indirect introduction of fertilizer into waters and wetlands.

(b) Leave a 25 foot buffer on all Type 1, 2, and 3 Waters, except as noted in (f) of this subsection.

(c) When the helicopter flight path during fertilizer application is parallel to a water course or the WMZ edge, the centerline of the initial swath should be adjusted to prevent direct application within the buffers or WMZs.

(d) Leave at least a 200 foot buffer strip around residences and a 100 foot buffer strip adjacent to lands used for agriculture unless such residence or farmland is owned by the forest landowner or the aerial application is acceptable to the resident or landowner.

(e) The landowner shall identify for the operator the units to be fertilized and the untreated areas within the units with appropriately marked aerial photos or detailed planimetric maps. Before application of the fertilizer, an over-flight of the area shall be made by the pilot with the marked photos or maps.

(f) Where the department has been provided information by the department of ecology indicating that water quality in downstream waters is likely to be impaired by entry of fertilizer into waters, such waters shall be protected by site specific conditioning.

~~*(5))~~ *(4) Ground and hand application of fertilizers. Prevent fertilizer from entering Type A and B Wetlands and all typed waters, except segments of Type 4 and 5 Waters with no surface water.

~~*(6))~~ *(5) Reporting of fertilizer spills. All fertilizer spills involving streams, lakes, wetlands, or other waters of the state shall be immediately reported to the department of ecology. Emergency telephone numbers for reporting spills shall be available at the department's regional offices.

AMENDATORY SECTION (Amending WSR 92-15-011, filed 7/2/92, effective 8/2/92)

WAC 222-38-040 Handling, storage, and application of other forest chemicals. ***(1) Waters and wetlands.** Do

PROPOSED

not allow direct entry of other forest chemicals into any ((~~typed~~)) water((~~s, except segments of Type 4 and 5 Waters with no surface water, or Type A or B Wetlands~~)). The department may condition forest practice applications to allow direct entry into a dry stream segment (i.e., a channel with no surface water) of a Type 4 or 5 Water where the results of such conditioning would be consistent with the policies stated in WAC 222-38-010 (1) and (2).

***(2) Storage, mixing, and loading areas.**

(a) Mix other forest chemicals and clean tanks and equipment only where any accidental spills would not enter surface water or wetlands.

(b) Storage and loading areas should be located where accidental spillage of other forest chemicals will not enter surface water or wetlands. If any chemical is spilled, immediate appropriate procedures should be taken to contain it.

(c) Use devices or procedures to prevent "back siphoning" such as providing an air gap or reservoir between the water source and the mixing tank.

(d) Water protection requirements in subsection (1) of this section may be waived when emergency use of fire retardants is necessary to control wildfire.

NEW SECTION

WAC 222-46-012 Representatives on inspections. In connection with any watershed analysis, any review of a pending application by an interdisciplinary team appointed by the department, any compliance studies, any effectiveness monitoring, or other research that has been agreed to by a landowner, the department will invite representatives of other agencies necessary to provide specific expertise to resolve issues that have been raised, tribes, and interest groups to accompany a department representative and, at the landowner's election, the landowner, on any such inspections. Reasonable efforts must be made by the department to notify the landowner of the persons being invited onto the property and the purposes for which they are being invited.

AMENDATORY SECTION (Amending WSR 94-01-134, filed 12/20/93, effective 1/1/94)

WAC 222-46-060 Civil penalties. (1) **Amount of penalty.** Every person who violates any provisions of RCW 76.09.010 through 76.09.280 or of the forest practices rules adopted pursuant thereto, or who converts forest land to a use other than commercial timber operation within three years after completion of the forest practice without the consent of the county, city, or town, shall be subject to a penalty in an amount of not more than ten thousand dollars for each such violation. Each and every such violation shall be a separate and distinct violation. In case of a failure to comply with a stop work order, every day's continuance thereafter shall be a separate and distinct violation.

(2) **Penalty assessments** shall consider the following:

- (a) Repairability of the adverse effect from the violation;
- (b) Whether the violation of the act or rules was intentional;
- (c) Cooperation with the department;

(d) Previous violation history;

(e) Severity of the impact or the potential for material damage to public resources; and

(f) The extent to which a penalty to be imposed on a forest landowner for a forest practice violation committed by another should be reduced because the owner was unaware of the violation and did not receive substantial economic benefits from the violation.

(3) **Calculation of penalty.** The department shall evaluate any violation to determine if a civil penalty is warranted. When penalties are to be assessed they shall be calculated using the following process:

(a) Determine the base penalty; see WAC 222-46-065.

(b) The penalty may be adjusted using factors specific to the incident and the site. The following additional factors will be independently considered and added to the base penalty to calculate the civil penalty:

(i) **Repairability:**

Repairability shall be based on the length of time natural restoration or implementation of a restoration plan will take and whether repair can be achieved. The penalty will be substantially increased when natural restoration will not occur within three years and the damage cannot be effectively corrected. For this factor, up to double the base penalty may be added to the penalty.

(ii) **Intention:**

In making a determination of intent, the department shall consider, but not be limited to, the following considerations: The foreseeability of the violation; whether precautions were taken to avoid the violation; whether an informal conference or enforcement action was served on the violator prior to the violation. For this factor, up to double the base penalty may be added to the penalty.

(iii) **Cooperation:**

The department shall consider whether the violator did or did not make any attempt to correct the problem. Timeliness of action(s) and/or ignoring or evading agency contacts or directives shall determine if the penalty shall be increased. For this factor, up to double the base penalty may be added to the penalty.

(iv) **Previous violation(s):**

The department shall consider whether the violator has previous violations of a forest practice rule or regulation as documented in an enforcement action. The department may consider company organizations and assignment of operational responsibilities when evaluating previous violations. A history of violations with adverse impacts or potential for adverse impacts or that shows a pattern of ignoring the rules or the act, shall result in a substantially larger penalty.

Enforcement actions for the purposes of this section shall include notices to comply, stop work orders, civil penalties, and criminal citations when those enforcement actions are associated with forest practice violations. For this factor, up to quadruple the base penalty may be added to the penalty.

(v) **Severity:**

The department shall adjust the penalty based on the extent and magnitude of the damage or potential damage to public resources. For this factor, up to quadruple the base penalty may be added to the penalty.

(vi) Landowner involvement:

If in the opinion of the department, the landowner exercised reasonable prudence in the development of timber sale contracts or supervision of the forest practice operations, was unaware of the forest practice violation, and the landowner received no substantial economic benefit from the violation, then the landowner generally would not be assessed a civil penalty.

(c) In accordance with RCW 76.09.170, the penalty may not exceed ten thousand dollars for each and every violation.

(d) The department shall determine whether all or a portion of the penalty should be assessed against the operator, landowner, and/or timber owner. The department should consider the responsible party, the degree of control, the sophistication of the party and whether different parties conducted different violations.

(4) **Other participants.** Every person who through an act of commission or omission procures, aids or abets in the violation shall be considered to have violated the provisions of this section and shall be subject to the penalty provided for in this section.

(5) **Government employees.** No penalty shall be imposed under this section upon any governmental official, an employee of any governmental department, agency, or entity, or a member of any board created by the act for any act or omission in his/her duties in the administration of the act or of these rules.

(6) **Written notice.** The penalty shall be imposed by a notice in writing, either by certified mail with return receipt requested or by personal service, to the person incurring the same from the department describing the violation with reasonable particularity.

(7) **Remission or mitigation.** Within fifteen days after the notice is received, the person incurring the penalty may apply in writing to the supervisor of the department ~~((s manager of the region in which the penalty was issued;))~~ or his or her designee for the remission or mitigation of such penalty. Upon receipt of the application, the department may remit or mitigate the penalty upon whatever terms the department in its discretion deems proper: Provided, That the department deems such remission or mitigation to be in the best interests of carrying out the purposes of the act. The department shall have authority to ascertain the facts regarding all such applications in such reasonable manner and under such rules as they may deem proper. The reviewer may reduce, dismiss or not change the civil penalty. ~~((Within fifteen days of the completion of the regional review, the person incurring the penalty may apply in writing to the supervisor of the department for further review.))~~

(8) **Right of appeal.** Any person incurring any penalty hereunder may appeal the same to the forest practices appeals board. Such appeals shall be filed within thirty days of receipt of notice imposing any penalty unless an application for remission or mitigation is made to the department. When such an application for remission or mitigation is made, such appeals shall be filed within thirty days of receipt of notice from the department setting forth the disposition of the application for remission or mitigation. Concurrently with the filing of any appeal to the forest practices appeals board as pro-

vided in this section, the appellant shall file a copy of the appeal with the department region from which the penalty was issued and a copy with the office of the attorney general.

(9) **Penalties due.** The penalty imposed under this section shall become due and payable thirty days after receipt of a notice imposing the same unless application for remission or mitigation is made or an appeal is filed. When such an application for remission or mitigation is made, any penalty incurred under this section shall become due and payable thirty days after receipt of notice setting forth the disposition of such application unless an appeal is filed from such disposition. Whenever an appeal of the penalty incurred is filed, the penalty shall become due and payable only upon completion of all administrative and judicial review proceedings and the issuance of a final order or decision confirming the penalty in whole or in part.

(10) **Enforcement.** If the amount of any penalty is not paid to the department within thirty days after it becomes due and payable, the attorney general, upon the request of the department, shall bring an action in the name of the state of Washington in the superior court of Thurston county or of any county in which such violator may do business, to recover such penalty, interest, costs, and attorneys' fees. In all such actions the procedure and rules of evidence shall be the same as an ordinary civil action except as otherwise provided in the Forest Practices Act. In addition to or as an alternative to seeking enforcement of penalties in superior court, the department may bring an action in district court as provided in Title 3 RCW, to collect penalties, interest, costs, and attorneys' fees.

(11) **Liens.** Penalties imposed under this section for violations associated with a conversion to a use other than commercial timber operation shall be a lien upon the real property of the person assessed the penalty. The department may collect such amounts in the same manner provided in chapter 60.04 RCW for mechanics' liens.

(12) Any person incurring a penalty is also responsible for the payment of all costs and attorneys' fees incurred with the penalty as well as interest accruing on the unpaid penalty amount.

AMENDATORY SECTION (Amending WSR 94-01-134, filed 12/20/93, effective 1/1/94)

WAC 222-46-070 Injunctions, civil suits, disapprovals. (1) **The department** may take any necessary action to enforce any final order or final decision ~~((and))~~.

(2)(a) The department may disapprove ((for up to one year)) any forest practices application or notification submitted by any person who has failed to comply with a final order or decision as set forth in RCW 76.09.080, 76.09.090, or 76.09.110, or has failed to pay any civil penalties as provided in RCW 76.09.170. This disapproval will last for up to one year from the issuance of a notice of intent to disapprove notifications and applications under this section, or until the violator pays all outstanding civil penalties and complies with all validly issued and outstanding notices to comply and stop work orders, whichever is longer.

(b) For purposes of this subsection, "validly issued" means a stop work order or notice to comply for which no appeal or request for hearing has been filed; or if appealed, it has not been declared invalid by a final order or decision and all appeals are exhausted.

(c) The department shall provide written notice of its intent to disapprove future applications or notifications, and shall forward copies of such notice to any affected landowner, timber owner or operator~~((; such written notice shall occur within ninety days of the failure to comply with a final order or decisions as set forth in RCW 76.09.080, 76.09.090, or 76.09.110, or has failed to pay any civil penalties as provided in RCW 76.09.170)).~~ The disapproval period shall run from thirty days following the date of actual notice or from the date all appeals, if any, have been exhausted.

(d) Any person provided notice of intent to disapprove an application or notification may seek review from the forest practices appeals board within thirty days of the date of notice.

~~((2))~~ (e) While the notice of intent to disapprove is in effect, the violator(s) may not serve as a person in charge of, be employed by, manage, or otherwise participate to any degree in forest practices.

(3) A county may bring injunctive, declaratory, or other actions for enforcement for forest practice activities within its jurisdiction in the superior court as provided by law against the department, the forest landowner, timber owner or operator to enforce the forest practices regulations or any final order of the department or the appeals board. No civil or criminal penalties shall be imposed for past actions or omissions if such actions or omissions were conducted pursuant to an approval or directive of the department. A county may not commence injunctions, declaratory actions, or other actions for enforcement under this subsection unless the department fails to take appropriate actions after ten days' written notice to the department by the county of a violation of the forest practices rules or final orders of the department or the appeals board.

PROPOSED

WSR 99-20-020
EXPEDITED ADOPTION
DEPARTMENT OF REVENUE

[Filed September 27, 1999, 2:25 p.m.]

Title of Rule: WAC 458-20-117 Sales and/or use of dunnage.

Purpose: Rule 117 explains the application of the B&O, retail sales, and use taxes to persons who manufacture and use dunnage.

Statutory Authority for Adoption: RCW 82.32.300.

Statute Being Implemented: RCW 82.04.220, 82.08.020, and 82.12.020.

Summary: This rule is being amended to change and incorrect statutory reference.

Reasons Supporting Proposal: A statutory reference to RCW 82.12.0261 in the second paragraph of subsection (5)(d) needs to be corrected to RCW 82.08.0261.

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: The rule explains the B&O, retail sales, and use tax applications to person who manufacture and/or use dunnage. It clarifies that the retail sales or use tax is due on materials initially used for dunnage even though these materials are later resold. Rule 117 also explains that a retail sales tax exemption is available for sales to certain carriers operating in interstate commerce. The rule further explains that manufacturers who use dunnage in transporting goods between their own plants are consumers of those materials.

Proposal Changes the Following Existing Rules: This is an amendment of an existing rule, WAC 458-20-117 Sales and/or use of dunnage. This rule is being revised to change a current statutory reference from RCW 82.12.0261 to the correct RCW 82.08.0261. There is no substantive change to Rule 117.

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 doug@dor.wa.gov, AND RECEIVED BY December 7, 1999.

September 27, 1999

Claire Hesselholt

Rules Manager

Legislation and Policy Division

AMENDATORY SECTION (Amending WSR 93-19-019, filed 9/2/93, effective 10/3/93)

WAC 458-20-117 Sales and/or use of dunnage. (1) **Introduction.** This ((~~section~~)) rule explains Washington's B&O tax, retail sales tax, and use tax to the sale or use of dunnage.

(a) The term "dunnage" means any material used for the purpose of protecting or holding in place cargo or freight during transportation by any carrier of property, and which is not an integral part of the carrier itself. Dunnage includes, but is not limited to, wood blocks, stakes, separating strips, timber, double decks, false floors, door shields, bulkheads, and other bracing. Dunnage generally does not remain with the cargo that is being transported and will not be delivered to the person who will ultimately receive the cargo. On the other hand, packing materials are generally part of the total package containing the cargo and are ultimately delivered to the customer as part of the cargo or merchandise.

(b) Persons selling dunnage to air, rail, or water carriers operating in interstate or foreign commerce should also refer to WAC 458-20-175. Persons selling or purchasing packing materials should refer to WAC 458-20-115 (Sales of packing materials and containers).

(2) **Business and occupation tax.** The B&O tax applies as follows to sales of dunnage.

(a) **Wholesaling**((~~Other~~)). The wholesaling((~~other~~)) tax applies to the gross proceeds derived from sales of dunnage to persons who resell the dunnage, without intervening use.

(b) **Retailing of interstate transportation equipment.** This B&O tax classification applies to sales of dunnage to air, rail, and water carriers. These sales are exempt from retail sales tax because of the provisions of RCW 82.08.0261.

(c) **Retailing.** The retailing tax applies to sales of dunnage to motor carriers and all other consumers.

(3) **Retail sales tax.** The retail sales tax generally applies to the sale of dunnage to consumers. This includes situations in which the purchaser may initially use the materials for dunnage and then resell the materials after they have served that purpose. RCW 82.08.0261 does provide a retail sales tax exemption for sales of tangible personal property, including dunnage, to air, rail, and water carriers operating in interstate or foreign commerce. To substantiate a claim for this exemption, the seller must retain as part of its records the completed exemption certificate(s) prescribed by WAC 458-20-175. However, air, rail, and water carriers are subject to use tax on dunnage used in Washington. (See below.)

(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) Air, rail, and water carriers engaged in interstate or foreign commerce should note that while the purchase of dunnage may qualify for the retail sales tax exemption provided by RCW 82.08.0261, the subsequent use in Washington of that dunnage is subject to use tax. These carriers should refer to WAC 458-20-175 to determine any potential use tax liability.

(b) Persons who manufacture the materials ((which)) they will use for dunnage, such as lumber manufacturers, are subject to use tax on the value of the dunnage and are also subject to the manufacturing B&O tax. These persons should refer to WAC 458-20-136 and WAC 458-20-112.

(5) **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 status of each situation must be determined after a review of all ((of the)) facts and circumstances. Unless stated otherwise, these examples presume both seller and purchaser are located in Washington.

(a) BCD, Inc. provides stevedoring services within the State of Washington. BCD routinely ((purchases)) acquires lumber for use in securing cargo within the holds of ships during transport. While this lumber may be bolted or nailed to the ship, it is removed at the destination port when the cargo is off-loaded. BCD provides the lumber as a part of its overall stevedoring services, and does not make retail sales of the lumber to its customers.

BCD Inc. must pay retail sales tax when purchasing all such lumber. The lumber is used as dunnage and does not become an integral part of the ship, despite being bolted or nailed to the ship. If BCD has not paid retail sales tax on the acquisition of the lumber, it must remit the deferred sales or use tax directly to the department.

(b) D Company sells lumber and wood blocks to FG Engineering. FG is a manufacturer of equipment parts and uses the lumber and wood blocks as dunnage for the transportation of parts by rail to Montana. The lumber and wood blocks are salvaged and sold by FG after the transportation of the parts is completed.

The sale of the lumber and wood blocks to FG Engineering is a sale at retail, notwithstanding FG resells the dunnage materials in Montana. The use of the lumber and wood blocks as dunnage by FG Engineering is considered use as a consumer. D Company must collect and remit the retail sales tax, and report the gross proceeds of the sale under the retailing B&O tax classification.

(c) RB Lumber manufactures lumber in Washington which it ships by rail to customers in other states. RB Lumber takes irregular sized and other low quality lumber and uses it as dunnage in loading rail cars. Arrangements have been made with the rail carrier for the dunnage to be given away as firewood at the destination.

RB Lumber is subject to manufacturing B&O tax and also use tax on the value of the dunnage. If there is a comparable retail selling price for these materials, the value will be determined on that basis. If there is no comparable selling price, the value may be determined on the basis of cost of production as provided in WAC 458-20-112.

(d) KMB, Inc. sells lumber for use as dunnage to Western Rail, a common carrier operating by rail in multiple states. Some of the lumber will be first used in Washington and some will be transported to other states without intervening use for use in those states as dunnage. Western Rail may purchase the dunnage without payment of retail sales tax by giving the seller an exemption certificate as explained in WAC 458-20-175.

KMB, Inc. must report this sale under the retailing of interstate equipment B&O tax classification since Western Rail has claimed exemption for payment of the retail sales tax under RCW ((82-12-0261)) 82.08.0261. The seller must retain copies of the exemption certificates for five years. Western Rail must report use tax on the dunnage which is used in Washington.

WSR 99-20-051

EXPEDITED ADOPTION

DEPARTMENT OF REVENUE

[Filed September 30, 1999, 3:31 p.m.]

Title of Rule: WAC 458-20-101 Tax registration and tax reporting.

Purpose: Rule 101 explains the tax registration and reporting requirement for persons engaging in business activities in Washington.

Statutory Authority for Adoption: RCW 82.32.300.

Statute Being Implemented: RCW 82.32.030 and 82.32.045.

Summary: This rule explains that persons engaged in taxable business activities are responsible for registering with the Department of Revenue. This rule explains who is required to be registered with the department, the registration procedures, and the different types of tax-reporting accounts that apply in specific circumstances.

Reasons Supporting Proposal: This rule needs to be revised to reflect the amendment to RCW 82.32.045 by chapter 357, Laws of 1999, which changed the active nonreporting status threshold from \$24,000 to \$28,000 per year.

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 explains the tax registration and tax reporting requirements for persons engaging in business activities in Washington. It explains the tax registration procedure, and the unified business identifier program. Rule 101 discusses the criteria under which a person may do business in Washington without registering with the Department of Revenue. It explains the conditions under which taxpayers required to

register with the department are not required to file excise tax returns, or may be entitled to obtain a temporary or seasonal reporting account. The rule clarifies when changes in the structure of a business entity require the entity to obtain a new tax registration account. The procedures for the administrative closure of a "nonactive" tax-reporting account by the department, and how a taxpayer may have a closed account reopened are also explained.

Proposal Changes the Following Existing Rules: This is an amendment of an existing rule, WAC 458-20-101 Tax registration and tax reporting. This rule is being revised to reflect the increase in the active nonreporting status threshold from \$24,000 to \$28,000 per year (chapter 357, Laws of 1999).

The rule currently states that the department may upon written notification to the taxpayer close a tax-reporting account whenever the taxpayer has reported no gross income and there is no indication of taxable activity for a specific period of time. The rule explains that this period is two consecutive years, except that a five-year period applies in the case of an account that is in an "active" nonreporting status. The revised rule will apply the two-year standard regardless of the type of account. The taxpayer retains the right to request that the account remain open.

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 December 7, 1999.

To obtain a copy of this form and rule in an alternative format: Contact Ginny Dale at (360) 586-0721, TDD 1-800-451-7985. Please allow ten days for the form and rule to be prepared and sent to you.

September 30, 1999

Claire Hesselholt
Rules Manager

Legislation and Policy Division

AMENDATORY SECTION (Amending WSR 97-08-050, filed 3/31/97, effective 5/1/97)

WAC 458-20-101 Tax registration and tax reporting.

(1) **Introduction.** This ~~((section))~~ rule explains tax registration and tax reporting requirements for the Washington state department of revenue as established in RCW 82.32.030 and 82.32.045. ~~((These statutes were amended by chapter 111, Laws of 1996, effective July 1, 1996.))~~ This ~~((section))~~ rule discusses who is required to be registered, and who must file excise tax returns. This ~~((section))~~ rule also discusses

changes in ownership requiring a new registration, the administrative closure of taxpayer accounts, and the revocation and reinstatement of a tax reporting account with the department of revenue. Persons required to file tax returns should also refer to WAC 458-20-104 (Small business tax relief based on volume of business).

(2) **Persons required to obtain tax registration endorsements.** Except as provided in (a) of this subsection, every person who is engaged in any business activity for which the department of revenue is responsible for administering and/or collecting a tax or fee, shall apply for and obtain a tax registration endorsement with the department of revenue. (See RCW 82.32.030.) This endorsement shall be reflected on the face of the business person's registrations and licenses document. The tax registration endorsement is non-transferable, and valid for as long as that person continues in business.

(a) Registration under this ~~((section))~~ rule is not required if all of the following conditions are met:

(i) The person's value of products, gross proceeds of sales, or gross income of the business, from all business activities taxable under chapter 82.04 RCW (business and occupation tax), is less than twelve thousand dollars per year;

(ii) A person's gross income from all business activities taxable under chapter 82.16 RCW (public utility tax), is less than twelve thousand dollars per year;

(iii) The person is not required to collect or pay to the department of revenue retail sales tax or any other tax or fee which the department is authorized to administer and/or collect; and

(iv) The person is not otherwise required to obtain a license or registration subject to the master application procedure provided in chapter 19.02 RCW. For the purposes of this ~~((section))~~ rule, the term "license or registration" means any agency permit, license, certificate, approval, registration, charter, or any form or permission required by law, including agency rule, to engage in any activity.

(b) The term "tax registration endorsement," as used in this ~~((section))~~ rule, has the same meaning as the term "tax registration" or "certificate of registration" used in Title 82 RCW and other ~~((sections of))~~ rules in chapter 458-20 WAC.

(c) The term "person" has the meaning given in RCW 82.04.030.

(d) The term "tax reporting account number" as used in this ~~((section))~~ rule, is the number used to identify persons registered with the department of revenue.

(3) **Requirement to file tax returns.** Persons registered with the department must file tax returns and remit the appropriate taxes to the department, unless they are placed on an "active nonreporting" status by the department.

(a) The department may relieve any person of the requirement to file returns by placing the person in an active nonreporting status if all of the following conditions are met:

(i) The person's value of products (RCW 82.04.450), gross proceeds of sales (RCW 82.04.070), or gross income of the business (RCW 82.04.080), from all business activities taxable under chapter 82.04 RCW (business and occupation tax), is:

(A) Beginning July 1, 1999, less than twenty-eight thousand dollars per year (chapter 357, Laws of 1999); or

(B) Prior to July 1, 1999, less than twenty-four thousand dollars per year;

(ii) The person's gross income (RCW 82.16.010) from all business activities taxable under chapter 82.16 RCW (public utility tax)(~~(:)~~) is less than twenty-four thousand dollars per year; and

(iii) The person is not required to collect or pay to the department retail sales tax or any other tax or fee the department is authorized to collect.

(b) The department will notify those persons it places on an active nonreporting status. (A person may request to be placed on an active nonreporting status if the conditions of (a) of this subsection are met.)

(c) Persons placed on an active nonreporting status by the department are required to timely notify the department if their business activities do not meet any of the conditions explained in (a) of this subsection. These persons will be removed from an active nonreporting status, and must file tax returns and remit appropriate taxes to the department, beginning with the first period in which they do not qualify for an active nonreporting status.

(d) Persons that have not been placed on an active nonreporting status by the department must continue to file tax returns and remit the appropriate taxes.

(4) **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 status of each situation must be determined after a review of all (~~(of the)~~) facts and circumstances.

(a) Bob Brown is starting a bookkeeping service. The gross income of the business is expected to be less than twelve thousand dollars per year. Due to the nature of the business activities, Bob is not required to pay or collect any other tax which the department is authorized to collect.

Bob Brown is not required to apply for and obtain a tax registration endorsement with the department of revenue. The conditions under which a business person may engage in business activities without obtaining the tax registration endorsement have been met. However, if Bob Brown in some future period has gross income (~~(which exceeds))~~ exceeding twelve thousand dollars per year, he will be required to obtain a tax registration endorsement. If Bob's gross income exceeds (~~(twenty-four))~~ twenty-eight thousand dollars per year, he will be required to file tax returns and remit the appropriate taxes.

(b) Cindy Smith is opening a business to sell books written for children to local customers at retail. The gross proceeds of sales are expected to be less than twelve thousand dollars per year.

Cindy Smith must apply for and obtain a tax registration endorsement with the department of revenue. While gross income is expected to be less than twelve thousand dollars per year, Cindy Smith is required to collect and remit retail sales tax.

(c) Alice Smith operates a (~~(taxi-cab))~~ taxicab service with an average gross income of eighteen thousand dollars per year. She also owns a management consulting service

with an average gross income of fifteen thousand dollars per year. Assume that Alice is not required to collect or pay to the department any other tax or fee the department is authorized to collect. Alice qualifies for an active nonreporting status because her (~~(taxi-cab))~~ taxicab income is less than the twenty-four thousand dollar threshold for the public utility tax, and her consulting income is less than the twenty-four thousand dollar threshold for the business and occupation (B&O) tax. If the department of revenue does not first place her on an active nonreporting status, she may request the department to do so.

(5) **Out-of-state businesses.** The B&O and public utility taxes are imposed on the act or privilege of engaging in business activity within Washington. RCW 82.04.220 and 82.16.020. Out-of-state persons who have established sufficient nexus in Washington to be subject to Washington's B&O or public utility taxes must obtain a tax registration endorsement with this department if they do not satisfy the conditions expressed in subsection (2)(a) of this (~~(section))~~ rule. Out-of-state persons required to collect Washington's retail sales or use tax, or who have elected to collect Washington's use tax, even though not statutorily required to do so, must obtain a tax registration endorsement.

(a) Persons with out-of-state business locations should not include income that is disassociated from their in-state activities in their computations for determining whether the gross income thresholds provided in subsection (2)(a)(i) and (ii) are satisfied.

(b) Out-of-state persons making sales into or doing business within Washington should also refer to the following (~~(sections of))~~ rules in chapter 458-20 WAC for a discussion of their tax reporting responsibilities:

(i) WAC 458-20-103 (Time and place of sale);

(ii) WAC 458-20-193 (Inbound and outbound interstate sales of tangible personal property);

(iii) WAC 458-20-193D (Transportation, communication, public utility activities, or other services in interstate or foreign commerce);

(iv) WAC 458-20-194 (Doing business inside and outside the state); and

(v) WAC 458-20-221 (Collection of use tax by retailers and selling agents).

(6) **Registration procedure.** The state of Washington initiated the unified business identifier (UBI) program to simplify the registration and licensing requirements imposed on the state's business community. Completion of the master application enables a person to register or license with several state agencies, including the department of revenue, using a single form. The person will be assigned one unified business identifier number, which will be used for all state agencies participating in the UBI program. The department may assign the unified business identifier number as the taxpayer's revenue tax reporting account number, or it may assign a different or additional number as the revenue tax reporting account number.

(a) Persons completing the master application will be issued a registrations and licenses document. The face of this document will list the registrations and licenses (endorsements) which have been obtained.

(b) The department of revenue does not charge a registration fee for issuing a tax registration endorsement. Persons required to complete a master application may, however, be subject to other fees.

(c) While the UBI program is administered by the department of licensing, master applications are available at any participating UBI service provider location. The following agencies of the state of Washington participate in the UBI program (see RCW 19.02.050 for a more complete listing of participating agencies):

- (i) The office of the secretary of state;
- (ii) The department of licensing;
- (iii) The department of employment security;
- (iv) The department of labor and industries;
- (v) The department of revenue.

(7) **Temporary revenue registration certificate.** A temporary revenue registration certificate may be issued to any person who operates a business of a temporary nature.

(a) Temporary businesses, for the purposes of registration, are those with:

- (i) Definite, predetermined dates of operation for no more than two events each year with each event lasting no longer than one month; or
- (ii) Seasonal dates of operation lasting no longer than three months. However, persons engaging in business activities on a seasonal basis every year should refer to subsection (8) of this ~~((section))~~ rule.

(b) Each temporary registration certificate is valid for a single event.

(c) Temporary revenue registration certificates may be obtained by making application at any participating UBI agency office, or by completing a seasonal registration form.

(8) **Seasonal revenue tax reporting accounts.** Persons engaging in seasonal business activities which do not exceed two quarterly reporting periods each calendar year may be eligible for a tax reporting account with a seasonal reporting status. This is a permanent account until closed by the taxpayer. The taxpayer must specify in which quarterly reporting periods he or she will be engaging in taxable business activities. The quarterly reporting periods in which the taxpayer is engaging in taxable business activities may or may not be consecutive, but the same quarterly period or periods must apply each year. The taxpayer is not required to be engaging in taxable business activities during the entire period.

The department will provide and the taxpayer will be required to file tax returns only for the quarterly reporting periods specified by the taxpayer. Examples of persons which may be eligible for the seasonal reporting status include persons operating Christmas tree and/or fireworks stands. Persons engaging in taxable business activities in more than two quarterly reporting periods in a calendar year will not qualify for the seasonal reporting status.

(9) **Display of registrations and licenses document.** The taxpayer is required to display the registrations and licenses document in a conspicuous place at the business location for which it is issued.

(10) **Multiple locations.** A registrations and licenses document is required for each place of business at which a

taxpayer engages in business activities for which the department of revenue is responsible for administering and/or collecting a tax or fee, and any main office or principal place of business from which excise tax returns are to be filed. This requirement applies to locations both within and without the state of Washington.

(a) For the purposes of this ~~((section))~~ subsection, the term "place of business" means:

- (i) Any separate establishment, office, stand, cigarette vending machine, or other fixed location; or
- (ii) Any vessel, train, or the like, at any of which the taxpayer solicits or makes sales of tangible personal property, or contracts for or renders services in this state or otherwise transacts business with customers.

(b) A taxpayer wishing to report all tax liability on a single excise tax return may request a separate registrations and licenses document for each location. The original registrations and licenses document shall be retained for the main office or principal place of business from which the returns are to be filed, with additional documents obtained for all branch locations. All registrations and licenses documents will reflect the same tax reporting account number.

(c) A taxpayer desiring to file a separate excise tax return covering a branch location, or a specific construction contract, may apply for and receive a separate revenue tax reporting account number. A registrations and licenses document will be issued for each tax reporting account number and will represent a separate account.

(d) A master application must be completed to obtain a separate registrations and licenses document, or revenue tax reporting account number, for a new location.

(11) **Change in ownership.** When a change in ownership of a business occurs, the new owner must apply for and obtain a new registrations and licenses document. The original document must be destroyed, and any further use of the tax reporting account number for tax purposes is prohibited.

(a) A "change in ownership," for purposes of registration, occurs upon but is not limited to:

- (i) The sale of a business by one individual, firm or corporation to another individual, firm or corporation;
- (ii) The dissolution of a partnership;
- (iii) The withdrawal, substitution, or addition of one or more partners where the general partnership continues as a business organization and the change in the composition of the partners is equal to or greater than fifty percent;
- (iv) Incorporation of a business previously operated as a partnership or sole proprietorship;
- (v) Changing from a corporation to a partnership or sole proprietorship; or
- (vi) Changing from a corporation, partnership or sole proprietorship to a limited liability company or a limited liability partnership.

(b) For the purposes of registration, a "change in ownership" does not occur upon:

- (i) The sale of all or part of the common stock of a corporation;
- (ii) The transfer of assets to an assignee for the benefit of creditors or upon the appointment of a receiver or trustee in bankruptcy;

(iii) The death of a sole proprietor where there will be a continuous operation of the business by the executor, administrator, or trustee of the estate or, where the business was owned by a marital community, by the surviving spouse of the deceased owner;

(iv) The withdrawal, substitution, or addition of one or more partners where the general partnership continues as a business organization and the change in the composition of the partners is less than fifty percent; or

(v) A change in the trade name under which the business is conducted.

(c) While changes in a business entity may not result in a "change in ownership," the completion of a new master application may be required to reflect the changes in the registered account.

(12) **Change in location.** Whenever the place of business is moved to a new location, the taxpayer must notify the department of the change. A new registrations and licenses document will be issued to reflect the change in location.

(13) **Lost registrations and licenses documents.** If any registrations and licenses document is lost, destroyed or defaced as a result of accident or of natural wear and tear, a new document will be issued upon request.

(14) **Administrative closure of taxpayer accounts.** The department may, upon written notification to the taxpayer, close the taxpayer's tax reporting account and rescind its tax registration endorsement whenever the taxpayer has reported no gross income and there is no indication of taxable activity for two consecutive years (~~or the account has been in an active nonreporting status for five years or more~~).

The taxpayer may request, within thirty days of notification of closure, that the account remain open. A taxpayer may also request that the account remain open on an "active non-reporting" status if the requirements of subsection (3)(a) of this ((~~section~~)) rule are met. The request shall be reviewed by the department and if found to be warranted, the department will immediately reopen the account. The following are acceptable reasons for continuing as an active account:

(a) The taxpayer is engaging in business activities in Washington which may result in tax liability.

(b) The taxpayer is required to collect or pay to the department of revenue a tax or fee which the department is authorized to administer and/or collect.

(c) The taxpayer has in fact been liable for excise taxes during the previous two years.

(15) **Reopening of taxpayer accounts.** A business person choosing to resume business activities for which the department of revenue is responsible for administering and/or collecting a tax or fee, may request a previously closed account be reopened. The business person must complete a new master application. When an account is reopened a new registrations and licenses document, reflecting a current tax registration endorsement, shall be issued. Persons requesting the reopening of an account which had previously been closed due to a revocation action should refer to subsection (16) of this ((~~section~~)) rule.

(16) **Revocation and reinstatement of tax registration endorsements.** Actions to revoke tax registration endorsements must be conducted by the department pursuant to the

provisions of chapter 34.05 RCW, the Administrative Procedure Act, and the taxpayers bill of rights of chapter 82.32A RCW. Persons should refer to WAC 458-20-10001, Adjudicative proceedings—Brief adjudicative proceedings—Wholesale and retail cigarette license revocation/suspension—Certificate of registration (tax registration endorsement) revocation, for an explanation of the procedures and processes pertaining to the revocation of tax registration endorsements.

(a) The department of revenue may, by order, revoke a tax registration endorsement if any tax warrant issued under the provisions of RCW 82.32.210 is not paid within thirty days after it has been filed with the clerk of the superior court, or for any other reason expressly provided by law.

(b) The revocation order will be posted in a conspicuous place at the main entrance to the taxpayer's place of business and must remain posted until the tax registration endorsement has been reinstated. A revoked endorsement will not be reinstated until:

(i) The amount due on the warrant has been paid, or satisfactory arrangements for payment have been approved by the department; and

(ii) The taxpayer has posted with the department a bond or other security in an amount not exceeding one-half the estimated average annual liability of the taxpayer.

(c) It is unlawful for any taxpayer to engage in business after its tax registration endorsement has been revoked.

(17) **Penalties for noncompliance.** The law provides that any person engaging in any business activity, for which registration with the department of revenue is required, shall obtain a tax registration endorsement.

(a) The failure to obtain a tax registration endorsement prior to engaging in any taxable business activity constitutes a gross misdemeanor.

(b) Engaging in business after a tax registration endorsement has been revoked by the department constitutes a Class C felony.

(c) Any tax found to have been due, but delinquent, and any tax unreported as a result of fraud or misrepresentation, may be subject to penalty as provided in chapter 82.32 RCW, WAC 458-20-228 and 458-20-230.

WSR 99-20-086

EXPEDITED ADOPTION

UNIVERSITY OF WASHINGTON

[Filed October 5, 1999, 9:13 a.m.]

Title of Rule: Chapter 478-132 WAC, Academic calendar for the University of Washington.

Purpose: The purpose of chapter 478-132 WAC is to promulgate the academic calendar for the University of Washington.

Statutory Authority for Adoption: RCW 28B.20.130.

Statute Being Implemented: RCW 28B.20.130.

Summary: Chapter 478-132 WAC relates only to the internal operations of the University of Washington that are not subject to violation by a person by promulgating the academic calendar for the University of Washington.

Reasons Supporting Proposal: The proposed modifications to chapter 478-132 WAC reflect the current academic calendar accurately and clarify the language without changing its effect.

Name of Agency Personnel Responsible for Drafting and Enforcement: W. W. (Tim) Washburn, Executive Director, Admissions and Records, 328 Schmitz Hall, University of Washington, (206) 543-3511; and Implementation: Ernest R. Morris, Vice-President for Student Affairs, 476 Schmitz Hall, University of Washington, (206) 543-4024.

Name of Proponent: University of Washington, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Chapter 478-132 WAC was reviewed as part of the University of Washington's rule review plan mandated by Executive Order 97-02. In conformance with the criteria of this rule review, the University of Washington is proposing an expedited amendment of this chapter to clarify language without changing its effect.

Proposal Changes the Following Existing Rules: The proposed changes amend WAC 478-132-010 and 478-132-030.

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 Rebecca Goodwin Deardorff, Administrative Procedures Officer, University of Washington, 4014 University Way N.E., Seattle, WA 98105-6203, Campus Mail Box 355509, fax (206) 543-0786, AND RECEIVED BY December 6, 1999.

October 1, 1999

Rebecca Goodwin Deardorff
Administrative Procedures Officer

Chapter 478-132 WAC ACADEMIC CALENDAR FOR THE UNIVERSITY OF WASHINGTON

AMENDATORY SECTION (Amending Order 72-10, filed 11/30/72)

WAC 478-132-010 Authority. Pursuant to the authority granted by ~~((sections 28B.20.130, chapter 223, Laws of 1969 ex. sess. ()))~~ RCW 28B.20.130(~~(+)~~), the board of regents of the University of Washington has established the following regulations governing the university calendar.

AMENDATORY SECTION (Amending Order 79-7, filed 2/22/80)

WAC 478-132-030 University calendar. The calendar at the university consists of four quarters, which normally begin and end as follows:

(1) The autumn quarter shall begin on September 25 when it falls on a Monday, otherwise it shall begin on the first Monday following September 25, and end on the twelfth Thursday thereafter. ~~((The autumn quarter of the school of law shall begin on the Wednesday prior thereto.))~~

(2) The winter quarter shall begin on the first Monday after January 1 and end on the eleventh Friday thereafter. When January 1 falls on Sunday, the winter quarter shall begin on January 3; when January 1 falls on Monday, the winter quarter shall begin on January 2.

(3) The spring quarter shall begin on the second Monday after the close of winter quarter and end on the eleventh Friday thereafter. The June commencement shall be the Saturday immediately following the last day of spring quarter.

(4) The summer quarter shall begin on the second Monday following the June commencement and end on the ninth Friday thereafter. ~~((The summer quarter of the school of law shall begin on the Monday following the June commencement and end on the Friday of the eleventh week thereafter. The summer quarter of the school of dentistry shall begin on the third Monday following the June commencement and end on the fifth Friday thereafter.))~~

(5) Certain academic programs may begin or end on schedules different from those in subsections (1) through (4) of this section with the approval of the provost. In such cases, it will be the responsibility of the appropriate dean to provide advance notice to the affected students.

WSR 99-20-139
EXPEDITED ADOPTION
DEPARTMENT OF
LABOR AND INDUSTRIES
[Filed October 6, 1999, 10:26 a.m.]

Title of Rule: Reporting requirements.

Purpose: To rewrite WAC 296-20-06101, concerning health care provider reporting requirements, in clear rule writing format. The rewrite complies with Executive Order 97-02 on regulatory improvement.

Statutory Authority for Adoption: RCW 51.04.020, 51.04.030, 51.36.060.

Statute Being Implemented: RCW 51.36.060.

Summary: This rule documents what reports the department requires health care providers to submit at specific points in an industrial claim to authorize treatment, compensation and treatment bills.

Reasons Supporting Proposal: This rule has been rewritten in clear rule writing format to comply with Executive Order 97-02.

Name of Agency Personnel Responsible for Drafting: Linda Grant, Tumwater, Washington, (360) 902-6790;

Implementation and Enforcement: Linda Murphy, Tumwater, Washington, (360) 902-6699.

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

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

Explanation of Rule, its Purpose, and Anticipated Effects: This amendment proposes no new requirements; the information is reformatted in clear rule writing format. It documents what reports health care providers are to submit to the department at specific stages of an industrial insurance claim.

Proposal does not change existing rules.

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 Selwyn Walters, Department of Labor and Industries, P.O. Box 44001, Olympia, WA 98504-4001, AND RECEIVED BY December 6, 1999.

October 6, 1999

Gary Moore

Director

AMENDATORY SECTION (Amending WSR 93-16-072, filed 8/1/93, effective 9/1/93)

WAC 296-20-06101 (~~Reporting requirements.~~)

What reports are health care providers required to submit to the insurer? (~~The department or self-insurer requires several kinds of reports at various stages of the claim in order to authorize treatment, time loss compensation, and treatment bills. For additional information refer to the medical aid rules and fee schedules.~~)

Initial report of accident: The first report required is the report of accident. The report of accident qualifies as the office note or report of the initial visit for Level 1 or 2 office calls. In addition to the office call charge, the doctor may bill for the filing of the accident report. Reimbursement of these services will be paid if the claim is allowed by the department or self-insurer. If the initial visit is a transfer case, a report is required. Billing for a Level 3, 4, or 5 initial visit may require submission of additional reports as required by department policy.

Office notes: Legible copies of office or progress notes are required for all follow-up visits. Office notes are not acceptable in lieu of requested narrative reports.

Sixty-day narrative reports: When conservative treatment is to continue beyond sixty days, submission of a narrative report is required to substantiate the need for continued care. A narrative report must contain basic information contained in chapter 296-20 WAC, or as determined by department policy. For this narrative report, the department or self-insurer will pay at a rate determined by department policy for a routine report in addition to a routine office call if the call is needed to provide the information. If the doctor supplies additional comprehensive information in the report, payment of a charge submitted in excess of the allowed fee will be considered. In most cases, payment for a narrative report in addition to a Level 3, 4, or 5 office visit will not be considered as the fee for those services includes a comprehensive report. A narrative report should be described as a "sixty-day report."

Consultations reports: Following one hundred twenty days of conservative care (nonsurgical cases), a consultation with the doctor of the attending doctor's choice is required to substantiate further treatment authorization. No prior authorization is required for such consultations. The department or self-insurer should be notified via a consultation referral form (LI-210-299). The consultant is responsible for submitting a copy of the report as outlined in chapter 296-20 WAC, or as determined by department policy, along with the bill to the department or self-insurer.

Follow-up reports: Following the one hundred twenty day consultation, narrative reports are required at sixty day intervals as outlined in chapter 296-20 WAC. The department or self-insurer will request additional consultations and/or special exams as warranted by the individual case.

Hospital reports: When workers are hospitalized it is the responsibility of the doctor to submit the reports to the hospital for submission with the hospital billing. The doctor may bill for hospital visits without attaching copies of the reports. However, billing for operative procedures requires a copy of the operative report.

Reopening application: On claims closed over sixty days, the department or self-insurer will pay for completion of a reopening application, an office visit and diagnostic studies necessary to complete the application. (See chapter 296-20 WAC.) ~~No other benefits will be paid until the adjudication decision is rendered.~~) The department or self-insurer requires different kinds of information at various stages of a claim in order to approve treatment, time loss compensation, and treatment bills. The department or self-insurer may request the following reports at specified points in the claim. The information provided in these reports is needed to adequately manage industrial insurance claims.

<u>Report</u>	<u>Due/Needed by Insurer</u>	<u>What Information Should Be Included In the Report?</u>	<u>Special Notes</u>
<p>Report of Industrial Injury or Occupational Disease (form) Self-Insurance: Physician's Initial Report (form)</p>	<p><u>Immediately - within five days of first visit.</u></p>	<p><u>See form</u></p> <p><u>If additional space is needed, please attach the information to the application. The claim number should be at the top of the page.</u></p>	<p><u>Only MD, DO, DC, ND, DPM, DDS, and OD may sign and be paid for completion of this form.</u></p>
<p>Sixty Day (narrative) Purpose: <u>Support and document the need for continued care when conservative (non-surgical) treatment is to continue beyond sixty days</u></p>	<p><u>Every sixty days when only conservative (non-surgical) care has been provided.</u></p>	<p><u>(1) The conditions diagnosed, including ICD-9-CM codes and the subjective complaints and objective findings.</u></p>	<p><u>Providers may submit legible comprehensive chart notes in lieu of sixty day reports PROVIDED the chart notes include all the information required as noted in the "What Information Should Be Included?" column.</u></p>
		<p><u>(2) The relationship of diagnoses, if any, to the industrial injury or exposure.</u></p> <p><u>(3) Outline of proposed treatment program, its length, components and expected prognosis including an estimate of when treatment should be concluded and condition(s) stable. An estimated return to work date and the probability, if any, of permanent partial disability resulting from the industrial condition.</u></p> <p><u>(4) Current medications, including dosage and amount prescribed. With repeated prescriptions, include the plan and need for continuing medication.</u></p>	<p><u>However, office notes are not acceptable in lieu of requested narrative reports and providers may not bill for the report if chart notes are submitted in place of the report.</u></p> <p><u>Please see WAC 296-20-03021 and 296-20-03022 for documentation requirements for those workers receiving opioids to treat chronic non-cancer pain.</u></p> <p><u>Providers must include their name, address and date on all chart notes submitted.</u></p>

EXPEDITED ADOPTION

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<u>Report</u>	<u>Due/Needed by Insurer</u>	<u>What Information Should Be Included In the Report?</u>	<u>Special Notes</u>
		<p>(5) If the worker has not returned to work, indicate whether a vocational assessment will be necessary to evaluate the worker's ability to return to work and why.</p> <p>(6) If the worker has not returned to work, a doctor's estimate of physical capacities should be included.</p> <p>(7) Response to any specific questions asked by the insurer or vocational counselor.</p>	
<p>Special Reports/Follow-up Reports (narrative)</p>	<p>As soon as possible following request by the department/insurer.</p>	<p>Response to any specific questions asked by the insurer or vocational counselor.</p>	<p>"Special reports" are payable only when requested by the insurer.</p>
<p>Consultation Examination Reports (narrative)</p> <p>Purpose: Obtain an objective evaluation of the need for ongoing conservative medical management of the worker.</p> <p>The attending doctor may choose the consultant.</p>	<p>At one hundred twenty days if only conservative (nonsurgical) care has been provided.</p>	<p>(1) Detailed history.</p> <p>(2) Comparative history between the history provided by the attending doctor and injured worker.</p> <p>(3) Detailed physical examination.</p> <p>(4) Condition(s) diagnosed including ICD-9-CM codes, subjective complaints and objective findings.</p> <p>(5) Outline of proposed treatment program: Its length, components, expected prognosis including when treatment should be concluded and condition(s) stable.</p> <p>(6) Expected degree of recovery from the industrial condition.</p> <p>(7) Probability of returning to regular work or modified work and an estimated return to work date.</p>	<p>If the injured/ill worker had been seen by the consulting doctor within the past three years for the same condition, the consultation will be considered a follow-up office visit, not consultation.</p> <p>A copy of the consultation report must be submitted to both the attending doctor and the department/insurer.</p>

<u>Report</u>	<u>Due/Needed by Insurer</u>	<u>What Information Should Be Included In the Report?</u>	<u>Special Notes</u>
		(8) Probability , if any, of permanent partial disability resulting from the industrial condition. (9) A doctor's estimate of physical capacities should be included if the worker has not returned to work. (10) Reports of necessary, reasonable x-ray and laboratory studies to establish or confirm diagnosis when indicated.	
Supplemental Medical Report (form)	As soon as possible following request by the department/insurer.	See form	Payable only to the attending doctor upon request of the department/insurer.
Attending Doctor Review of IME Report (form) Purpose: Obtain the attending doctor's opinion about the accuracy of the diagnoses and information provided based on the IME.	As soon as possible following request by the department/insurer.	Agreement or disagreement with IME findings. If you disagree, provide objective/subjective findings to support your opinion.	Payable only to the attending doctor upon request of the department/insurer.
Loss of Earning Power (form) Purpose: Certify the loss of earning power is due to the industrial injury/occupational disease.	As soon as possible after receipt of the form.	See form	Payable only to the AP.
Application to Reopen Claim Due to Worsening of Condition (form) Purpose: Document worsening of the accepted condition and need to reopen claim for additional treatment.	Immediately following identification of worsening after a claim has been closed for sixty days. Crime Victims: Following identification of worsening after a claim has been closed for ninety days.	See form	Only MD, DO, DC, ND, DPM, DDS, and OD may sign and be paid for completion of this form.

EXPEDITED ADOPTION

What documentation is required for initial and follow-up visits?

Legible copies of office or progress notes are required for the initial and all follow-up visits.

What documentation are ancillary providers required to submit to the insurer?

Ancillary providers are required to submit the following documentation to the department or self-insurer:

<u>Provider</u>	<u>Chart Notes</u>	<u>Reports</u>
<u>Audiology</u>	X	X
<u>Biofeedback</u>	X	X
<u>Dietician</u>		X
<u>Drug Alcohol Treatment</u>	X	X
<u>Free Standing Surgery</u>	X	X
<u>Free Standing Emergency Room</u>	X	X
<u>Head Injury Program</u>	X	X

<u>Provider</u>	<u>Chart Notes</u>	<u>Reports</u>
<u>Home Health Care</u>		<u>X</u>
<u>Infusion Treatment, Professional Services</u>		<u>X</u>
<u>Hospitals</u>	<u>X</u>	<u>X</u>
<u>Laboratories</u>		<u>X</u>
<u>Licensed Massage Therapy</u>	<u>X</u>	<u>X</u>
<u>Medical Transportation</u>		<u>X</u>
<u>Nurse Case Managers</u>		<u>X</u>
<u>Nursing Home</u>	<u>X</u>	<u>X</u>
<u>Occupational Therapist</u>	<u>X</u>	<u>X</u>
<u>Optometrist</u>	<u>X</u>	<u>X</u>
<u>Pain Clinics</u>	<u>X</u>	<u>X</u>
<u>Panel Examinations</u>		<u>X</u>
<u>Physical Therapist</u>	<u>X</u>	<u>X</u>
<u>Prosthetist/Orthotist</u>	<u>X</u>	<u>X</u>
<u>Radiology</u>		<u>X</u>
<u>Skilled Nursing Facility</u>	<u>X</u>	<u>X</u>
<u>Speech Therapist</u>	<u>X</u>	<u>X</u>

EXPEDITED ADOPTION

WSR 99-18-053
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Division of Vocational Rehabilitation)

[Filed August 27, 1999, 1:45 p.m., effective November 1, 1999]

Date of Adoption: August 27, 1999.

Purpose: To repeal old rehabilitation rules and adopt new rules to comply with the Rehabilitation Act of 1973 as amended in August 1998 including the following Titles: I Vocational Rehabilitation Services; VI Employment Opportunities for Individuals with Disabilities; and VII Independent Living Services and Centers for Independent Living. These rules have been written to comply with the Governor's Executive Order 97-02, Regulatory Improvement.

Citation of Existing Rules Affected by this Order: New chapter 388-890 WAC, Rehabilitation services for individuals with disabilities, will replace the following rules which are being repealed: Repealing 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 Statewide independent living council, and 490-500-635 State rehabilitation advisory council.

Statutory Authority for Adoption: RCW 74.29.020, 74.08.090.

Other Authority: Chapter 74.29 RCW, Rehabilitation Act of 1973 as amended in August 1998.

Adopted under notice filed as WSR 99-12-030 on May 25, 1999.

Changes Other than Editing from Proposed to Adopted Version:

Changes in Response to Comments from the Federal Rehabilitation Services Administration:

- WAC 388-890-0025(2) is changed to include the process used to provide or procure services as one of the options a participant makes informed choices about.
- WAC 388-890-0515 [(15)](e) is changed to include four additional required items on the IPE.
- WAC 388-890-1215 is changed to include that mediation agreements are not binding.

One Change Made in Response to Comments from the Public: WAC 388-890-1230 through 388-890-1250 is changed to eliminate the administrative hearing option in the appeals process.

Number of Sections Adopted in Order to Comply with Federal Statute: New 230, Amended 0, Repealed 63; Federal Rules or Standards: New 230, Amended 0, Repealed 63; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

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Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 4, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 234, Amended 0, Repealed 63.

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 234, Amended 0, Repealed 63.

Effective Date of Rule: November 1, 1999.

August 27, 1999

Marie Myerchin-Redifer, Manager
Rules and Policies Assistance Unit

Chapter 388-890 WAC

REHABILITATION SERVICES FOR INDIVIDUALS WITH DISABILITIES

PURPOSE AND DEFINITIONS

NEW SECTION

WAC 388-890-0005 What is the purpose of this chapter? This chapter explains the types of vocational rehabilitation services (referred to as "VR services" in this chapter) and independent living (IL) services available to individuals who are eligible through the department of social and health services (DSHS), division of vocational rehabilitation (DVR).

VR services are offered to assist individuals with disabilities to prepare for, get and keep jobs that are consistent with their abilities, capabilities, and interests. This chapter is consistent with the laws included under the Rehabilitation Act of 1973, as amended by the Rehabilitation Act Amendments of 1998 and codified in 34 Code of Federal Regulations, Parts 361, 363 and 364.

NEW SECTION

WAC 388-890-0010 What definitions apply to this chapter? Client assistance program is a program that offers free advice and information about your rights when you are receiving services from DVR.

"DSHS" means the Washington state department of social and health services.

"DVR" means the DSHS division of vocational rehabilitation.

"Family member" means a person:

- (1) Who is your relative or legal guardian or someone who lives in the same household as you; and
- (2) Who has a substantial interest in your well-being.

"IL counselor" means an independent living counselor employed by the DSHS division of vocational rehabilitation.

"Impediment to employment" means the physical or mental limitations resulting from a disability that hinder your ability to prepare for a job, find a job, or keep a job that matches your abilities and potential.

"Integrated setting":

(1) for the purpose of receiving services, means a setting commonly found in the community where you would interact with nondisabled people, other than people who are providing VR services to you.

(2) for the purpose of employment, means a setting commonly found in the community in which you interact with nondisabled people to the same extent that a nondisabled person in the same type of job interacts with others.

"VR counselor" means a vocational rehabilitation counselor employed by the DSHS division of vocational rehabilitation.

"You," as used in this chapter, includes your representative or guardian, if a representative or guardian is acting on your behalf or assisting you to make informed decisions about VR or IL program services.

INFORMED CHOICE

NEW SECTION

WAC 388-890-0015 What is informed choice?

Informed choice is a way to make reasonable decisions by comparing the meaningful options available to you and choosing one that matches your strengths, needs, capabilities and interests.

NEW SECTION

WAC 388-890-0020 How does DVR support the informed choice process? DVR supports the informed choice process by:

- (1) Helping you understand the options available to you;
- (2) Sharing information to help you make decisions that match your strengths, needs, capabilities, and interests; and
- (3) Discussing the information provided and offering advice.

NEW SECTION

WAC 388-890-0025 What decisions can I make using informed choice? (1) You have the right to make informed choices throughout the rehabilitation process.

- (2) Your informed choices include, but are not limited to:
 - (a) Your employment goal;
 - (b) VR services you need to reach your employment goal;
 - (c) Service provider(s) for each VR service;
 - (d) Whether to get services in an integrated or nonintegrated setting;
 - (e) Using DVR's purchasing methods if DVR is responsible to pay for services or using your choice of purchasing methods for services you agree to pay for.

NEW SECTION

WAC 388-890-0030 What if I don't know how to use the informed choice decision making process? DVR

PERMANENT

explains to you how to make informed choices in the vocational rehabilitation process, including:

- (1) Any conditions that limit your choices; and
- (2) Support and assistance if the type of disability you have makes it difficult for you to understand and use informed choice to make decisions.

ELIGIBILITY FOR VR SERVICES

NEW SECTION

WAC 388-890-0035 Who is eligible to receive VR services? You are eligible for VR services if you meet all of the following conditions:

- (1) You have a physical, mental, or sensory limitation resulting from a disability that hinders your ability to prepare for, get, or keep a job that matches your abilities and potential;
- (2) You intend to and can work after receiving VR services; and
- (3) You require VR services to prepare for, get or keep a job.

NEW SECTION

WAC 388-890-0040 How does DVR determine whether VR services will enable me to work? (1) In making an eligibility decision, DVR presumes that VR services will enable you to work, unless, because of the significance of your disability, a VR counselor cannot make such a presumption.

- (2) If the significance of your disability prevents a VR counselor from presuming that VR services will enable you to work, you may complete a trial work experience as outlined under WAC 388-890-0670 through 388-890-0705 in order for the counselor to make an eligibility decision.

NEW SECTION

WAC 388-890-0045 Am I eligible for VR services if I receive Social Security disability benefits? (1) If you receive disability benefits under Title II or Title XVI of the Social Security Act and intend to work, DVR presumes that you are eligible, unless, because of the significance of your disability, a VR counselor cannot presume that VR services will enable you to work.

- (2) If the significance of your disability prevents a VR counselor from presuming that VR services will enable you to work, you may complete a trial work experience as outlined in WAC 388-890-0670 through 388-890-0705 in order for the counselor to make an eligibility decision.

NEW SECTION

WAC 388-890-0050 What criteria are not considered in the eligibility decision? DVR does not base an eligibility decision on you:

- (1) Type of disability;
- (2) Age, gender, race, color, creed, national origin, or sexual orientation;

- (3) Rehabilitation needs;
- (4) Cost of services; or
- (5) Income level.

NEW SECTION

WAC 388-890-0055 What information does DVR use to make an eligibility decision? (1) To determine whether you are eligible for VR services, a VR counselor reviews existing records about the current status of your disability.

- (2) Information may be provided to DVR by you, your family, or other service providers who have information about your disability, such as your doctor, schools you attended, or the Social Security Administration.

(3) If existing information does not verify whether you are eligible, DVR explains what additional information is needed and the options for getting the information.

- (4) DVR provides or pays for medical evaluations, tests, assistive technology services, technology devices, or other services needed to document that you are eligible for VR services.

(5) When enough information is available, a VR counselor reviews the information and makes an eligibility decision.

NEW SECTION

WAC 388-890-0060 After I submit my application to DVR, how long does it take DVR to make an eligibility decision? DVR makes an eligibility decision as soon as enough information is available, but no longer than sixty days after you complete the application requirements under WAC 388-890-0105.

- (1) If DVR does not have enough information to determine your eligibility within sixty days, you and a VR counselor must:

- (a) Discuss the reason for the delay and whether other methods to get the information are needed;
- (b) Agree to extend the eligibility period, if you agree; or
- (c) If the significance of your disability prevents a VR counselor from presuming that VR services will enable you to work, you may complete a trial work experience as outlined under WAC 388-890-0670 through 388-890-0705 in order for the counselor to make an eligibility decision.

(2) If you do not agree to extend the eligibility determination period, DVR must close your case service record.

NEW SECTION

WAC 388-890-0065 What happens if DVR determines that I am not eligible? (1) Before making a decision that you are not eligible for VR services, a VR counselor consults with you and gives you an opportunity to discuss the decision.

- (2) DVR sends you a notice of ineligibility in writing, or using another method of communication, if needed. The written notice includes:

- (a) An explanation of the reasons you are not eligible;
- (b) Your rights to appeal the decision as outlined under WAC 388-890-1180; and

(c) An explanation of the services available from the client assistance program as outlined in WAC 388-890-1185.

NEW SECTION

WAC 388-890-0070 If I am not eligible for DVR services, can DVR help me find other services and programs to meet my needs? If DVR determines that you are not eligible for DVR services, DVR provides you with information and refers you to other agencies or organizations that may provide services to meet your needs.

NEW SECTION

WAC 388-890-0071 If I am eligible for or ineligible for VR services, how will I be notified? A VR counselor sends you written explanation of your eligibility or ineligibility for VR services that includes a description of the client assistance program (CAP) and how to contact CAP.

APPLICATION REQUIREMENTS

NEW SECTION

WAC 388-890-0075 Who can apply for vocational rehabilitation services? Any individual has the right to apply for VR services, including individuals who:

- (1) Applied before, were determined eligible and received VR services; or
- (2) Were previously determined ineligible or were denied VR services for other reasons.

NEW SECTION

WAC 388-890-0080 Can I receive VR services if I am not a United States citizen? DVR serves individuals who are legally eligible to work in the United States.

NEW SECTION

WAC 388-890-0085 Am I required to provide proof of my identity and work status? If you apply for VR services, you must provide copies of legal documents requested by DVR that verify your identity and that verify you can legally work in the United States before DVR can offer you VR services.

NEW SECTION

WAC 388-890-0090 If I don't live in Washington, can I receive VR or IL program services? (1) The state in which you live has the primary responsibility to provide VR services to you.

(2) You may receive services from DVR if you are present or intend to be present in Washington in a way that you would be counted for census purposes, including but not limited to:

- (a) You pay income taxes;
- (b) You maintain a home; or
- (c) You are registered to vote.

(3) To receive IL program services, you must be able to receive the services in a DVR region where IL program services are offered.

NEW SECTION

WAC 388-890-0095 Can I receive VR services if I am legally blind? The Washington state department of services for the blind, under an agreement with DVR, is the primary agency to provide vocational rehabilitation services to individuals who are blind or have a visual impairment resulting in an impediment to employment.

NEW SECTION

WAC 388-890-0100 Can I receive VR or IL program services if I am Native American? DVR serves eligible Native Americans, including Native Americans who belong to an Indian tribe. If you live on an Indian reservation that operates a vocational rehabilitation program, you may apply for VR services from the tribe or from DVR.

NEW SECTION

WAC 388-890-0105 How do I apply for VR services? To complete the application process:

(1) Sign an application form provided by DVR or provide a written request that includes the following information:

- (a) Your name and address;
- (b) The nature of your disability;
- (c) Your age and gender;
- (d) The date of application; and
- (e) Your Social Security Number (optional).

(2) Meet with a DVR representative to:

- (a) Learn about VR services and processes;
- (b) Provide information needed to begin an assessment of your eligibility and VR service needs; and

(c) Make sure you are available to complete the assessment process for determining if you are eligible for VR services.

GENERAL CONDITIONS FOR RECEIVING VOCATIONAL REHABILITATION SERVICES

NEW SECTION

WAC 388-890-0110 Under what general conditions does DVR provide vocational rehabilitation services to individuals? (1) DVR provides VR services to individuals under the following general conditions.

- (a) The services are needed to:
 - (i) Get and/or keep a job or advance in employment;
 - (ii) Determine your eligibility for services;
 - (iii) Identify your vocational rehabilitation needs; or
 - (iv) Develop or complete your individual plan for employment (IPE).
- (b) You have an open case service record and DVR authorizes the services before the services begin;

(c) The services are provided directly by a VR counselor or purchased by DVR from a service provider who meets local, state and/or national standards required to practice in the field and/or do business in the state;

(d) The services are provided in accordance with payment for services requirements under WAC 388-890-1100 through 388-890-1175; and

(e) The services are consistent with your informed choice, including whether to receive services in an integrated or nonintegrated setting.

(2) Unique or additional conditions that apply to a specific service are outlined under WAC 388-890-0150 to 388-890-0450.

NEW SECTION

WAC 388-890-0115 Can I ask for an exception to a rule or a condition relating to VR services? You or a VR counselor may request an exception to any rule or condition relating to VR services in this chapter if the exception is needed to:

- (1) Complete an assessment to determine eligibility;
- (2) Identify the VR services you need; or
- (3) Achieve your employment goal.

NEW SECTION

WAC 388-890-0120 How do I ask for an exception to a rule or condition in this chapter? (1) A request for exception to a rule or condition in this chapter is submitted to the regional administrator in writing, and must include:

- (a) A description of the exception being requested;
- (b) The reason for the exception; and
- (c) The duration of the exception, if applicable.

(2) An exception requesting a medical service that is otherwise not provided by DVR may only be requested on a trial basis or for a short duration to be specified in the request.

(3) After getting your request for an exception, the regional administrator considers:

- (a) The impact of the exception on accountability, efficiency, choice, satisfaction, and quality of services;
- (b) The degree to which your request varies from the rule or condition; and
- (c) Whether the rule or condition is a federal rule or regulation that cannot be waived.

(4) The regional administrator responds to the request for an exception within ten working days of receipt of the request.

(a) If the request is approved, the regional administrator will provide a written approval that includes:

- (i) The specific WAC for which an exception is approved;
 - (ii) Any conditions of approval; and
 - (iii) Duration of the exception.
- (b) If the request is denied, the regional administrator will provide a written explanation of the reasons for the denial.

(5) If the regional administrator makes a decision that you do not agree with, you have the right to appeal the decision as outlined under WAC 388-890-1180.

NEW SECTION

WAC 388-890-0125 What happens if the service I want exceeds what I need or is more expensive than a similar service? (1) DVR pays for services at the level required to meet your needs at the lowest cost possible.

(2) You may select the following service providers without regard to the fees charged:

- (a) Assistive technology service providers;
- (b) Community rehabilitation program service providers; and
- (c) Independent living service providers.

(3) If you and a VR counselor cannot agree on the type or level of services you need, you may ask for a review of the decision as outlined under WAC 388-890-1180.

NEW SECTION

WAC 388-890-0130 Can a guardian or another representative act on my behalf? (1) You may select another person as your representative during the VR or IL program.

(2) If you have a legal guardian or a court-appointed representative, he or she must act as your representative.

(a) A legal guardian or court-appointed representative must provide DVR with documentation of guardianship.

(b) Your legal guardian or court-appointed representative must sign the application and other documents that require your signature.

VOCATIONAL REHABILITATION SERVICES

NEW SECTION

WAC 388-890-0135 What is the purpose of vocational rehabilitation (VR) services? VR services are services provided to you to meet your specific needs to prepare for, get, and keep a job, or to advance in employment if you are working. Vocational rehabilitation services include services listed in WAC 388-890-0145.

NEW SECTION

WAC 388-890-0140 How do I know which VR services are right for me? DVR explains how the different VR services are used and gives you the information and support you need to make decisions about the services you need.

NEW SECTION

WAC 388-890-0145 What vocational rehabilitation services are available to individuals from DVR? The following VR services are available to individuals from DVR:

- (1) Assessment services;
- (2) Assistive technology devices;
- (3) Assistive technology services;
- (4) Counseling and guidance services;
- (5) Independent living services;
- (6) Interpreter services;
- (7) Job placement and job retention services;
- (8) Maintenance services;

- (9) Occupational licenses;
- (10) Other goods and services;
- (11) Personal assistance services;
- (12) Physical and mental restoration services;
- (13) Post-employment services;
- (14) Reader services;
- (15) Referral services;
- (16) Rehabilitation engineering services;
- (17) Self-employment services;
- (18) Services to family members;
- (19) Supported employment services;
- (20) Tools, equipment, initial stocks, and supplies;
- (21) Training services;
- (22) Transition services; and
- (23) Transportation services.

NEW SECTION**WAC 388-890-0150 What are assessment services?**

- (1) Assessment services are used to collect information about your:
- (a) Disability and how it keeps you from working;
 - (b) Strengths;
 - (c) Resources;
 - (d) Priorities;
 - (e) Concerns,
 - (f) Abilities;
 - (g) Capabilities;
 - (h) Interests; and
 - (i) Needs, including your need for supported employment.
- (2) Assessment services include the VR services listed under WAC 388-890-0145.

NEW SECTION

WAC 388-890-0155 To determine whether I am eligible for VR services, who decides what assessment services I need and where to get the assessment services? If enough information is not available to determine whether you are eligible for VR services:

- (1) DVR decides what assessment services are needed; and
- (2) You use informed choice to choose service providers for assessment services you need.

NEW SECTION

WAC 388-890-0160 If I need assessment services to help me choose an employment goal and what VR services I need, who decides what assessment services I need and where to get the assessment services? If you need assessment services to determine your vocational rehabilitation needs or to develop your individualized plan for employment (IPE), you use informed choice to select the:

- (1) Assessment services; and
- (2) Service providers.

NEW SECTION

WAC 388-890-0165 What if I already have assessment information to help me and DVR make the decisions we need to make? No assessment services are needed if the information you already have is complete and current enough:

- (1) For a VR counselor to make a decision about your eligibility; and
- (2) To help you make decisions about your vocational rehabilitation needs and the VR services you need on your IPE.

NEW SECTION

WAC 388-890-0170 How do I provide needed assessment information to DVR? You may give information needed for an assessment directly to DVR or you may give written consent to DVR to get the information from other sources including, but not limited to:

- (1) Doctors or other medical service providers;
- (2) Community programs or organizations that have provided services to you;
- (3) Schools you attended.

NEW SECTION

WAC 388-890-0175 What is an assistive technology device? An assistive technology device is any item, piece of equipment or product, either commercially available or custom-designed that is used to increase, maintain or improve your functional capacities. Assistive technology devices include, but are not limited to:

- (1) Telecommunications devices;
- (2) Sensory aids and devices including hearing aids, telephone amplifiers and other hearing devices, real time captioning, captioned videos, taped text;
- (3) Eyeglasses, contact lenses, microscopic lenses, Brailled and large print materials; electronic formats; graphics and other special visual aids;
- (4) Simple language materials;
- (5) Vehicle modifications;
- (6) Computer and computer-related hardware and software;
- (7) Other technological aids and devices.

NEW SECTION

WAC 388-890-0180 Under what conditions does DVR provide and issue assistive technology devices? (1) DVR provides assistive technology devices to you under conditions specified in WAC 388-890-0110.

- (2) DVR issues assistive technology devices to you under conditions specified in WAC 388-890-0455 through 388-890-0480.

NEW SECTION

WAC 388-890-0185 Under what conditions does DVR provide vehicle modifications? DVR provides vehicle

modifications to you under conditions specified in WAC 388-890-0110, and:

(1) If a used vehicle is to be modified, an inspection from a certified or journey level auto mechanic must be performed and documented to ensure the vehicle is in good condition and capable of being modified.

(2) You, your spouse, or other family member is the registered and/or legal owner of the vehicle.

(3) You agree to pay for and have driver insurance and vehicle insurance adequate to cover the cost of replacement for loss or damage at the time of modification.

(4) A specialist in evaluation and modification of vehicles for individuals with disabilities prescribes and inspects the modification, except prescriptions are not required for:

(a) Placement of a wheelchair lift, ramp, or scooter lift and tie downs for passenger access only;

(b) Replacement of hand controls;

(c) Wheelchair carriers; and

(d) Other minor driving aids.

(5) If you operate the vehicle:

(a) Your disability must be stable or slowly progressive and not likely to impair your driving ability in the future.

(b) You agree to pay for and have a current driver's license and vehicle license with required endorsements.

(c) Following modification, you are adequately trained to operate the vehicle as modified.

(d) You demonstrate that you can safely operate the vehicle as modified.

(6) If someone else operates the vehicle for you, you agree to pay for and have a current vehicle license with required endorsements.

NEW SECTION

WAC 388-890-0190 What are assistive technology services? Assistive technology services help you to select, get or use an assistive technology device. Assistive technology services include, but are not limited to services that:

(1) Evaluate your needs and how you perform activities in your daily environment;

(2) Select, design, fit, customize, adapt, apply, maintain, repair, or replace an assistive technology device;

(3) Coordinate and use other therapies or services that have assistive technology devices such as existing education and rehabilitation plans and programs;

(4) Train or give technical assistance on the use of assistive technology to you or your family members, guardians, advocates or authorized representatives;

(5) Train or give technical assistance to professionals, employers, or others who provide services to you, hire you, or are involved in your major life activities if they need training on the use of assistive technology to help you get or keep a job.

NEW SECTION

WAC 388-890-0195 Under what conditions does DVR provide assistive technology services? DVR provides assistive technology services under the conditions outlined in WAC 388-890-0110.

NEW SECTION

WAC 388-890-0200 What are counseling and guidance services? Counseling and guidance services are information and support services provided by a VR counselor to assist you to make informed decisions about your VR services. Counseling and guidance services include, but are not limited to:

(1) Explaining your responsibilities in a VR program;

(2) Explaining the nature and scope of VR services;

(3) Explaining the use of services and resources available from other programs as comparable services and benefits;

(4) Explaining information about your strengths, resources, priorities, interests, and rehabilitation needs;

(5) Explaining your opportunities to make informed choices;

(6) Helping you collect and understand information needed to decide on a employment goal;

(7) Providing you information and support to decide which services and activities you need to reach your employment goal;

(8) Providing support and information to you and someone you choose to develop all or part of your individualized plan for employment;

(9) Explaining how to use services to reach your employment goal;

(10) Providing you support and advice when issues arise during your VR program that relate to health, family, finances, interpersonal relationships, appearance, and other issues that could impact your vocational rehabilitation;

(11) Providing information and support, with your permission, to employers, family members, relatives or others to help you get or keep a job.

NEW SECTION

WAC 388-890-0210 Under what conditions does DVR provide counseling and guidance services? A VR counselor provides counseling and guidance services as needed throughout the rehabilitation process.

NEW SECTION

WAC 388-890-0220 What are independent living services? Independent living services help you deal with life issues that may prevent you from getting and keeping a job. Independent living services include, but are not limited to:

(1) An evaluation to help you find out about the:

(a) Issues in your life that may present problems for you in vocational rehabilitation and in work;

(b) Ways to deal with life issues that present problems for you; and

(c) Services you need to help you deal with the issues.

(2) Self-advocacy to help you find out about and manage the services you need to live independently and to help you find out about benefit rights and responsibilities;

(3) Independent living counseling to help you set personal goals, learn how to make decisions that relate to life

issues and employment and to help your family with issues related to your disability and independence;

(4) Independent living skills training to help you get skills to manage and balance your life in areas including, but not limited to budgeting, meal preparation and nutrition, shopping, hygiene, time management, recreation, necessary community resources, and attendant management;

(5) Living arrangement counseling, including helping you to:

(a) Find out about housing resources and the qualifications for applying for housing;

(b) Make decisions about the living arrangements you want and need; and

(c) Make decisions about changing to a more independent living arrangement.

NEW SECTION

WAC 388-890-0225 Under what conditions does DVR provide independent living services? DVR provides independent living services under the conditions outlined in WAC 388-890-0110 and DVR does not pay your family members to provide independent living services.

NEW SECTION

WAC 388-890-0230 What are interpreter services? Interpreter services are services to assist deaf, deaf-blind, and hard of hearing individuals who use sign language or another form of communication to express and receive information with other individuals who use speech and hearing to communicate. An example of interpreter services is the use of an interpreter by a deaf person who communicates in American Sign Language to express and receive information with a person who speaks English. Interpreter services include:

(1) Oral interpreting, in which the interpreter mouths (without voice) what the speaker says, using some natural facial expressions;

(2) Sign interpreting, in which the interpreter signs what the speaker says;

(3) Tactile interpreting, in which a hands-on interpreting method is used with people who are deaf-blind. The interpreter communicates what the speaker says by signing and/or fingerspelling into the hands of the deaf-blind person; and

(4) Voice interpreting, in which the interpreter speaks what a deaf person is mouthing or signing.

NEW SECTION

WAC 388-890-0235 Under what conditions can I receive interpreter services? DVR provides interpreter services under the conditions outlined in WAC 388-890-0110.

NEW SECTION

WAC 388-890-0240 What are job placement and job retention services? Job placement and job retention services help you get or keep a job that meets your employment goal.

(1) Job placement includes job search to help you look for and find a job.

(2) Job retention includes follow-up services to help you keep a job once you are working.

NEW SECTION

WAC 388-890-0245 Under what conditions can I receive job placement and job retention services? DVR provides job placement and job retention services to you under the conditions listed in WAC 388-890-0110, and:

(1) A VR counselor provides job placement services to help you conduct a self-directed job search; or

(2) DVR purchases job placement services only if:

(a) You and your VR counselor agree that you are unable to conduct a self-directed job search because of the significance of your disability; or

(b) You have tried to conduct a self-directed job search without success.

NEW SECTION

WAC 388-890-0250 What are maintenance services? Maintenance services include financial assistance for food, shelter, and/or clothing expenses that occur in excess of your usual living expenses in order for you to participate in another VR service. The following examples include, but are not limited to, the ways maintenance may be used:

(1) A uniform or other suitable clothing required to look for or get a job;

(2) Short-term lodging and meals required to participate in assessment or training services not within commuting distance of your home;

(3) A security deposit or utility hook-ups on housing you need to relocate for a job.

NEW SECTION

WAC 388-890-0255 Under what conditions does DVR provide maintenance services? DVR provides maintenance services under the conditions in WAC 388-890-0110, and if you and your VR counselor agree that you need maintenance services to participate in another VR service.

NEW SECTION

WAC 388-890-0260 What are occupational licenses? Occupational licenses are licenses, permits or certificates showing you meet certain standards or have accomplished certain achievements and/or have paid dues, fees or otherwise qualify to engage in a business, a specific occupation or trade, or other work related activity.

NEW SECTION

WAC 388-890-0265 Under what conditions can I get an occupational license? DVR pays fees for occupational licenses under the conditions listed in WAC 388-890-0110 and if you meet the requirements to hold the occupational license as established by the licensor.

NEW SECTION

WAC 388-890-0270 What other goods and services does DVR provide? DVR provides other miscellaneous goods and services to meet your specific needs for vocational rehabilitation and employment.

NEW SECTION

WAC 388-890-0275 Under what conditions does DVR provide and issue other goods and services? (1) DVR provides other goods and services to you under conditions specified in WAC 388-890-0110.

(2) DVR issues other goods and services to you as outlined under WAC 388-890-0455 through 388-890-0480.

NEW SECTION

WAC 388-890-0280 What are personal assistance services? Personal assistance services increase your ability to perform daily living activities on or off the job to help you get or keep a job. Personal assistance services include, but are not limited to, bathing, dressing, cooking, eating, and helping you move around.

NEW SECTION

WAC 388-890-0285 Under what conditions does DVR provide or pay for personal assistance services? DVR provides personal assistance services under the conditions listed in WAC 388-890-0110, and:

(1) If needed to help you participate in another VR service.

(2) Your family members cannot be paid to provide personal assistance services.

NEW SECTION

WAC 388-890-0290 What are the physical and mental restoration services DVR provides? Physical and mental restoration services are used to diagnose and treat physical and mental impairments for the purposes of correcting, improving, modifying or accommodating a physical or mental condition. Physical and mental restoration services include:

- (1) Cognitive rehabilitation services;
- (2) Corrective surgery or therapy;
- (3) Diagnosis and treatment of mental or emotional disorders by licensed individuals;
- (4) Dental treatment if the treatment is directly related to an employment outcome, or in emergency situations involving pain, acute infections, or injury;
- (5) Nursing services;
- (6) Hospitalization, including surgery or treatment, and clinic services;
- (7) Drugs and supplies;
- (8) Prosthetic and orthotic devices;
- (9) Visual examinations and visual treatment;
- (10) Podiatry;
- (11) Physical therapy;

(12) Occupational therapy;

(13) Speech or hearing therapy;

(14) Treatment of acute or chronic medical conditions and emergencies that occur when providing physical and mental restoration services, or that are related to the condition being treated;

(15) Special services for the treatment of end-stage renal disease; and

(16) Other medical or medically-related rehabilitation services.

NEW SECTION

WAC 388-890-0295 Under what conditions does DVR provide physical and mental restoration services? DVR provides physical and mental restoration services under the conditions in WAC 388-890-0110, and if:

(1) Your disabling condition is stable or slowly progressive; and

(2) The service is expected to substantially modify, correct, or improve a physical or mental impairment that is a substantial impediment to employment for you within a reasonable length of time.

NEW SECTION

WAC 388-890-0300 What are the medical treatments DVR does not pay for? DVR does not pay for the following medical treatments:

(1) Maintenance of your general health including, but not limited to, vitamins, in-patient hospital based weight loss programs or for-profit weight loss programs, exercise programs, health spas, swim programs and athletic fitness clubs;

(2) Facelifts, liposuction, cellulite removal;

(3) Maternity care;

(4) Hysterectomies, elective abortions, sterilization, and contraceptive services as independent procedures;

(5) Drugs not approved by the Federal Drug Administration for general use or by state law;

(6) Life support systems, services, and hospice care;

(7) Transgender services including surgery and medication management;

(8) Homeopathic and herbalist services, Christian Science practitioners or theological healers; and

(9) Treatment that is experimental, obsolete, investigational, or otherwise not established as effective medical treatment.

NEW SECTION

WAC 388-890-0305 What are post-employment services? Post employment services are one or more of the vocational rehabilitation services listed in WAC 388-890-0145, provided after DVR determines you have achieved an employment outcome or a supported employment outcome, your case service record is closed, and you need additional services to help you keep, regain or advance in employment.

NEW SECTION

WAC 388-890-0310 Under what conditions does DVR provide post-employment services? DVR provides post-employment services under the conditions listed in WAC 388-890-0110, and if:

- (1) Your VR case service record was closed because you achieved an employment outcome;
- (2) Your VR case service record has been closed less than three years; and
- (3) The impediments to employment related to your disability have not changed to the extent that you require more than short term intervention to keep, regain, or advance in employment within the same or closely related occupation.

NEW SECTION

WAC 388-890-0315 What are reader services? Reader services help you get information from printed text if your disability impairs or prevents you from getting information from printed text. An example of reader services is the use of a person to read print materials such as job announcements and letters from possible employers to an individual with dyslexia or an individual who is blind.

NEW SECTION

WAC 388-890-0320 Under what conditions does DVR provide reader services? DVR provides reader services under the conditions listed in WAC 388-890-0110.

NEW SECTION

WAC 388-890-0325 What are referral services? Referral services help you find and get services or benefits from other programs or agencies.

NEW SECTION

WAC 388-890-0330 Under what conditions does DVR provide referral services? DVR provides referral services under the conditions listed in WAC 388-890-0110, and if:

- (1) A VR counselor determines you are not eligible for DVR services; or
- (2) You and a VR counselor identify services or benefits available to you from another agency or organization and you agree to be referred.

NEW SECTION

WAC 388-890-0335 What is rehabilitation engineering? Rehabilitation engineering is a type of rehabilitation technology service. Rehabilitation engineering uses engineering sciences to design, develop, adapt, test, evaluate, and implement new and unique products to help you maintain or improve your ability to move around, communicate, hear, see, and understand things.

NEW SECTION

WAC 388-890-0340 Under what conditions does DVR provide rehabilitation engineering? DVR provides rehabilitation engineering services under the conditions listed in WAC 388-890-0110.

NEW SECTION

WAC 388-890-0345 What are self-employment services? Self-employment services include:

- (1) Consultation and technical assistance to help you conduct market analyses, develop business plans, and use other resources to pursue self-employment or to establish a small business to become self-employed;
- (2) All services required to help you in self-employment including, but not limited to:
 - (a) Planning;
 - (b) Consultation;
 - (c) Initial stocks and supplies;
 - (d) Tools;
 - (e) Equipment;
 - (f) Business licenses;
 - (g) Fees.

NEW SECTION

WAC 388-890-0350 Under what conditions does DVR provide self-employment services and issue items for self-employment? (1) DVR provides self-employment services under the conditions listed in WAC 388-890-0110.

(2) DVR issues items for self-employment under WAC 388-890-0455 through 388-890-0480.

(3) Before DVR supports a self-employment goal, you must complete a business plan that demonstrates that the self-employment you are considering is feasible, sustainable, and results in employment.

(4) DVR does not support hobbies or activities that do not result in an income-producing self-employment outcome.

NEW SECTION

WAC 388-890-0355 What are services to family members? Services to family members are provided to a family member, guardian, or household member with whom you have a close interpersonal relationship. Services to family members include, but are not limited to:

- (1) Family or marital counseling;
- (2) Information and referral services to family members as appropriate;
- (3) Child care.

NEW SECTION

WAC 388-890-0360 Under what conditions does DVR provide services to my family members? DVR provides services to family members under the conditions listed in WAC 388-890-0110 and the following additional conditions for child care:

(1) DVR pays for the following types of licensed child care and child care exempt from licensing in conformance with DSHS children's administration regulations and licensing or certification requirements:

- (a) Child day care centers as outlined in WAC 388-150-020 (1)(2) and (4) through (8)(a);
- (b) Family child day care homes as outlined in WAC 388-155-020 (1) through (6)(a); and
- (c) School-age child care centers as outlined in WAC 388-151-010 and 388-151-020.

(2) DVR pays for in-home or relative child care including:

- (a) Child care provided to your child(ren) in your home by a relative or other person; and
- (b) Child care provided to your child(ren) by a relative outside of your home.

(3) For in-home or relative child care, you assume full responsibility for the qualifications of the child care provider and the quality of child care services.

(4) DVR pays the child care provider's usual rates for child care services directly to the child care provider.

NEW SECTION

WAC 388-890-0365 What are supported employment services? See WAC 388-890-0570 through 388-890-0665 for supported employment program and services.

NEW SECTION

WAC 388-890-0370 What are tools, equipment, initial stocks and supplies? Tools, equipment, initial stocks and supplies are materials and hardware required to carry out the duties of a job.

NEW SECTION

WAC 388-890-0375 Under what conditions does DVR provide and issue tools, equipment, initial stocks and supplies? (1) DVR provides tools, equipment, initial stocks and supplies under the conditions listed in WAC 388-890-0110.

(2) DVR issues tools, equipment, initial stocks and supplies under WAC 388-890-0455 through 388-890-0480.

NEW SECTION

WAC 388-890-0380 What are training services? Training services assist you to gain knowledge, skills and abilities needed for employment. Training services, include, but are not limited to:

- (1) Training to develop work habits, work behaviors, and work skills;
- (2) On-the-job training;
- (3) Vocational, technical, trade or business training;
- (4) Post-secondary academic training;
- (5) Books, tools, fees, and other training supplies;
- (6) Independent living training;
- (7) Tutoring that supports another training service you are receiving;

(8) Other types of training that strengthen your knowledge, skills and abilities.

NEW SECTION

WAC 388-890-0385 What is on-the-job training? On-the-job training is a way to gain work skills needed for a specific job after being placed in that job. After you start a job, the employer or the employer's designee provides individualized training to teach you the skills you need to perform the job. DVR may reimburse an employer for training costs that exceed the employer's usual costs to train a new employee.

NEW SECTION

WAC 388-890-0390 Under what conditions does DVR provide on-the-job training? DVR provides on-the-job training as a training service under the conditions in WAC 388-890-0110 and if:

- (1) An employer has hired you;
- (2) The employer or employer's designee has the skills to provide the training you need to learn the job; and
- (3) The employer signs an agreement to include at a minimum:
 - (a) Training to be provided by the employer or designee;
 - (b) Duration or number of hours of training to be provided;
 - (c) How the employer will evaluate and report your progress to DVR;
 - (d) Employer's cost to provide the training; and
 - (e) Agreed-upon fee, including payment criteria.

NEW SECTION

WAC 388-890-0395 Under what conditions does DVR provide training services and issue items for training? (1) DVR provides training services under the conditions listed in WAC 388-890-0110.

(2) DVR issues devices, tools, equipment or other items used for training under WAC 388-890-0455 through 388-890-0480.

(3) Training at an institution of higher education (universities, colleges, community or junior colleges, vocational schools, technical institutes, or hospital schools of nursing) is provided only after you and a VR counselor have made maximum efforts to get and use grant funding, in whole or in part, from other sources to pay for the training.

(4) You must give DVR a copy of your grant funding award or denial form when it is available.

NEW SECTION

WAC 388-890-0400 Do I have to apply for a student loan to pay for training services? You are not required to apply for a student loan to pay for training services.

NEW SECTION

WAC 388-890-0405 Can I receive training services from a private school, an out-of-state training agency or

an out-of-state college? If you choose training services from a private school, an out-of-state training agency or an out-of-state college when an in-state or public program is available and adequate to meet your needs, the following conditions apply:

- (1) The private school, out-of-state training agency or out-of-state college must meet DVR standards; and
- (2) You are responsible for any costs related to the training in excess of what DVR would pay for the training service from a public school or in-state training agency.

NEW SECTION

WAC 388-890-0410 What are transition services? (1) Transition services are work-related activities you begin while you are in high school that are coordinated with VR services to help you prepare for and go to work in the community after you leave high school.

- (2) Transition services may include any of the VR services listed under WAC 388-890-0145.

NEW SECTION

WAC 388-890-0415 Under what conditions does DVR provide transition services? DVR provides transition services under the conditions listed in WAC 388-890-0110, and if you:

- (1) Are a high school student with a disability; and
- (2) Will complete high school during the next twelve months.

NEW SECTION

WAC 388-890-0420 How does DVR coordinate with public high schools to provide transition services? VR counselors work with teachers and other staff in public high schools to coordinate and provide transition services as outlined under an interagency agreement between DVR and the office of superintendent of public instruction.

NEW SECTION

WAC 388-890-0425 How does DVR help me plan transition services? DVR offers counseling and guidance to help you to make informed choices about what VR services and activities you need to:

- (1) Assess your rehabilitation needs, including your need to move to a more independent living arrangement;
- (2) Decide on an employment goal; and
- (3) Decide what VR services are needed to reach your employment goal.

NEW SECTION

WAC 388-890-0430 Who decides what transition services I get from DVR? With support from a VR counselor, you use informed choice to make decisions about which activities and VR services to use based on your individual needs, preferences, interests, and employment goals.

NEW SECTION

WAC 388-890-0435 What activities does DVR support after I leave high school? DVR supports activities that help you select and reach your employment goal, including but not limited to:

- (1) Employment, including supported employment;
- (2) Training at a vocational school, technical school, on-the-job training, or other training agency;
- (3) Continuing education at a college, community college, or other post-secondary school;
- (4) Referral to other community services or organizations that offer services to adults to live more independently and to get or keep a job.

NEW SECTION

WAC 388-890-0440 What are transportation services? Transportation services help you get around in the community to participate in VR services or to get or keep a job. Transportation services include, but are not limited to:

- (1) Public transportation fares or passes;
- (2) Estimated cost of gasoline;
- (3) Vehicle repair and maintenance;
- (4) Attendant fees and travel costs while in travel status;
- (5) Purchase of vehicles.

NEW SECTION

WAC 388-890-0445 Under what conditions does DVR provide transportation services? DVR provides transportation services to you under conditions specified in WAC 388-890-0110 and if provided in connection with another VR service.

NEW SECTION

WAC 388-890-0450 Under what conditions does DVR provide and issue a vehicle? (1) DVR provides a vehicle under the conditions outlined under WAC 388-890-0110 and 388-890-0125, and:

- (a) Your disability is stable or slowly progressive, and is not likely to impair your ability to drive in the future.
- (b) You and a VR counselor agree it is a necessary service under your individualized plan for employment (IPE) because:
 - (i) No other transportation options are available and it is not feasible for you to relocate to live closer to employment or other transportation options; or
 - (ii) A vehicle is required as a condition of employment before you can get or keep a job.
- (c) The vehicle is provided in support of another VR service.
- (d) You do not have a vehicle or your vehicle cannot be modified or repaired to the extent that you can drive it.
- (e) You agree to:
 - (i) Be the registered owner of the vehicle; and
 - (ii) Pay for and have a current driver's license, vehicle license, and vehicle registration.

(f) Pay for and have driver insurance and vehicle insurance adequate to cover the cost of replacement for loss or damage at the time the vehicle is issued to you.

(2) DVR issues a vehicle as outlined under WAC 388-890-0455 through 388-890-0480.

ISSUING AND RETURNING EQUIPMENT AND DEVICES FOR PARTICIPANT USE

NEW SECTION

WAC 388-890-0455 Under what conditions does DVR issue a device, tool, piece of equipment or other item I need to participate in VR services or to get a job? If you need a device, tool, piece of equipment or other item to participate in VR services or to go to work, DVR provides the item under the conditions listed in WAC 388-890-0110 and if the item meets applicable local, state and national engineering safety, and, health standards.

NEW SECTION

WAC 388-890-0460 What conditions apply to the use of a device, tool, piece of equipment or other item that is issued to me? If DVR determines an item may be re-used by another person if it is returned, you must sign a statement agreeing to the following before DVR issues the item to you:

(1) DVR has ownership of the item issued to you, and you understand permission for use may be taken away by DVR at any time;

(2) You agree to immediately return the item if DVR requests you to do so and you understand you are responsible to pay for the item if you do not immediately return it to DVR;

(3) You agree to maintain the item according to manufacturer's guidelines, if applicable, and keep it secure from damage, loss or theft; and

(4) You agree to engrave an identification number on all or part of the item, if requested to do so by DVR.

NEW SECTION

WAC 388-890-0465 What types of devices, tools, pieces of equipment or other items can DVR issue to me? DVR issues devices, tools, equipment, or other items that you need to participate in VR services or to get a job, including but not limited to:

(1) Assistive technology devices as outlined under WAC 388-890-0175;

(2) Equipment, supplies or other items needed for self-employment as outlined under WAC 388-890-0345;

(3) Tools, equipment, initial stocks or supplies as outlined under WAC 388-890-0370;

(4) A vehicle as outlined under WAC 388-890-0440;

(5) Tools and other training supplies as outlined under WAC 388-890-0380.

NEW SECTION

WAC 388-890-0470 Does DVR issue new or used devices, tools, pieces of equipment, or other items? (1) If an item is readily available from DVR's inventory that is appropriate and adequate to meet your specific needs, DVR issues the item to you.

(2) If the item is not available from DVR's inventory, DVR locates the item for issue to you from another source.

NEW SECTION

WAC 388-890-0475 What happens if I fail to return a device, tool, piece of equipment or other item if requested by DVR? If DVR directs you to return any item issued to you but owned by DVR and you do not immediately return it, DVR reports the loss to the DSHS office of financial recovery (OFR). The OFR attempts to recover the item or payment for the item from you. If the OFR cannot recover the item(s) or payment for the item(s) from you, the OFR report may be the loss to the local county prosecutor for legal action.

NEW SECTION

WAC 388-890-0480 What happens to a device, tool, piece of equipment or other item if I need it when my DVR case service record is closed? DVR transfers ownership of the device, tool, piece of equipment or other item to you at the time DVR closes your case if you:

(1) Are working in a job that requires the item;

(2) Do not need additional VR services; and

(3) A VR counselor determines you have achieved an employment outcome.

INDIVIDUALIZED PLAN FOR EMPLOYMENT (IPE)

NEW SECTION

WAC 388-890-0485 What is an individualized plan for employment (IPE)? (1) An individualized plan for employment (IPE) is a written document prepared on forms provided by DVR.

(2) An IPE is an agreement that records the decisions and commitments you and a VR counselor make about VR services and activities.

(3) The IPE documents the VR services you will use to prepare for, get or keep a job.

NEW SECTION

WAC 388-890-0490 How do I develop an IPE? (1) You have the following options for developing an IPE. You may use each option separately or in combination with the other options to develop all or part of the IPE:

(a) Develop the IPE with assistance and support from a VR counselor;

(b) Develop the IPE on your own; and

(c) Develop the IPE with a representative, family member, advocate, or other individual of your choice.

(2) If you choose to develop the IPE with someone other than a VR counselor, DVR helps you identify sources external to DVR that may help you develop your IPE. DVR does not pay for any related costs or fees charged by other parties to develop the IPE.

NEW SECTION

WAC 388-890-0495 What information does DVR give me to develop my IPE? DVR gives you the following information in writing about how to develop an IPE:

- (1) A description of the information that must be included on an IPE;
- (2) Financial conditions or restrictions that relate to the IPE;
- (3) Other information you request;
- (4) Where to get help to fill out forms required by DVR;
- (5) Your rights if you disagree with DVR about a decision relating to the IPE;
- (6) Information about the client assistance program (CAP) and how to contact the program.

NEW SECTION

WAC 388-890-0500 Who makes decisions about what to include on my IPE? You use informed choice to make decisions about what to include on your IPE. You have the right to make decisions that are consistent with your strengths, abilities, capabilities, and interests, including but not limited to:

- (1) The type of job you want;
- (2) What VR services you need to help you reach your employment goal;
- (3) What service provider to use.

NEW SECTION

WAC 388-890-0505 Can I include any VR services I want on my IPE? DVR provides only those VR services that you and a VR counselor agree are:

- (1) Consistent with your strengths, abilities, capabilities, and interests; and
- (2) Needed to achieve the employment goal listed on your IPE.

NEW SECTION

WAC 388-890-0510 What if the employment goal I choose is religious in nature? DVR is prohibited from supporting an employment goal that is religious in nature under the Washington State Constitution, Article I, subsection 11.

NEW SECTION

WAC 388-890-0515 What must be included on my IPE? An IPE must include all of the following items, at a minimum:

- (1) Your employment goal;
- (2) The VR services you plan to use;
- (3) The date VR services included on the plan begin;

(4) When you expect to begin working;

(5) The name of the person or organization providing each service included on the IPE;

(6) What criteria you will use to evaluate whether you are making progress toward your employment goal;

(7) Terms and conditions, including:

(a) A description of what DVR has agreed to do to support your IPE; and

(b) A description of what you have agreed to do to reach your employment goal, including:

(i) Steps you will take to achieve your employment goal;

(ii) What services you agree to help pay for, and how much you will pay; and

(iii) What services you agree to apply for as comparable services and benefits.

(8) What services will be provided by another organization as a comparable service or benefit;

(9) The expected need for post-employment services;

(10) The process used to provide or procure services;

(11) The basis on which DVR determines you have achieved an employment outcome as outlined in WAC 388-890-0535;

(12) Your rights under the IPE and your options to appeal a decision your DVR counselor makes that you do not agree with as outlined in WAC 388-890-1180;

(13) Your rights and procedures to file a complaint to report and resolve any dissatisfaction; and

(14) The availability of the client assistance program as outlined in WAC 388-890-1185.

(15) An IPE that includes a supported employment outcome must also document:

(a) The extended services or natural supports you need;

(b) The name of the person or organization paying for the extended services, if extended services are used;

(c) If it is not known who will pay for extended services or natural supports when the IPE is developed, the IPE includes a statement explaining the expected source of extended service or a plan to identify a source of extended services;

(d) A goal for the number of hours per week you are going to work based on your strengths, abilities, capabilities, interest and informed choice;

(e) A description of how the services on your IPE are coordinated with other federal or state services you get under another individualized plan; and

(f) The basis on which DVR determines you have achieved a supported employment outcome as outlined in WAC 388-890-0535 (1) through (4), 388-890-0650 and 388-890-0660.

NEW SECTION

WAC 388-890-0520 Who signs the IPE? You and a VR counselor must agree to and sign your IPE. DVR gives you a copy of the signed IPE, in writing or in another method of communication, if needed.

NEW SECTION

WAC 388-890-0525 Is the IPE reviewed and updated? You and a VR counselor review the IPE at least once a year, or more often if needed.

(1) You and a VR counselor amend the IPE if there are major changes in the employment goal, the VR services to be used, or the service provider to be used.

(2) Changes to an IPE take effect when you and a VR counselor sign the updated IPE.

CLOSING A CASE SERVICE RECORD AND ANNUAL REVIEWS

NEW SECTION

WAC 388-890-0530 Why does DVR close a case service record? A VR counselor closes your case service record for any of the following reasons:

- (1) You are working and no longer need VR services;
- (2) You decline VR services;
- (3) Anytime DVR determines that you are not eligible or no longer eligible;
- (4) You are no longer available to participate in services;
- (5) You cannot be located;
- (6) You ask DVR to close your case service record; or
- (7) You refuse to cooperate in required or agreed upon services

NEW SECTION

WAC 388-890-0535 Under what conditions does DVR determine that I am working and no longer need VR services? DVR determines that you have achieved an employment outcome and no longer need VR services if:

- (1) You received services under an IPE that helped you get a job;
- (2) Your job matches your strengths, needs, abilities, interests and choices;
- (3) You have been working for at least ninety days; and
- (4) You and a VR counselor agree the job is satisfactory and that you are performing the job well; and
- (5) You are working in an integrated setting or in a non-integrated setting of your choice.

NEW SECTION

WAC 388-890-0540 Am I involved in the decision to close my case? (1) Before closing your case service record, a VR counselor gives you an opportunity to discuss the decision.

(2) DVR notifies you in writing, or another method of communication, if needed, about the reason your case service record is being closed and your rights if you disagree with the decision as outlined under WAC 388-890-1180.

NEW SECTION

WAC 388-890-0545 What is competitive employment? Competitive employment is work in the competitive

labor market that you perform on a full-time or part-time basis in an integrated setting for which you earn a wage at or above the minimum wage, but not less than the usual wage and level of benefits your employer pays to nondisabled employees who do the same or similar work as you.

NEW SECTION

WAC 388-890-0550 What is extended employment? Extended employment is:

(1) Work in a nonintegrated setting for a public or non-profit agency or organization which provides support services to you to continue to train or prepare for competitive employment unless you choose to remain in extended employment; and

(2) Work for which you earn a wage according to special certificate provisions of 14(c) of the U.S. Department of Labor Fair Labor Standards Act (29 U.S.C. 214 (c)).

NEW SECTION

WAC 388-890-0555 If the job I get is in extended employment, what follow-up does DVR provide? (1) If you go to work in extended employment, DVR reviews your status annually to:

- (a) Determine your interest and need to move to competitive employment;
- (b) Determine your interest and need to receive training for competitive employment; and
- (c) Evaluate whether there are VR services or other services that would assist you to move to competitive employment.

(2) DVR provides an opportunity for you to give input during the annual review.

(3) DVR reviews your status annually for two years following the date you go to work.

(4) After two years, you may request that DVR continue to review your status annually.

NEW SECTION

WAC 388-890-0560 Under what conditions does DVR follow up with me if I am determined ineligible for VR services? (1) If DVR determines you are ineligible because you are too significantly disabled to benefit from VR services in terms of employment under any of the following conditions, DVR contacts you within twelve months of the date determined ineligible to review whether anything has changed to affect your eligibility:

(a) You are too significantly disabled to participate in a trial work experience;

(b) You decline a trial work experience and you and your VR counselor agree that you are too significantly disabled to benefit from VR services in terms of employment;

(c) You participate in a trial work experience as outlined under WAC 388-890-0670 through 388-890-0705 and are determined too significantly disabled to benefit from services in terms of employment; or

(d) You and your VR counselor cannot find a source for extended services and/or cannot establish natural supports

during the initial eighteen months of your individualized plan for supported employment.

(2) After DVR completes the initial twelve month review, you or your representative may request additional annual reviews.

SUPPORTED EMPLOYMENT PROGRAM

NEW SECTION

WAC 388-890-0570 What is supported employment?

(1) Supported employment is:

(a) Competitive work; or
 (b) Work in an integrated setting while you work toward competitive work consistent with your strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice; or

(c) Transitional employment for an individual with a most significant disability due to chronic mental illness.

(2) Supported employment is for an individual with a most significant disability who:

(a) Has not traditionally worked in competitive employment; or
 (b) Has worked in competitive employment, but the disability has caused the individual to stop working, or work off and on; and
 (c) Needs intensive supported employment services and extended services to work because of the nature and significance of the disability.

NEW SECTION

WAC 388-890-0575 Who is eligible for supported employment? You are eligible for supported employment services if:

(1) You are eligible for vocational rehabilitation services under WAC 388-890-0035;

(2) You are an individual with a most significant disability under WAC 388-890-0755 category one; and

(3) Supported employment is appropriate for you based on a comprehensive assessment of your needs, including an evaluation of your rehabilitation, career and job needs.

NEW SECTION

WAC 388-890-0580 Who decides if I am eligible for supported employment? DVR decides if you are eligible for supported employment services.

NEW SECTION

WAC 388-890-0585 What is competitive work in supported employment? Competitive work, as used in supported employment, is:

(1) Work in the competitive labor market that you perform on a full-time or part-time basis in an integrated setting; and

(2) Work for which you are paid at or above the minimum wage, but not less than the usual wage your employer

pays to nondisabled employees who do the same or similar work as you.

NEW SECTION

WAC 388-890-0590 What is an integrated setting in supported employment? An integrated setting in supported employment is a work setting commonly found in the community in which you interact with nondisabled people to the same extent that a nondisabled person in the same type of job interacts with other persons.

NEW SECTION

WAC 388-890-0595 Is my work setting integrated if my interactions at the work site are with nondisabled supported employment service providers? Interactions at your work site between you and a nondisabled supported employment service provider do not meet the requirement for an integrated setting.

NEW SECTION

WAC 388-890-0600 What is transitional employment? Transitional employment is a work model using a series of consecutive jobs in competitive employment for individuals with the most significant disabilities due to mental illness.

NEW SECTION

WAC 388-890-0605 What are supported employment services? Supported employment services are:

(1) Ongoing support services as described in WAC 388-890-0610; and

(2) Vocational rehabilitation services listed in WAC 388-890-0145.

NEW SECTION

WAC 388-890-0610 What are ongoing support services? Ongoing support is a type of supported employment service to help you get and keep a job. Ongoing support services include:

(1) An assessment of your employment situation at least twice a month, or under special circumstances and especially at your request, an assessment regarding your employment situation that takes place away from your worksite at least twice a month to:

(a) Determine what is needed to maintain job stability; and

(b) Coordinate services or provide specific intensive services that are needed at or away from your worksite to help you maintain job stability.

(2) Intensive job skill training for you at your job site by skilled job trainers.

(3) Job development, job placement and job retention services.

(4) Social skills training.

(5) Regular observation or supervision.

(6) Follow-up services such as regular contact with your employer, you, your representatives, and other appropriate individuals to help strengthen and stabilize the job placement.

(7) Facilitation of natural supports at the worksite.

(8) Other services similar to services described in subsections (1) through (7) above.

(9) Any other vocational rehabilitation service described in WAC 388-890-0145 through 388-890-0450.

NEW SECTION

WAC 388-890-0615 Under what conditions does DVR provide supported employment services? DVR provides supported employment services under the conditions in WAC 388-890-0110 and if you are an individual with a most significant disability as described in category one, WAC 388-890-0755.

NEW SECTION

WAC 388-890-0620 What is included on my individualized plan for supported employment? Your individualized plan for supported employment includes the information specified in WAC 388-890-0515.

NEW SECTION

WAC 388-890-0625 What are extended services? Extended services help you keep your job after DVR stops providing supported employment services.

NEW SECTION

WAC 388-890-0630 Does DVR provide extended services? DVR does not provide extended services.

NEW SECTION

WAC 388-890-0635 Who provides the extended services I need? Extended services are provided by nonprofit private organizations such as community rehabilitation programs, state and local public agencies, employers, or any other appropriate resources.

NEW SECTION

WAC 388-890-0640 What is natural support? Natural support is a method used to help you keep your job after DVR stops providing supported employment services. Natural support uses the people who you ordinarily come into contact with at work and/or at home to help you with work routines and social interactions at the work site.

NEW SECTION

WAC 388-890-0645 Are supported employment services time-limited? DVR provides supported employment services as part of your individualized plan for employment for a period not to exceed eighteen months, unless under special circumstances you and your VR counselor jointly agree

to extend the time in order to achieve the employment goals in your individualized plan for employment.

NEW SECTION

WAC 388-890-0650 What is required for me to change from supported employment services to extended services? Prior to helping you change from supported employment services to extended services, a VR counselor must ensure the following:

(1) You have made substantial progress toward meeting the number of work hours per week you want to work as documented on your individualized plan for employment;

(2) You are stabilized in the job; and

(3) Extended services are readily available and can be provided to you without an interruption in services.

NEW SECTION

WAC 388-890-0655 What happens if my VR counselor and I do not find a source for extended services and/or we cannot establish natural supports during the initial eighteen months of my individualized plan for employment? If you and your VR counselor do not find a source for extended services and/or cannot establish natural supports during the initial eighteen months of your individualized plan for employment, DVR must determine that you are no longer eligible for VR services under WAC 388-890-0065.

NEW SECTION

WAC 388-890-0660 Under what conditions does DVR close my case service record for supported employment? A VR counselor closes your case service record for supported employment under WAC 388-890-0530 through 388-890-0540, except if you have achieved a supported employment outcome, DVR must wait at least ninety days after helping you change from supported employment services to extended services before closing your case service record.

NEW SECTION

WAC 388-890-0665 Under what conditions does DVR provide supported employment services as post-employment services? DVR provides supported employment services to you as post-employment services following the change from supported employment services to extended services if:

(1) Your extended service provider cannot provide the services; and

(2) You need such services as job station redesign, repair and maintenance of assistive technology devices and replacement of prosthetic and orthotic devices to keep your job.

TRIAL WORK EXPERIENCENEW SECTION**WAC 388-890-0670 What is a trial work experience?**

A trial work experience is a method of assessment used by DVR to determine eligibility for VR services:

(1) Only if a VR counselor cannot presume that VR services will enable you to work because of the significance of your disability; and

(2) After you have applied for VR services and before an individualized plan for employment is developed.

NEW SECTION

WAC 388-890-0675 What happens during a trial work experience? (1) During a trial work experience, you are placed in a sufficient variety of realistic integrated employment settings and provided with VR services to assess how you perform.

(2) The trial work experience continues long enough to provide sufficient information for a VR counselor to determine whether:

(a) VR services will enable you to work and that you are eligible for VR services; or

(b) VR services will not enable you to work, because of the significance of your disability; and/or

(c) Service providers are able to meet your VR service needs.

NEW SECTION

WAC 388-890-0680 Who decides if a trial work experience is needed to determine if I am eligible for DVR services? DVR determines whether a trial work experience is needed to determine your eligibility for VR services.

NEW SECTION

WAC 388-890-0685 What services does DVR provide during a trial work experience? DVR may use the individual VR services listed under WAC 388-890-0145 through 388-890-0450 during a trial work experience.

NEW SECTION

WAC 388-890-0690 What if I am too significantly disabled to participate in a trial work experience? If DVR is unable to identify VR services or service providers that would enable you to perform a trial work experience because of the significance of your disability, DVR follows the procedures outlined under WAC 388-890-0065 to determine that you are not eligible for VR services.

NEW SECTION

WAC 388-890-0695 What choices can I make about the trial work experience? If a trial work experience is needed to decide if you are eligible for VR services, DVR

provides information and support to help you make informed choices that include, but are not limited to:

(1) What type of work setting to use;

(2) What service providers to use.

NEW SECTION

WAC 388-890-0700 Am I evaluated during the trial work experience? DVR evaluates your progress in a trial work experience as often as needed, but at least every ninety days.

NEW SECTION

WAC 388-890-0705 When does DVR make an eligibility decision when I am in a trial work experience? There is no time limit for a trial work experience. As soon as DVR has enough information to decide whether VR services will enable you to get or keep a job, DVR must:

(1) Make an eligibility decision;

(2) Document the basis for eligibility or ineligibility; and

(3) Discontinue trial work experience.

VOCATIONAL REHABILITATION SERVICES FOR GROUPS OF INDIVIDUALS

NEW SECTION

WAC 388-890-0710 Are there any vocational rehabilitation services that can be provided to a group of individuals with disabilities? The following vocational rehabilitation services may be provided to a group of individuals with disabilities:

(1) Services to establish, develop, or improve a community rehabilitation program may be provided to a group of individuals with disabilities who are currently not being served or whose service needs are not being met by DVR.

(2) Services may be provided to an identified group of individuals with disabilities if the VR services:

(a) Are likely to contribute to the rehabilitation of those in the group; and

(b) Cannot be purchased on an individual basis.

(3) Consulting and/or technical assistance services may be provided to support planning the development of school programs to meet the long-term employment needs of a group of students with disabilities.

NEW SECTION

WAC 388-890-0715 Under what conditions does DVR provide services to a group of individuals with disabilities to establish, develop or improve a community rehabilitation program? (1) DVR may provide services to a group of individuals with disabilities to establish, develop, or improve a community rehabilitation program if:

(a) DVR has identified a group of individuals with disabilities who are not being served or whose service needs are not being met by DVR because of limited staff resources.

(b) Services of a community rehabilitation are needed in a geographic area.

(c) DVR has evaluated the community rehabilitation program services and determined that VR services to groups are needed and are likely to meet the service needs of the group.

(2) DVR does not pay for the cost of construction related to establishing or developing a community rehabilitation program.

NEW SECTION

WAC 388-890-0720 Under what conditions does DVR provide services to a group of individuals with disabilities that cannot be purchased under an individual IPE? (1) DVR may provide services to a group of individuals with disabilities if the services are likely to contribute to the rehabilitation of those in the group, but cannot be purchased under an individualized plan for employment of any one person within the group because:

(a) The services are needed by the individuals in the group to apply for DVR services when a barrier exists that hinders access to VR services for a group of individuals with disabilities.

(b) The services needed by the group are not designated by a unit or per person cost and/or cannot be prorated equitably to the IPE's of those in the group.

(2) DVR does not purchase equipment in excess of five thousand dollars as a service to groups of individuals with disabilities.

NEW SECTION

WAC 388-890-0725 Under what conditions does DVR provide consulting and/or technical assistance to plan for the transition of students with disabilities? (1) DVR may purchase consulting and/or technical assistance for schools to plan for the transition of students with disabilities if:

(a) DVR has determined that the school needs consulting or technical assistance services to plan for the transition of students with disabilities;

(b) The school has expressed a commitment to provide the resources needed to implement a plan for the transition of students with disabilities;

(c) DVR has determined the services are likely to result in increased capacity within the school system to assist students with disabilities to transition from school to work; and

(d) DVR does not have adequate staff resources to provide the needed consulting or technical assistance.

(2) DVR does not pay for:

(a) The cost to implement a plan; or

(b) Individual VR services to students with disabilities as a service to groups.

ORDER OF SELECTION

NEW SECTION

WAC 388-890-0730 What if DVR does not have funding to serve all eligible individuals? (1) When funds or other resources are not available to serve all eligible individuals, DVR establishes an order to select eligible individuals to develop and carry out an individualized plan for employment (IPE).

(2) When the selection order is in effect and you are eligible for services, DVR assigns your name to one of three selection categories.

(3) You can develop and carry out an IPE based on:

(a) The priority of the selection category you are in; and

(b) The order in which you applied for DVR services as indicated by the date on your application. If you are a public safety officer with a disability that was acquired while acting in the line of duty you are placed first within a category, regardless of the date on your application.

(4) If the category you are in is one that DVR does not have funds or other resources for you to develop and carry out an IPE, DVR provides you with vocational rehabilitation information, guidance, and referral services to access other federal and state programs suited to address specific employment needs of individuals with disabilities.

NEW SECTION

WAC 388-890-0745 If DVR has to decide in what category to place me, who decides what assessment services I need and where to get the assessment services? If DVR has to decide in what category to place you because funds or other resources are not available to all eligible individuals:

(1) DVR decides what assessment services are needed; and

(2) You choose the service providers for the assessment services you need based on informed choice.

NEW SECTION

WAC 388-890-0750 What categories are used by DVR to determine the priority by which eligible individuals are served and in what order are the categories prioritized? (1) DVR uses the following categories to determine the priority by which to serve you if you are eligible for VR services:

(a) Category one—First priority, individuals with the most significant disabilities;

(b) Category two—Second priority, individuals with significant disabilities; and

(c) Category three—Third priority, individuals with disabilities.

(2) The categories are prioritized for eligible individuals to develop and carry out an IPE in the following order:

(a) Individuals with the most significant disabilities first;

(b) Individuals with significant disabilities second; and

(c) Individuals with disabilities third.

PERMANENT

NEW SECTION

WAC 388-890-0755 What information does DVR use to determine whether I am in category one? DVR determines you are in category one—first priority, eligible individuals with the **most** significant disabilities if you are an individual with a significant disability as outlined in WAC 388-890-760 except:

(1) You have one or more physical, mental, or sensory impairments that constitute or result in a substantial impediment to employment for you and cause you to experience serious limitations in **four** or more of the following areas in terms of an employment outcome:

- (a) Mobility;
 - (b) Communication;
 - (c) Self-care;
 - (d) Self-direction;
 - (e) Interpersonal skills;
 - (f) Work tolerance;
 - (g) Work skills in terms of an employment outcome; and
- (2) You require extended services in order to work.

NEW SECTION

WAC 388-890-0760 What information does DVR use to determine whether I am in category two? DVR determines you are in category two—second priority, eligible individuals with significant disabilities if you meet all of the following criteria:

(1) You are receiving disability benefits under Title II or Title XVI of the Social Security Act; or you have one or more physical, mental, or sensory impairments including:

- (a) Amputation;
- (b) Arthritis;
- (c) Autism;
- (d) Blindness;
- (e) Burn injury;
- (f) Cancer;
- (g) Cerebral palsy;
- (h) Cystic fibrosis;
- (i) Deafness;
- (j) Head injury;
- (k) Heart disease;
- (l) Hemiplegia;
- (m) Hemophilia;
- (n) Respiratory or pulmonary dysfunction;
- (o) Mental retardation;
- (p) Mental illness;
- (q) Multiple sclerosis;
- (r) Muscular dystrophy;
- (s) Musculo-skeletal disorders;
- (t) Neurological disorders (including stroke and epilepsy);
- (u) Paraplegia;
- (v) Quadriplegia;
- (w) Other spinal cord conditions;
- (x) Sickle cell anemia;
- (y) Specific learning disability;
- (z) End stage renal disease; or

(aa) Other disability or combination of disabilities to cause comparable substantial functional limitation as identified by an assessment for determining eligibility and vocational rehabilitation needs.

(2) You have one or more physical, mental, or sensory impairments that constitute or result in a substantial impediment to employment for you and cause you to experience serious limitations in **one** or more of the following areas in terms of an employment outcome:

- (a) Mobility,
- (b) Communication,
- (c) Self-care,
- (d) Self-direction,
- (e) Interpersonal skills,
- (f) Work tolerance,
- (g) Work skills in terms of an employment outcome.

(3) Your vocational rehabilitation can be expected to require multiple vocational rehabilitation services over an extended period of time.

NEW SECTION

WAC 388-890-0765 What information does DVR use to determine whether I am in category three? DVR determines you are in category three—third priority, eligible individuals with disabilities if you are eligible for VR services and you do not meet the criteria to qualify as an individual with a **most** significant disability as outlined in WAC 388-890-755, or an individual with a significant disability as outlined in WAC 388-890-760.

INDEPENDENT LIVING PROGRAM — TITLE VIINEW SECTION

WAC 388-890-0780 What is the independent living (IL) program? (1) The independent living (IL) program is authorized by the department of social and health services, division of vocational rehabilitation under Title VII of the Rehabilitation Act, as amended.

(2) Independent living (IL) is a program of services that assists adults and emancipated minors with significant disabilities to live more independently in their families and communities. IL program services are not offered in all DVR offices. Individuals interested in IL program services must be able to receive services in a region where IL program services are offered.

(3) In addition to the rules in sections WAC 388-890-0780 through 388-890-1095 covering independent living program services, the following vocational rehabilitation rules apply:

- (a) Payment for VR and IL program services, WAC 388-890-1100 through 388-890-1175;
- (b) Confidentiality of personal information, WAC 388-890-1265 through 388-890-1295; and
- (c) How to contact DVR if you don't speak English, WAC 388-890-1300 through 388-890-1310.

NEW SECTION

WAC 388-890-0785 What types of services does the IL program offer? If you are eligible, the IL program can help you get the following types of services, as needed, to reach your IL goals:

- (1) Advocacy services;
- (2) Rehabilitation technology services;
- (3) Communications services;
- (4) IL counseling services;
- (5) Housing services;
- (6) IL skills training;
- (7) Information and referral services;
- (8) Mobility training;
- (9) Peer counseling services;
- (10) Personal assistance services;
- (11) Physical rehabilitation services;
- (12) Preventative services;
- (13) Recreational services;
- (14) Services to family members;
- (15) Therapeutic treatment services;
- (16) Transportation services; and
- (17) Other IL program services.

NEW SECTION

WAC 388-890-0790 Who is eligible for Title VII IL program services? (1) You are eligible for IL program services under Title VII if you are an adult or emancipated minor and you:

- (a) Have a significant disability, as defined under WAC 388-890-0795;
- (b) Are not currently eligible for VR services; and
- (c) Can receive IL program services in a region that offers the services.

(2) Eligibility is not based on your age, color, creed, gender, sexual orientation, national origin, race, religion, or type of disability.

NEW SECTION

WAC 388-890-0795 What is a significant disability? In the Title VII IL program, you have a significant disability if:

- (1) you have a physical, mental, cognitive or sensory impairment that greatly limits your level of independence in your family or community; and
- (2) IL program services are likely to improve or maintain your level of independence in any of these areas.

NEW SECTION

WAC 388-890-0800 Who provides IL program services? (1) An IL counselor provides IL program services; or
(2) The IL counselor may refer you to a service provider who meets standards established by the IL program.

(3) When a service provider is used, the service provider must provide IL program services that you, the IL counselor, and the service provider have agreed to in advance of starting the service.

NEW SECTION

WAC 388-890-0805 What are my responsibilities in the IL program? To receive independent living services, you must:

- (1) Complete tasks that you have agreed to complete to reach your IL goals;
- (2) Be willing to learn new skills and try new things; and
- (3) Accept responsibility for your decisions and actions related to your IL goals.

NEW SECTION

WAC 388-890-0810 How do I apply for IL program services? To apply for IL program services you:

- (1) Fill out and sign an IL program services application form; or
- (2) Submit the following information:
 - (a) Your name, address and the county where you live;
 - (b) Your birthdate and gender;
 - (c) Your Social Security Number (optional);
 - (d) A short description of the type of disability; and
 - (e) The date of your application.

NEW SECTION

WAC 388-890-0815 What happens after I submit my application for IL program services? After you apply for IL program services, you meet with an IL counselor to:

(1) Fill out other forms and releases needed by the IL program to collect the information needed to decide if you are eligible for services;

(2) Complete an assessment to:

(a) Verify whether you have a significant disability that greatly limits your level of independence in your family or community;

(b) Identify your IL needs; and

(c) Decide if IL program services can help you to improve or maintain your level of independence in your family or community.

(3) The assessment may include, but is not limited to, the following areas:

(a) Your home and living environment, including housing, ability to get around, and safety;

(b) Financial issues, such as budgeting, paying bills, and managing money;

(c) Your basic skills in cooking, cleaning, shopping and general home and family care;

(d) How you relate to your family or others socially, and how you spend your free time;

(e) How you manage your own personal care;

(f) School or work interests.

NEW SECTION

WAC 388-890-0820 Who decides if I am eligible for IL program services? (1) An IL counselor determines whether you meet the eligibility requirements as outlined under WAC 388-890-0790; or

(2) If an individual or organization has a contract with the IL program to offer IL program services, the individual or organization may determine whether you meet the eligibility requirements under WAC 388-890-0790.

NEW SECTION

WAC 388-890-0825 Where does the IL program get the information needed to decide if I am eligible? The IL program uses information that you, your family, your doctor, or other organizations submit to decide if you are eligible.

(1) If the information does not verify whether you are eligible for IL program services, you may need to get additional assessments, exams, or tests to get the information.

(2) The IL program pays for services needed to verify whether you are eligible.

NEW SECTION

WAC 388-890-0830 How do I find out if I am eligible for IL program services? (1) If the IL program verifies you are eligible, the IL program notifies you of the decision.

(2) If the IL program determines you are not eligible, the IL program must:

(a) Talk with you about the decision;

(b) Send you, or your representative, a notice of the decision in writing, including information about the services offered by the client assistance program and how to ask for services; and

(c) When possible, refer you to other agencies or programs that offer services to meet your needs.

NEW SECTION

WAC 388-890-0835 What if I disagree with a decision about my eligibility for IL or a decision about IL program services? If an IL counselor makes a decision about your IL program services that you don't agree with, you have the following options:

(1) Try to resolve the disagreement by talking to the IL counselor, his or her supervisor, or regional administrator;

(2) Contact the client assistance program as outlined under WAC 388-890-1185; and/or

(3) Request mediation as outlined under WAC 388-890-1190 through 388-890-1215.

NEW SECTION

WAC 388-890-0840 Under what conditions can I get IL program services? (1) The IL program offers services as needed to:

(a) Establish your eligibility;

(b) Assess your IL needs;

(c) Develop an IL plan; and

(d) Reach your IL goals.

(2) The IL program provides services only if you are not eligible to receive a comparable service from another organization or program.

NEW SECTION

WAC 388-890-0845 How are my IL program services planned? (1) If you are eligible for IL program services, you work with an IL counselor to develop a written IL plan or a verbal IL plan.

(a) You can get the same IL program services under a written IL plan and a verbal IL plan.

(b) If you choose a verbal IL plan, you must sign a waiver declining a written IL plan.

(2) Before the IL program purchases services under a written IL plan or verbal IL plan, you must complete a financial statement as outlined under WAC 388-890-1145, unless you receive public assistance or support from another program as outlined under WAC 388-890-1150.

NEW SECTION

WAC 388-890-0850 What is included on a written or verbal IL plan? The written or verbal IL plan includes:

(1) Your goals for addressing the barriers that limit your level of independence in your family or community;

(2) The IL program services you are using to achieve each goal; and

(3) How long you expect to use each service.

NEW SECTION

WAC 388-890-0855 Who signs and keeps a written IL plan? (1) You and an IL counselor sign the written IL plan.

(2) The IL counselor gives you a copy of the written IL plan in a format that you can understand and use.

NEW SECTION

WAC 388-890-0860 How often is my IL plan reviewed? (1) You and an IL counselor review your IL plan at least once a year, and more often if needed to decide whether:

(a) IL program services should continue, change or stop;

(b) You can and want to be referred to DVR to apply for vocational rehabilitation services as outlined under WAC 388-890-105; and

(c) You should be referred to another program or service.

(2) You may develop a new plan, if changes are needed.

(3) When you develop a new plan, the new plan is developed as outlined in WAC 388-890-0845 through 388-890-0855.

NEW SECTION

WAC 388-890-0870 What are IL advocacy services? IL advocacy services support and assist you to express your interests or concerns to others to:

(1) Reach your IL goals; or

(2) Get other benefits and services you need.

NEW SECTION

WAC 388-890-0875 What are IL rehabilitation technology services? IL rehabilitation technology services assist you to use devices, equipment, or technology services that enable you to reach your IL goals. IL rehabilitation technology services assist you to:

- (1) Assess your technology needs;
- (2) Try out different types of devices, equipment, and services;
- (3) Obtain devices; and/or
- (4) Receive training on the use of devices or equipment.

NEW SECTION

WAC 388-890-0880 What are IL communication services? IL communication services assist you to learn skills or use services that enable you to understand and share information. Examples of communication services include, but are not limited to:

- (1) How to get and use interpreter services, including tactile interpreter services;
- (2) Training in the use of equipment that helps you communicate;
- (3) Braille training;
- (4) How to get and use reader services.

NEW SECTION

WAC 388-890-0885 What are IL counseling services? (1) IL counseling services include support and advice from an IL counselor to help you reach your IL goals by finding out about issues that get in the way of your independence.

(2) IL counseling services also includes therapeutic counseling services purchased from a qualified therapist on a short-term basis to help you:

- (a) Adjust to your disabling condition; and
- (b) Deal with issues about being more independent.

NEW SECTION

WAC 388-890-0890 What are IL housing services? IL housing services assist you to find or keep a suitable living arrangement and take steps needed to move, if needed. Housing services include, but are not limited to, assisting you to:

- (1) Find out about low-income housing resources and different types of housing;
- (2) Find housing that accommodates your disability;
- (3) Assess what is needed in your current housing to accommodate your disability;
- (4) Find out about ways to make your home accessible.

NEW SECTION

WAC 388-890-0895 Are IL program payments for home modifications limited? (1) The IL program pays for home modifications if:

- (a) The modifications are related to a disability and will improve or maintain independence or safety.
- (b) You and/or a family member with whom you live:

- (i) Own the place where you live; and
- (ii) Complete a financial statement based on the family income to determine whether you must pay, in whole or in part, for home modifications.

(c) The housing construction complies with appropriate building codes and permit requirements.

(2) The IL program does not pay for the cost of labor to construct home modifications.

NEW SECTION

WAC 388-890-1000 What is IL skills training? IL skills training teaches you skills to manage and balance your life in areas including, but not limited to:

- (1) Budgeting;
- (2) Meal planning and/or preparation;
- (3) Consumer skills;
- (4) Personal care;
- (5) Social interaction.

NEW SECTION

WAC 388-890-1005 What are IL information and referral services? IL information and referral services help you to find out about and get help from other community programs and services. IL information and referral services include, but are not limited to:

- (1) Information about a variety of disability issues;
- (2) Information about health insurance and where it is available;
- (3) Help with contacting other programs and services in the community.

NEW SECTION

WAC 388-890-1010 What is IL peer counseling? IL peer counseling is support, advice, teaching, and information sharing with people with disabilities.

NEW SECTION

WAC 388-890-1015 What is IL mobility training? IL mobility training improves your ability to get around in your home or your community, including but not limited to:

- (1) How to use a wheelchair;
- (2) How to make transfers;
- (3) Training on the use of public transportation.

NEW SECTION

WAC 388-890-1020 What is IL personal assistance training? IL personal assistance training helps you develop the skills to get or keep the services of an attendant or assistant to meet your personal assistance needs. Personal assistance training includes, but is not limited to:

- (1) How to find an attendant or assistant;
- (2) How to manage services.

NEW SECTION

WAC 388-890-1025 Does the IL program pay for attendant services as part of personal assistance training? The IL program does not pay for attendant services as part of personal assistance training.

NEW SECTION

WAC 388-890-1030 What are IL physical rehabilitation services? IL physical rehabilitation services include medical assessments or short-term services to assist you to identify or reach your IL goals. Physical rehabilitation services include, but are not limited to:

- (1) Occupational therapy;
- (2) Speech therapy;
- (3) Physical therapy.

NEW SECTION

WAC 388-890-1035 What are IL preventative services? IL preventative services enable you to prevent or limit conditions that result from your disability. IL preventative services enable you to reduce the risk that conditions or limitations worsen. IL preventative services may include, but are not limited to, the purchase of items used to prevent decubitus ulcers.

NEW SECTION

WAC 388-890-1040 What are IL recreational services? IL recreational services assist you to find ways to enjoy activities or hobbies of personal interest to you. IL recreational services may include but are not limited to:

- (1) Assisting you to find information and contact local programs or organizations that offer activities you are interested in;
- (2) Getting short-term instruction in an area of interest to you.

NEW SECTION

WAC 388-890-1045 What are IL program services to family members? (1) IL program services to family members assist you and your family members with issues related to your disability or independence. Services to family members may include, but are not limited to:

- (a) Giving your family training to understand disability issues;
- (b) Assisting you to get child care needed to allow you to use IL program services.
- (2) Family member means:
 - (a) Your legal guardian;
 - (b) Someone related to you; or
 - (c) Someone you live with who has a strong interest in your well being and who needs IL program services for you to achieve your IL goals.

NEW SECTION

WAC 388-890-1050 What are IL therapeutic services? IL therapeutic services include evaluations to assist you to get specific information from a medical professional, such as a psychologist or neuropsychologist, to help you:

- (1) Identify your IL goals; and/or
- (2) Decide best methods for you to receive services.

NEW SECTION

WAC 388-890-1055 What are IL transportation services? (1) IL transportation services help you participate in other IL program services and include, but are not limited to:

- (a) Public transportation fares or passes,
- (b) Estimated cost of gasoline,
- (c) Parking fees.

(2) IL transportation services do not include the purchase of vehicles.

NEW SECTION

WAC 388-890-1060 What other services does the IL program offer? The IL program may offer other services needed to help you to understand IL program services and options or achieve your IL goals. Other IL program services may include, but are not limited to support to attend a class, and support to find volunteer work.

NEW SECTION

WAC 388-890-1065 How long can I receive independent living services? There is no limit on how long IL program services may be provided.

NEW SECTION

WAC 388-890-1070 Why does the IL program stop providing or paying for IL program services? (1) The IL program stops providing or paying for IL program services if you:

- (a) Agree with an IL counselor that you have completed the goals and objectives in your IL plan.
- (b) Are no longer available to receive services at a DVR office where IL program services are offered.
- (c) Choose to quit using IL program services.
- (d) Are eligible and plan to use vocational rehabilitation services.
- (2) The IL program stops providing or paying for IL program services if an IL counselor:
 - (a) Determines you no longer need IL program services.
 - (b) Determines you are not progressing in your IL plan.
 - (c) Determines that you are no longer eligible for IL program services.
 - (d) Refers you to another service or program that offers services that are more likely to meet your needs.
 - (e) Cannot locate you.

NEW SECTION

WAC 388-890-1075 Am I involved in the decision to stop receiving IL program services? Before the IL program decides to stop providing or paying for your IL program services, an IL counselor must give you an opportunity to discuss the reasons for the decision.

NEW SECTION

WAC 388-890-1080 How does the IL program notify me that my services are stopping? (1) If an IL counselor decides that you are no longer eligible for IL program services, the IL counselor must follow the procedures in WAC 388-890-0065 to notify you about the decision.

(2) If you and an IL counselor have decided to stop IL program services for another reason, the IL program must send you a written notice. The written notice must explain:

- (a) The reason the IL program has decided to stop providing or paying for IL program services; and
- (b) The services offered by the client assistance program as outlined under WAC 388-890-1185 and how to ask for those services.

NEW SECTION

WAC 388-890-1085 If the IL program decides I am not eligible for IL program services, is the decision reviewed? (1) If the IL program decides that you are not eligible for IL program services, an IL counselor must contact you to review the decision within twelve months.

(2) If you have a change in your life that affects your eligibility for IL program services, you may ask the IL program to review the decision.

(3) The IL program is not required to review your eligibility if you:

- (a) Refuse or decline a review;
- (b) Are no longer available to receive services at a DVR office that provides IL program services; or
- (c) Cannot be located.

NEW SECTION

WAC 388-890-1090 Does the IL program keep a record of my IL program services? The IL program keeps a record of your services, either electronically or in writing for three years after you stop receiving IL program services. The record includes, but is not limited to:

- (1) Records that verify your eligibility or ineligibility;
- (2) IL goals and objectives that are:
 - (a) Established with your input, whether on a written IL plan or not; and
 - (b) Achieved by you.
- (3) Services you requested and received;
- (4) A written IL plan or a written form signed by you declining a plan.

NEW SECTION

WAC 388-890-1095 Does the IL program keep personal information confidential? (1) The IL program protects your personal information as outlined in WAC 388-890-1255 through 388-890-1295.

(2) When a service provider is used, the service provider must have and follow policies and procedures that are consistent with WAC 388-890-1255 through 388-890-1295.

PAYMENT FOR VR AND IL PROGRAM SERVICESNEW SECTION

WAC 388-890-1100 How are costs for VR and IL program services paid? DVR may only pay for VR and IL program services after you and a counselor have looked for other resources available to pay for the services, including:

- (1) Comparable services and benefits; and
- (2) Your own financial resources.

NEW SECTION

WAC 388-890-1110 What are comparable services and benefits? Comparable services and benefits are services or benefits that are similar to services DVR would provide that are available to you from another public program, under a health insurance program, or as an employee benefit. For example, if you need a mental health service and it is available to you at no cost from a local mental health center, DVR will not pay another organization or service provider for that service.

NEW SECTION

WAC 388-890-1115 What VR or IL program services are provided without a determination of comparable services or benefits? (1) The following VR services are provided without a determination of comparable services and benefits:

- (a) Assessment services, as outlined under WAC 388-890-0150;
- (b) Assistive technology services, as outlined under WAC 388-890-0190;
- (c) Assistive technology devices, as outlined under WAC 388-890-0175;
- (d) Counseling and guidance services, as outlined under WAC 388-890-0200;
- (e) Independent living services, including assessments, when provided directly by a VR or IL counselor, as outlined under WAC 388-890-0220;
- (f) Referral services, as outlined under WAC 388-890-0325;
- (g) Job placement and job retention services, as outlined under WAC 388-890-0240;
- (h) Training services, as outlined under WAC 388-890-380 except training at an institution of higher education as outlined under 388-890-0395;
- (i) Rehabilitation engineering services, as outlined under WAC 388-890-0335; and

(j) Post-employment services as outlined under WAC 388-890-0305 that include any of the services listed in subsections (a) through (i) above.

(2) The IL program does not pay for IL program services as outlined under WAC 388-890-870 through 388-890-1060 that you can get at no cost from another public program or as an employee or insurance benefit.

NEW SECTION

WAC 388-890-1120 What if determining the availability of comparable services and benefits would result in a delay or interrupt my progress? (1) A determination of comparable services and benefits is not required before you begin receiving VR services if you and a VR or IL counselor agree the determination would delay or interrupt:

(a) A service you need when you are at extreme medical risk;

(b) An immediate job placement; or

(c) Your progress toward achieving the employment outcome identified on your individual plan for employment or toward achieving your IL goals.

(2) A VR or IL counselor may complete the determination of comparable services and benefits while you receive VR or IL program services if it is expected that services and benefits exist and could be used at a later time without resulting in a delay.

(3) If comparable services and benefits are available, you must apply for and use comparable services and benefits.

NEW SECTION

WAC 388-890-1125 What is extreme medical risk? Extreme medical risk means a likelihood of death or a functional impairment will substantially worsen if medical services, including mental health services, are not provided quickly.

NEW SECTION

WAC 388-890-1130 Does DVR pay for a service if comparable services and benefits are available, but I don't want to use them? DVR does not pay for a service that is available to you as a comparable service or benefit. If you choose not to apply for or use comparable services or benefits that a VR or IL counselor determines are adequate to meet your needs, you are responsible to pay for the services or benefits.

NEW SECTION

WAC 388-890-1135 Are awards and scholarships based on merit considered comparable services and benefits? Awards and scholarships you earn based on merit are not considered comparable services and benefits.

NEW SECTION

WAC 388-890-1140 How do I get comparable services and benefits? (1) You apply for comparable services and benefits from the organization or agency from which the service or benefit is available.

(2) If you need assistance to apply for comparable services and benefits, a VR or IL counselor helps you apply for the services or benefits.

NEW SECTION

WAC 388-890-1145 How does DVR determine whether I pay for all or part of my VR or IL services using my own financial resources? To determine whether you must pay for all or part of your VR or IL program services using your own financial resources:

(1) You must complete a DVR financial statement to document your financial status before DVR purchases services under an IPE or IL Plan, except the services outlined in WAC 388-890-1175.

(2) You must provide copies of financial records requested by DVR to establish your financial status.

(3) Depending on your income tax filing status for the previous year, you must provide financial information based on your own individual resources or based on your family resources.

(a) If your income tax status was reported as married filing jointly, married filing separately, or as a dependent of another person, complete the financial statement based on family resources.

(b) If your income tax status was reported as single, complete the financial statement based on your own financial resources.

(4) If you fail to report your financial status accurately or provide the required information, DVR may deny or suspend services at any time in the rehabilitation process, except the services listed under WAC 388-890-1175.

NEW SECTION

WAC 388-890-1150 Do I have to report my financial status if I receive public assistance or income support from another public program? You meet DVR's financial need criteria if you qualify for one of the programs listed below, regardless of whether you are married, are a dependent, or receive financial support from another family member. If you give DVR proof that you receive benefits from one of these programs, you do not need to give DVR any other information about your financial status:

- (1) DSHS income assistance,
- (2) Medicaid, or
- (3) Supplemental Security Income.

NEW SECTION

WAC 388-890-1155 What financial information does DVR use to decide if I need to help pay for VR services? The following information is used to determine whether you must pay any part of the cost of VR or IL program services:

- (1) Your income from all sources;
- (2) Your assets and property, including but not limited to bank accounts, vehicles, personal property, stocks, bonds and trusts; and
- (3) Your living expenses, including household expenses, credit payments, disability-related expenses and other financial obligations.

NEW SECTION

WAC 388-890-1160 Are any of my resources not counted in the decision about whether I have to help pay for services? DVR does not count the following resources when deciding whether you need to help pay for VR or IL program services:

- (1) The value of your primary home and furnishings;
- (2) The value of items that you keep because of personal attachment or hobby interest, rather than because of monetary value;
- (3) The value of one vehicle per household member if the vehicle is needed for work, school, or to participate in VR or IL program services;
- (4) Retirement, insurance, or trust accounts that do not pay a current benefit to you or your family;
- (5) If a retirement, insurance or trust account pays a current benefit, only the monthly benefit is counted as income. The balance of the account is excluded;
- (6) Up to five thousand dollars of your total assets are excluded as exempt;
- (7) Equipment or machinery used to produce income;
- (8) Livestock used to produce income; and
- (9) Disability-related items.

NEW SECTION

WAC 388-890-1165 How does DVR decide whether I have resources to help pay for VR services? (1) You must complete a financial statement that compares your total income and assets to your total living expenses and obligations, unless you meet the conditions listed under WAC 388-890-1150.

- (2) DVR allows you to deduct five thousand dollars from your total assets as an exemption.
- (3) DVR pays for your VR or IL program services if the results of the financial statement show that you do not have resources available to help pay for your VR or IL program services.
- (4) You must help pay for VR or IL program services if the results of the financial statement show that you have resources available to help pay for your VR or IL program services.

(5) DVR does not pay for VR or IL program services under an IPE or IL plan when the financial statement shows that you have resources available and choose not to use them to pay for VR or IL program services, except for the services listed under WAC 388-890-1150.

NEW SECTION

WAC 388-890-1170 How is the amount I pay for VR or IL program services determined? (1) After completing the financial statement, you and a VR or IL counselor must agree how to use the resources identified on the financial statement to help pay for VR or IL program services.

- (2) The costs you agree to pay are documented on the IPE or IL plan.
- (3) If your financial status changes, report the change to a VR or IL counselor.

NEW SECTION

WAC 388-890-1175 What VR or IL program services am I not required to help pay for? You are not required to help pay for the following VR or IL program services, regardless of your financial status:

- (1) Assessment services needed to determine eligibility or rehabilitation needs, including independent living assessment services;
- (2) Counseling, guidance, and referral services provided by DVR staff;
- (3) Job placement and job retention services;
- (4) Independent living services provided directly by DVR staff or for which there is no cost; and
- (5) Post-employment services that include any of the services listed in subsections (1) through (4) of this section.

**YOUR RIGHTS WHEN YOU DISAGREE WITH A
DECISION MADE BY DVR**

NEW SECTION

WAC 388-890-1180 What if a VR counselor makes a decision about my VR services that I don't agree with? (1) If a VR counselor makes a decision relating to your VR services that you don't agree with, you have the following options:

- (a) Try to resolve the disagreement by talking to the VR counselor, a VR supervisor, or regional administrator;
 - (b) Contact the Client Assistance Program as outlined under WAC 388-890-1185;
 - (c) Request mediation; and/or
 - (d) Request a formal hearing.
- (2) You have the right to use one or more of these options at any time.
- (3) Your efforts to reach an agreement with the VR counselor, VR supervisor, or regional administrator are not used to deny or delay your right to mediation or a formal hearing.

NEW SECTION

WAC 388-890-1185 What is the client assistance program (CAP)? (1) The client assistance program (CAP) is a program that offers advice and information at no cost to you about your rights as a DVR participant and to help you understand and receive services available.

(2) You may ask for help or information from CAP at any time during the rehabilitation process by:

- (a) Asking a DVR staff person for information about how to contact CAP; or
- (b) calling CAP at the toll-free number 1-800-544-2121 voice/TTY.

NEW SECTION

WAC 388-890-1190 What is mediation? (1) Mediation is a method used when you and a VR counselor cannot resolve a disagreement about your VR services.

(2) A trained mediator who knows the laws and rules about VR services conducts a meeting with you and a representative from DVR.

(3) The mediator does not work for DVR.

(4) The mediator does not make decisions about the disagreement between you and a VR counselor.

(5) During a mediation meeting, the mediator:

- (a) Allows each party to present information or evidence;
- (b) Helps each party listen to and understand the other party's position;

(c) Reviews and explains any laws that apply; and

(d) Facilitates an agreement, if possible, between the parties.

(6) You may be represented by another person of your choice at the mediation meeting.

NEW SECTION

WAC 388-890-1195 When can I ask for mediation?

(1) Mediation is an option any time you disagree with a decision DVR makes about your VR services.

(2) All parties involved in the issue, including DVR, must agree to mediation.

(3) Mediation is not used to deny or delay your right to a formal hearing. You may request both mediation and a formal hearing at the same time. If an agreement is:

(a) Reached during mediation, the formal hearing is canceled.

(b) Not reached during mediation, the formal hearing is held as scheduled.

NEW SECTION

WAC 388-890-1200 Who arranges and pays for mediation? (1) DSHS schedules and holds mediation sessions in a timely manner at a location that is convenient to all parties.

(2) DSHS pays for costs related to mediation, except costs related to a representative or attorney you ask to attend.

(3) DVR may pay for VR services you require to participate in mediation, such as transportation or child care.

NEW SECTION

WAC 388-890-1205 Is information discussed during mediation confidential? Information discussed during mediation is kept confidential and may not be used in a later hearing or civil proceeding, if one is held. Before beginning

a mediation session, all parties must sign a statement of confidentiality.

NEW SECTION

WAC 388-890-1210 How do I request mediation? For more information or to request mediation, ask a VR counselor, supervisor or regional administrator or call DVR's state-wide toll free number 1-800-637-5627.

NEW SECTION

WAC 388-890-1215 After the mediation session, do I receive a written statement of the results? (1) When you and the DVR representative reach an agreement during the mediation meeting, DSHS provides you with a written statement of the agreement.

(2) Agreements you and DVR make through mediation are not legally binding.

NEW SECTION

WAC 388-890-1220 What is a formal hearing? (1) A formal hearing is a proceeding conducted as outlined under the Administrative Procedure Act, chapter 388-08 WAC.

(2) A formal hearing is similar to a trial and is held by an administrative law judge who does not work for DSHS.

(3) During the formal hearing, both you and DVR may present information, witnesses, and/or documents to support your position.

(4) You may be represented by an attorney, a friend, a relative, or someone else if you choose.

(5) The administrative law judge makes a decision after:

- (a) Hearing all of the information presented;
- (b) Reviewing any documents submitted; and
- (c) Reviewing relevant federal and state laws and regulations.

NEW SECTION

WAC 388-890-1225 When is a formal hearing available? (1) You have the right to a formal hearing when you disagree with a decision made by DVR about your eligibility for VR services or a decision about VR services.

(2) You must ask for a formal hearing in writing within twenty days of the decision.

NEW SECTION

WAC 388-890-1230 How do I request a formal hearing? (1) To ask for a formal hearing, you must send a written request to the Office of Administrative Hearings, P.O. Box 2465, Olympia, Washington 98507-2465.

(2) You must include the following information in your written request:

- (a) Your name, address, and telephone number;
- (b) A written statement about the decision and the reasons you disagree; and
- (c) Any other information that supports your position.

NEW SECTION

WAC 388-890-1235 After I submit a request for a formal hearing, when is it held? The office of administrative hearings must hold a formal hearing within forty-five days of receipt of your written request for a hearing, unless:

- (1) You or DVR ask for a delay; and
- (2) There is a reasonable cause for the delay.

NEW SECTION

WAC 388-890-1240 Do I receive a written formal hearing decision? The office of administrative hearings sends you a written report of the findings and decisions within thirty days of the formal hearing.

NEW SECTION

WAC 388-890-1245 Is the decision after a formal hearing final? (1) The office of administrative hearings decision is final and DVR must implement the decision.

(2) If you do not agree with the office of administrative hearings decision, you may pursue civil action through superior court to review that decision.

NEW SECTION

WAC 388-890-1250 Can DVR suspend, reduce or terminate my services while waiting for a formal hearing decision? DVR must not suspend, reduce, or terminate services while a decision is waiting for a formal hearing decision, unless you:

- (1) Provide false information to obtain VR services; or
- (2) Commit fraud or other criminal action to obtain VR services.

CONFIDENTIALITY OF PERSONAL INFORMATION

NEW SECTION

WAC 388-890-1255 How do I know what personal information I must give DVR and how it is used? When you apply for services, DVR must explain:

- (1) What types of personal information you must share;
 - (2) What information DVR must get and what information is optional;
 - (3) How DVR uses personal information;
 - (4) What laws allow DVR to use personal information;
- and
- (5) Your options if you decline to give DVR required information.

NEW SECTION

WAC 388-890-1260 Does DVR keep a record of my VR services on file? DVR keeps a record of VR services for three years after your case is closed. The VR case service record includes, but is not limited to:

- (1) The application form or request for VR services.

(2) Records that verify the type and severity of your disability.

(3) A summary of how your disability limits your ability to get or keep a job.

(4) Records that explain and support:

- (a) The eligibility or ineligibility decision; and
- (b) Your rehabilitation needs.

(5) Records that support the need for a trial work experience, if needed, and summaries of trial work progress reviews.

(6) Financial statement or proof that you qualify for income assistance as outlined under WAC 388-890-1150.

(7) Information collected to develop an individualized plan for employment (IPE), including:

(a) A summary of how your job goal matches your strengths, abilities, and interests;

(b) Each step needed to reach your job goal; and

(c) VR services to be used and how the services address the impediment to employment.

(8) If VR services are provided in a setting that is not integrated, a written explanation of reasons for using a nonintegrated setting.

(9) IPE, IPE amendments, and IPE progress reports.

(10) Records that verify you are paid at or above the minimum wage, but not less than the usual wage your employer pays to nondisabled individuals doing the same or similar work, if you achieve a competitive employment outcome.

(11) Summary of annual reviews, if done.

(12) Written results of mediation sessions or formal hearings, if held.

(13) Written summary of the need for post-employment services after getting a job, including a description of what services are needed.

(14) Notification of case closure and appeal rights.

NEW SECTION

WAC 388-890-1265 Under what conditions does DVR share personal information in my record with another service provider or organization? DVR shares personal information with another service provider or organization only when:

(1) You sign a written consent giving DVR permission to release the information; and

(2) The information is needed to help you meet your rehabilitation goals.

NEW SECTION

WAC 388-890-1270 When DVR gets personal information about me from another agency or service provider, is it kept confidential? If DVR gets personal information about you from another agency or service provider, DVR only releases the information to others following rules established by the agency or service provider that provided the information and with your written consent.

NEW SECTION

WAC 388-890-1275 Does DVR change incorrect information in my record? (1) You may ask DVR to correct information in your record that you believe is incorrect.

(2) DVR corrects the information, unless there is a disagreement about whether the information is correct. If there is a disagreement about whether the information is correct, you may:

- (a) Write a summary describing why the information is not correct; or
 - (b) Ask DVR to write a summary describing your concerns about the information.
- (3) DVR puts the written summary in your record.

NEW SECTION

WAC 388-890-1280 How do I receive copies of information from my DVR record? (1) You may ask DVR for information contained in your record. A request for records must be in writing.

(2) DVR gives you copies of the records in a timely manner, unless DVR determines the information may be harmful to you.

(3) If DVR determines the records may be harmful to you, DVR releases the records to your representative, parent, legal guardian, another person you choose, or to a qualified medical professional.

(4) If a representative has been appointed by a court to represent you, the information must be released to the representative.

(5) If previously existing records are given to DVR by another organization or service provider, you must ask the organization or service provider for the records.

(6) If DVR requested or paid an organization or service provider to create records, such as an assessment to determine eligibility, DVR may release the records to you.

NEW SECTION

WAC 388-890-1285 Can DVR release personal information without my written consent? DVR releases personal information without your written consent only under the following conditions:

- (1) When required by federal or state law;
- (2) When asked by a law enforcement agency to investigate criminal acts, unless prohibited by federal or state law;
- (3) When given an order signed by a judge, magistrate, or authorized court official;
- (4) When DVR decides you may be a danger to yourself or others;
- (5) When asked by the division of child support of the department of social and health services; or
- (6) To an organization, agency or person(s) for audit, evaluation or research.

NEW SECTION

WAC 388-890-1290 Under what conditions does DVR release personal information for audit, evaluation

or research? DVR may release personal information for audit, evaluation or research when the results would improve the quality of life or DVR services for people with disabilities. Before any personal information is shared, the organization, agency, authority or individual must agree to the following conditions:

- (1) The information must only be used by people directly involved in the audit, evaluation or research;
- (2) The information must only be used for the reasons approved by DVR in advance;
- (3) The information must be kept secure and confidential;
- (4) The information must not be shared with any other parties, including you or your representative; and
- (5) The final product or report must not contain any personal information that would identify you without your written consent.

NEW SECTION

WAC 388-890-1295 How does DVR protect personal information about drug, alcohol, HIV/AIDS and sexually transmitted diseases? (1) DVR uses special protections when you share personal information about drug or alcohol abuse or about HIV/AIDS and sexually transmitted diseases.

(2) DVR asks for your specific permission to copy information of this nature before sharing it with a service provider or organization that is helping you reach your employment goals.

(3) Information about drug and alcohol abuse must be handled in accordance with RCW 70.96A.150 and applicable federal and state laws and regulations.

(4) Information about HIV/AIDS or other sexually transmitted diseases must be handled in accordance with RCW 70.24.105 and applicable federal and state laws and regulations.

HOW TO CONTACT DVR IF YOU DON'T SPEAK ENGLISH

NEW SECTION

WAC 388-890-1300 How do I contact DVR if I don't speak English? If you don't speak English, you may request another type of communication to meet with DVR. DVR arranges and pays for services you need to communicate with DVR to learn about or apply for DVR services.

NEW SECTION

WAC 388-890-1305 What other methods of communication does DVR use? DVR uses equipment, devices or other services you need to understand and respond to information. Methods we can use to communicate with you include, but are not limited to, the use of:

- (1) Interpreters;
- (2) Readers;
- (3) Captioned videos;
- (4) Telecommunications devices and services;

- (5) Taped text;
- (6) Braille and large print materials;
- (7) Electronic formats;
- (8) Graphics;
- (9) Simple language materials.

NEW SECTION

WAC 388-890-1310 When does DVR communicate with me using methods other than English? DVR uses a method of communication that enables you to understand information and ask questions about the following, at a minimum:

- (1) How DVR keeps personal information confidential;
- (2) Your right to make informed choices throughout the rehabilitation process;
- (3) DVR's decision about whether you are eligible for VR or IL program services;
- (4) The options you have to develop an individualized plan for employment (IPE);
- (5) Other essential information relating to VR or IL program services and programs and answer your questions.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 490-500-005 Definitions.
- WAC 490-500-010 Application for services.
- WAC 490-500-015 Initial interview.
- WAC 490-500-022 Assessment for determining eligibility and vocational rehabilitation needs.
- WAC 490-500-025 Eligibility for services.
- WAC 490-500-030 Eligibility for services—Criteria.
- WAC 490-500-050 Certification for decision of eligibility or ineligibility.
- WAC 490-500-055 Notice to applicant.
- WAC 490-500-065 Ineligibility—Review required.
- WAC 490-500-070 Extended evaluation.
- WAC 490-500-080 Extended evaluation—Plan.
- WAC 490-500-170 Criteria for order of selection.
- WAC 490-500-180 Economic need.
- WAC 490-500-185 Economic need—Financial statement required.
- WAC 490-500-190 Economic need—Standards for determining.

- WAC 490-500-200 Economic need—Notification of decision.
- WAC 490-500-205 Comprehensive assessment.
- WAC 490-500-257 Individualized, written rehabilitation plan.
- WAC 490-500-260 Individualized, written rehabilitation plan—Content.
- WAC 490-500-270 Individualized, written rehabilitation plan—Participation.
- WAC 490-500-275 Individualized, written rehabilitation plan—Review.
- WAC 490-500-300 Vocational rehabilitation—Employment outcome.
- WAC 490-500-325 Comparable services and benefits available from other agencies.
- WAC 490-500-350 Vocational rehabilitation services.
- WAC 490-500-380 Vocational rehabilitation services—Counseling, guidance, and work-related placement services.
- WAC 490-500-385 Vocational rehabilitation services—Physical and mental restoration.
- WAC 490-500-389 Vocational rehabilitation services—Telecommunications, sensory, and other technological aids and devices.
- WAC 490-500-390 Vocational rehabilitation services—Training.
- WAC 490-500-418 Vocational rehabilitation services—Rehabilitation assistive technology services.
- WAC 490-500-420 Vocational rehabilitation services—Additional living expenses.
- WAC 490-500-430 Vocational rehabilitation services—Occupational licenses, tools, equipment, and initial stocks and supplies.
- WAC 490-500-435 Vocational rehabilitation services—Transportation.
- WAC 490-500-437 Vocational rehabilitation services—Interpreter services and reader services.
- WAC 490-500-445 Vocational rehabilitation services—Services to family members.

PERMANENT

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

WSR 99-20-005
PERMANENT RULES
PUGET SOUND
CLEAN AIR AGENCY

[Filed September 24, 1999, 8:53 a.m., effective November 1, 1999]

Date of Adoption: September 9, 1999.

Purpose: To identify specific chemicals that are part of a hazardous air pollutant compound listed in Section 112(b) of the federal Clean Air Act.

Citation of Existing Rules Affected by this Order:
Amended Regulation III - Appendix A.

Statutory Authority for Adoption: Chapter 70.94 RCW.

Adopted under notice filed as WSR 99-16-090 on August 4, 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 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 Mak-

ing: New 0, Amended 0, Repealed 0; or Other Alternative
Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: November 1, 1999.

September 21, 1999

John K. Anderson

Senior Engineer

AMENDATORY SECTION

REGULATION III APPENDIX A: ACCEPTABLE SOURCE IMPACT LEVELS

COMPOUND NAME	CAS CODE	ASIL µg/m ³	TYPE
ANTU	86-88-4	1.0	B
√Acetaldehyde	75-07-0	0.45	A
√Acetamide	60-35-5	TBD	B
Acetic acid	64-19-7	83	B
Acetic anhydride	108-24-7	67	B
Acetone	67-64-1	5900	B
√Acetonitrile	75-05-8	220	B
√Acetophenone	98-86-2	TBD	B
√2-Acetylaminofluorene	53-96-3	TBD	A
Acetylene tetrabromide	79-27-6	47	B
√Acrolein	107-02-8	0.02	B
√Acrylamide	79-06-1	0.00077	A
√Acrylic acid	79-10-7	0.30	B
√Acrylonitrile	107-13-1	0.015	A
Aldrin	309-00-2	0.0002	A
Allyl alcohol	107-18-6	17	B
√Allyl chloride	107-05-1	1.0	B
Allyl glycidyl ether (AGE)	106-92-3	77	B
Allyl propyl disulfide	2179-59-1	40.0	B
Aluminum, Al alkyls	7429-90-5	6.7	B
Aluminum, as Al metal dusts	7429-90-5	33	B
Aluminum, as Al pyro powders	7429-90-5	17	B
Aluminum, as Al soluble salts	7429-90-5	6.7	B
Aluminum, as Al welding fumes	7429-90-5	17	B
2-Aminoanthraquinone	117-79-3	TBD	A
o-Aminoazotoluene	97-56-3	TBD	A
√4-Aminobiphenyl	92-67-1	TBD	A
2-Aminopyridine	504-29-0	6.3	B
Amitrole	61-82-5	0.06	C
Ammonia	7664-41-7	100	B
Ammonium chloride fumes	12125-02-9	33	B
Ammonium perfluorooctanoate	3825-26-1	0.33	B
Ammonium sulfamate	7773-06-0	33	B
n-Amyl acetate	628-63-7	1800	B
sec-Amyl acetate	626-38-0	2200	B
√Aniline	62-53-3	6.3	A
√Aniline and homologues	62-53-3	1.0	B
Anisidine (o-,p- isomers)	29191-52-4	1.7	B

PERMANENT

√ o-Anisidine	90-04-0	1.7	C
√ Antimony & compounds, as Sb	7440-36-0	1.7	B
√ Antimony trioxide, as Sb (<u>antimony compound</u>)	1309-64-4	1.7	B
√ Arsenic and inorganic arsenic compounds	7440-38-2	0.00023	A
√ Arsine	7784-42-1	0.53	B
√ Asbestos (Note: fibers/ml)	1332-21-4	0.0000044	A
Asphalt (petroleum) fumes	8052-42-4	17	B
Atrazine	1912-24-9	17	B
Auramine (technical grade)	2465-27-2	TBD	A
Azinphos-methyl	86-50-0	0.67	B
√ Aziridine (Ethylene imine)	151-56-4	2.9	B
Barium, soluble compounds Ba	7440-39-3	1.7	B
Benomyl	17804-35-2	33	B
√ Benzene	71-43-2	0.12	A
√ Benzidine and its salts	92-87-5	0.000015	A
√ Benzo(a)anthracene (POM)	56-55-3	TBD	A
√ Benzo(a)pyrene (POM)	50-32-8	0.00048	A
√ Benzo(b)fluoranthene (POM)	205-99-2	TBD	A
Benzo(j)fluoranthene	205-82-3	TBD	A
√ Benzo(k)fluoranthene (POM)	207-08-9	TBD	A
√ Benzotrichloride	98-07-7	TBD	B
Benzoyl peroxide	94-36-0	17	B
√ Benzyl chloride	100-44-7	17	B
Benzyl violet 4b	1694-09-3	TBD	A
√ Beryllium and its compounds	7440-41-7	0.00042	A
√ Biphenyl	92-52-4	4.3	B
√ Bis(2-chloroethyl)ether (Dichloroethyl ether)	111-44-4	0.003	A
√ Bis(chloromethyl)ether	542-88-1	0.000016	A
√ Bis(2-ethylhexyl)phthalate (DEHP; Di(2-ethylhexyl)phthalate)	117-81-7	2.5	A
Bismuth telluride	1304-82-1	33	B
Bismuth telluride Se doped	1304-82-1	17	B
Borates, anhydrous	1303-96-4	3.3	B
Borates, decahydrate	1303-96-4	17	B
Borates, pentahydrate	1303-96-4	3.3	B
Boron oxide	1303-86-2	33	B
Boron tribromide	10294-33-4	33	B
Boron trifluoride	76737-07-2	9.3	B
Bromacil	314-40-9	33	B
Bromine	7726-95-6	2.2	B
Bromine pentafluoride	7789-30-2	2.4	B
√ Bromoform	75-25-2	0.91	A
√ Bromomethane (Methyl bromide)	74-83-9	5.0	B
√ 1,3-Butadiene	106-99-0	0.0036	A
Butane	106-97-8	6300.0	B
√ 2-Butanone (Methyl ethyl ketone)	78-93-3	1000	B
√ 2-Butoxyethanol (Butyl cellosolve; <u>Ethylene glycol monobutyl ether</u>)	111-76-2	400	B

PERMANENT

n-Butyl acetate	123-86-4	2400	B
sec-Butyl acetate	105-46-4	3200	B
tert-Butyl acetate	540-88-5	3200	B
Butyl acrylate	141-32-2	170	B
n-Butyl alcohol	71-36-3	500	B
sec-Butyl alcohol	78-92-2	1000	B
tert-Butyl alcohol	75-65-0	1000	B
√ tert-Butyl chromate, as CrO ₃ (<u>chromium compound</u>)	1189-85-1	0.33	B
n-Butyl glycidyl ether (BGE)	2426-08-6	440	B
n-Butyl lactate	138-22-7	83	B
n-Butyl mercaptan	109-79-5	6.0	B
n-Butylamine	109-73-9	50.0	B
√ 1,2-Butylene oxide (1,2-Epoxybutane)	106-88-7	20	B
o-sec-Butylphenol	89-72-5	100	B
p-tert-Butyltoluene	98-51-1	200	B
β-Butyrolactone	3068-88-0	TBD	A
√ Cadmium and compounds	7440-43-9	0.00056	A
√ Calcium cyanamide	156-62-7	1.7	B
Calcium hydroxide	1305-62-0	17	B
Calcium oxide	1305-78-8	6.7	B
Camphor, synthetic	76-22-2	40	B
√ Caprolactam, dusts	105-60-2	3.3	B
√ Caprolactam, vapors	105-60-2	67	B
Captafol	2425-06-1	0.33	B
√ Captan	133-06-2	17	B
√ Carbaryl	63-25-2	17	B
Carbofuran	1563-66-2	0.33	B
Carbon black	1333-86-4	12	B
√ Carbon disulfide	75-15-0	100	B
Carbon tetrabromide	558-13-4	4.7	B
√ Carbon tetrachloride	56-23-5	0.067	A
Carbonyl fluoride	353-50-4	18	B
√ Carbonyl sulfide	463-58-1	TBD	B
√ Catechol	120-80-9	77	B
Cellosolve (2-Ethoxyethanol)	110-80-5	200	B
Cesium hydroxide	21351-79-1	6.7	B
√ Chloramben	133-90-4	TBD	B
√ Chlordane	57-74-9	0.0027	A
√ Chlorinated camphene (Toxaphene)	8001-35-2	0.0031	A
Chlorinated diphenyl oxide (hexachlorophenyl ether)	55720-99-5	1.7	B
√ Chlorine	7782-50-5	5.0	B
Chlorine dioxide	10049-04-4	0.2	B
Chlorine trifluoride	7790-91-2	1.3	B
1-Chloro-1-nitropropane	600-25-9	33	B
Chloroacetaldehyde	107-20-0	11	B
√ Chloroacetic acid	79-11-8	TBD	B

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√ a-Chloroacetophenone	532-27-4	1.1	B
Chloroacetyl chloride	79-04-9	0.67	B
o-Chlorobenzylidene malononitrile	2698-41-1	1.3	B
√Chlorobenzene	108-90-7	150	B
√Chlorobenzilate	510-15-6	0.2	A
Chlorobromomethane	74-97-5	3500	B
Chlorodifluoromethane	75-45-6	12000	B
√Chloroethane (Ethyl chloride)	75-00-3	10000	B
√Chloroform	67-66-3	0.043	A
√Chloromethane (Methyl chloride)	74-87-3	340	B
√Chloromethyl methyl ether (technical grade)	107-30-2	TBD	A
Chloropentafluoroethane	76-15-3	21000	B
Chlorophenols	108-43-0	0.18	A
Chloropicrin	76-06-2	2.2	B
√β-Chloroprene	126-99-8	120.0	C
o-Chlorostyrene	2039-87-4	940	B
o-Chlorotoluene	95-49-8	860	B
Chlorpyrifos	2921-88-2	0.67	B
√Chromium (II) compounds, as Cr	7440-47-3	1.7	B
√Chromium (III) compounds, as Cr	7440-47-3	1.7	B
√Chromium (VI) compounds	7440-47-3	0.000083	A
√Chromium (metal)	7440-47-3	1.7	B
√Chromyl chloride (<u>chromium compound</u>)	14977-61-8	0.53	B
Clopidol	2971-90-6	33	B
√Cobalt as Co, metals, dusts and fumes	7440-48-4	0.17	B
√Cobalt carbonyl as Co (<u>cobalt compound</u>)	10210-68-1	0.33	B
√Cobalt hydrocarbonyl (<u>cobalt compound</u>)	16842-03-8	0.33	B
√Coke oven emissions	81103*	0.0016	A
Copper as Cu, dusts and mists	7440-50-8	3.3	B
Copper, fumes	7440-50-8	0.67	B
Cotton dust, raw	81106*	0.67	B
Creosote	8001-58-9	TBD	A
√Cresol, all isomers	1319-77-3	73	B
√Crotonaldehyde (<u>POM</u>)	4170-30-3	20.0	B
Crufomate	299-86-5	17	B
√Cumene (Isopropylbenzene)	98-82-8	820	B
Cupferron	135-20-6	TBD	A
Cyanamide	420-04-2	6.7	B
√Cyanides, as CN	57-12-5	17	B
Cyanogen	460-19-5	67	B
Cyanogen chloride	506-77-4	2.5	B
√1,4-Cyclohexadienedione (Quinone)	106-51-4	1.5	B
Cyclohexane	110-82-7	3400	B
Cyclohexanol	108-93-0	690	B
Cyclohexanone	108-94-1	330	B
Cyclohexene	110-83-8	3400	B

Cyclohexylamine	108-91-8	140	B
Cyclonite	121-82-4	5.0	B
Cyclopentadiene	542-92-7	680	B
Cyclopentane	287-92-3	5700	B
Cyhexatin	13121-70-5	17	B
√2,4-D salts and esters (2,4-Dichlorophenoxy acetic acid)	94-75-7	33.0	C
√DDE (p,p'-Dichlorodiphenyldichloroethylene)	3547-04-4	0.1	A
DDT (1,1,1-Trichloro-2,2-bis(p-chlorophenyl)ethane)	50-29-3	0.01	A
Decaborane	17702-41-9	0.83	B
Demeton	8065-48-3	0.37	B
√Di(2-ethylhexyl)phthalate (Bis(2-ethylhexyl)phthalate; DEHP)	117-81-7	2.5	A
Diacetone alcohol	123-42-2	790	B
N,N-Diacetylbenzidine	613-35-4	TBD	A
4,4'-Diaminodiphenyl ether	101-80-4	TBD	A
Diazinon	333-41-5	0.33	B
√Diazomethane	334-88-3	1.1	B
Dibenz(a,h)acridine	226-36-8	TBD	A
√Dibenz(a,h)anthracene (POM)	53-70-3	TBD	A
Dibenz(a,j)acridine	224-42-0	TBD	A
Dibenzo(a,e)pyrene	192-65-4	TBD	A
Dibenzo(a,h)pyrene	189-64-0	TBD	A
Dibenzo(a,l)pyrene	191-30-0	TBD	A
√Dibenzofurans	132-64-9	TBD	A
1,2,7,8-Dibenzopyrene(Dibenzo(a,i)pyrene)	189-55-9	TBD	A
Diborane	19287-45-7	0.37	B
√1,2-Dibromo-3-chloropropane	96-12-8	0.20	B
Dibutyl phosphate	107-66-4	29	B
√Dibutyl phthalate	84-74-2	17	B
2-N-Dibutylaminoethanol	102-81-8	47	B
Dichloroacetylene	7572-29-4	1.3	B
√1,4-Dichlorobenzene (p-Dichlorobenzene)	106-46-7	1.5	A
o-Dichlorobenzene (1,2-Dichlorobenzene)	95-50-1	1000	B
√3,3'-Dichlorobenzidine	91-94-1	0.077	A
1,4-Dichloro-2-butene	764-41-0	0.00038	A
3,3'-Dichloro-4,4'-diaminodiphenyl ether	28434-86-8	TBD	A
Dichlorodifluoromethane	75-71-8	16000	B
1,3-Dichloro-5,5-dimethylhydantoin	118-52-5	0.67	B
√p,p'-Dichlorodiphenyldichloroethylene (DDE)	3547-04-4	0.1	A
√1,1-Dichloroethane (Ethylidene dichloride)	75-34-3	2700	B
√1,2-Dichloroethane (Ethylene dichloride)	107-06-2	0.038	A
√Dichloroethyl ether (Bis (2-chloroethyl)ether)	111-44-4	0.003	A
√1,1-Dichloroethylene (Vinylidene chloride)	75-35-4	67	B
1,2-Dichloroethylene	540-59-0	2600	B
Dichlorofluoromethane	75-43-4	130	B
√Dichloromethane (Methylene chloride)	75-09-2	0.56	A
1,1-Dichloro-1-nitroethane	594-72-9	40	B

Dichlorophenylarsine (arsenic group)	696-28-6	TBD	A
√1,2-Dichloropropane (Propylene dichloride)	78-87-5	4.0	C
√Dichloropropene	542-75-6	20	B
2,2-Dichloropropionic acid	75-99-0	19	B
Dichlorotetrafluoroethane	76-14-2	23000	B
√Dichlorvos	62-73-7	3.3	B
Dicrotophos	141-66-2	0.83	B
Dicyclopentadiene	77-73-6	100	B
Dicyclopentadienyl iron	102-54-5	33	B
Dieldrin	60-57-1	0.00022	A
√Diethanolamine	111-42-2	43	B
Diethyl ketone	96-22-0	2300	B
Diethyl nitrosamine (DEN; N-Nitrosodiethylamine)	55-18-5	0.000023	A
Diethyl phthalate	84-66-2	17	B
√Diethyl sulfate	64-67-5	TBD	B
Diethylamine	109-89-7	100	B
Diethylaminoethanol	100-37-8	170	B
Diethylene triamine	111-40-0	14	B
1,2-Diethylhydrazine	1615-80-1	TBD	A
Difluorodibromomethane	75-61-6	2900	B
Diglycidyl ether	2238-07-5	1.7	B
Diglycidyl resorcinol ether	101-90-6	TBD	A
Diisobutyl ketone	108-83-8	480	B
Diisopropylamine	108-18-9	67	B
√3,3'-Dimethoxybenzidine (ortol-dianisidine)	119-90-4	TBD	A
√Dimethyl aminoazobenzene	60-11-7	TBD	B
√3,3'-Dimethyl benzidine	119-93-7	0.0038	A
√Dimethyl carbamoyl chloride	79-44-7	TBD	B
√Dimethyl phthalate	131-11-3	17	B
√Dimethyl sulfate	77-78-1	1.7	C
Dimethylacetamide	127-19-5	120	B
Dimethylamine	124-40-3	60	B
√Dimethylaniline (Diethyl aniline)	121-69-7	83	B
√Dimethylformamide	68-12-2	30	B
√1,1-Dimethylhydrazine	57-14-7	4.0	B
1,2-Dimethylhydrazine	540-73-8	4.0	C
√Dimethylnitrosoamine (N-Nitrosodimethylamine)	62-75-9	0.000071	A
Dinitolmide	148-01-6	17	B
√Dinitro-o-cresol	534-52-1	0.67	B
Dinitrobenzene, all isomers	528-29-0	3.3	B
√2,4-Dinitrophenol	51-28-5	TBD	B
√2,4-Dinitrotoluene	121-14-2	5.0	B
√1,4-Dioxane (1,4-Diethyleneoxide)	123-91-1	0.032	A
Dioxathion	78-34-2	0.67	B
√Dioxins and furans	43110*	TBD	A
Diphenylamine	122-39-4	33	B

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√1,2-Diphenyl hydrazine	122-66-7	0.0045	A
Dipropyl ketone	123-19-3	780	B
Dipropylene glycol methyl ether	34590-94-8	2000	B
Diquat	85-00-7	1.7	B
Disulfiram	97-77-8	6.7	B
Disulfuton	298-04-4	0.33	B
2,6-Ditert. butyl-p-cresol	128-37-0	33	B
Diuron	330-54-1	33	B
Divinyl benzene	1321-74-0	180	B
EPN	2104-64-5	1.7	B
Endosulfan	115-29-7	0.33	B
Endrin	72-20-8	0.33	B
Enflurane	13838-16-9	1900	B
√Epichlorohydrin (1-Chloro-2,3-epoxypropane)	106-89-8	0.83	A
√1,2-Epoxybutane (1,2-Butylene oxide)	106-88-7	20	B
Ethanolamine	141-43-5	25	B
Ethion	563-12-2	1.3	B
√2-Ethoxyethanol (Cellosolve) (glycol ether)	110-80-5	200	B
√2-Ethoxyethyl acetate (glycol ether)	111-15-9	90	B
Ethyl acetate	141-78-6	4800	B
√Ethyl acrylate	140-88-5	66	B
Ethyl alcohol	64-17-5	6300	B
Ethyl amyl ketone	541-85-5	440	B
√Ethyl benzene	100-41-4	1000	B
Ethyl bromide	74-96-4	3000	B
Ethyl butyl ketone	106-35-4	780	B
√Ethyl carbamate (Urethan)	51-79-6	TBD	B
√Ethyl chloride (Chloroethane)	75-00-3	10000	B
Ethyl ether	60-29-7	4000	B
Ethyl formate	109-94-4	1000	B
Ethyl mercaptan	75-08-1	4.3	B
Ethyl silicate	78-10-4	280	B
Ethylamine	75-04-7	60	B
√Ethylene dichloride (1,2-Dichloroethane)	107-06-2	0.038	A
Ethylene chlorohydrin	107-07-3	11	B
Ethylene diamine	107-15-3	83	B
√Ethylene dibromide (1,2-Dibromoethane)	106-93-4	0.0045	A
√Ethylene glycol	107-21-1	420	B
Ethylene glycol dinitrate	628-96-6	1.0	B
√Ethylene imine (Aziridine)	151-56-4	2.9	B
√Ethylene oxide	75-21-8	0.010	A
√Ethylene thiourea	96-45-7	1.0	A
√Ethylidene dichloride (1,1-Dichloroethane)	75-34-3	2700	B
Ethylidene norbornene	16219-75-3	83	B
N-Ethylmorpholine	100-74-3	77	B
Fenamiphos	22224-92-6	0.33	B

Fensulfothion	115-90-2	0.33	B
Fenthion	55-38-9	0.67	B
Ferbam	14484-64-1	33	B
Ferrovandium dust	12604-58-9	3.3	B
Fibrous glass dust	81111*	33	B
√Fine mineral fibers	81104*	33	B
Fluorides, as F	16984-48-8	8.3	B
Fluorine	7782-41-4	5.3	B
Fonofos	944-22-9	0.33	B
√Formaldehyde	50-00-0	0.077	A
Formamide	75-12-7	60	B
Formic acid	64-18-6	31	B
Furazolidone	67-45-8	TBD	A
Furfural	98-01-1	26	B
Furfuryl alcohol	98-00-1	130	B
Furium (nitrofurane group)	43111*	TBD	A
Germanium tetrahydride	7782-65-2	2.1	B
Glutaraldehyde	111-30-8	2.5	B
Glyciadialdehyde	765-34-4	TBD	A
Glycidol	556-52-5	250	B
√Glycol ethers	43107*	TBD	B
Hafnium	7440-58-6	1.7	B
Halothane	151-67-7	1300	B
√Heptachlor	76-44-8	0.00077	A
Heptane (n-Heptane)	142-82-5	5500	B
√Hexachlorobenzene	118-74-1	0.0022	A
√Hexachlorobutadiene	87-68-3	0.70	B
Hexachlorocyclohexane (Lindane) Alpha (BHC)	319-84-6	1.7	C
Hexachlorocyclohexane (Lindane) Beta (BHC)	319-85-7	1.7	C
√Hexachlorocyclohexane (Lindane) Gamma (BHC)	58-89-9	0.0026	A
√Hexachlorocyclopentadiene	77-47-4	0.33	B
1,2,3,6,7,8-Hexachloro-dibenzo-o-dioxin (1:2 mixture)	34465-46-8	TBD	A
1,2,3,7,8,9-Hexachloro-dibenzo-o-dioxin (1:2 mixture)	19408-74-3	TBD	A
√Hexachloroethane	67-72-1	32.0	B
Hexachloronaphthalene	1335-87-1	0.67	B
Hexachlorophenyl ether (Chlorinated diphenyl oxide)	55720-99-5	1.7	B
Hexafluoroacetone	684-16-2	2.3	B
√Hexamethylene diisocyanate	822-06-0	0.11	B
√Hexamethylphosphoramide	680-31-9	TBD	A
√Hexane (n-Hexane)	110-54-3	200	B
Hexane, other isomers	43103*	5900	B
2-Hexanone (Methyl butyl ketone)	591-78-6	67	B
√Hexone (Methyl isobutyl ketone (MIBK))	108-10-1	680	B
sec-Hexyl acetate	108-84-9	980	B
Hexylene glycol	107-41-5	400	B
√Hydrazine	302-01-2	0.0002	A

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Hydrogen bromide	10035-10-6	33	B
√Hydrogen chloride (Hydrochloric acid)	7647-01-0	7.0	B
√Hydrogen cyanide (<u>cyanide compound</u>)	74-90-8	37	B
√Hydrogen fluoride, as F (Hydrofluoric acid)	7664-39-3	8.7	B
Hydrogen peroxide	7722-84-1	4.7	B
Hydrogen selenide, as Se	7783-07-5	0.53	B
Hydrogen sulfide	7783-06-4	0.9	B
√Hydroquinone	123-31-9	6.7	B
2-Hydroxypropyl acrylate	999-61-1	9.3	B
Indene	95-13-6	160	B
√Indeno(1,2,3-cd)pyrene (<u>POM</u>)	193-39-5	TBD	A
Indium, & compounds as In	7440-74-6	0.33	B
Iodine	7553-56-2	3.3	B
Iodoform	75-47-8	33	B
√Iodomethane (Methyl iodide)	74-88-4	40	B
Iron oxide fumes, Fe ₂ O ₃ as Fe	1309-37-1	17	B
Iron pentacarbonyl, as Fe	13463-40-6	0.83	B
Iron salts, soluble as Fe	81101*	3.3	B
Isoamyl acetate	123-92-2	1700	B
Isoamyl alcohol	123-51-3	1200	B
Isobutyl acetate	110-19-0	2400	B
Isobutyl alcohol	78-83-1	510	B
Isocyt alcohol	26952-21-6	890	B
√Isophorone	78-59-1	93	B
Isophorone diisocyanate	4098-71-9	0.15	B
Isopropoxyethanol	109-59-1	350	B
Isopropyl acetate	108-21-4	3500	B
Isopropyl alcohol	67-63-0	3300	B
Isopropyl ether	108-20-3	3500	B
Isopropyl glycidyl ether (IGE)	4016-14-2	790	B
Isopropyl oils	43112*	TBD	A
Isopropylamine	75-31-0	40	B
N-Isopropylaniline	768-52-5	37	B
√Isopropylbenzene (Cumene)	98-82-8	820	B
Ketene	463-51-4	2.9	B
√Lead acetate (<u>lead compound</u>)	301-04-2	TBD	A
√Lead arsenate, as Pb ₃ (AsO ₄) ₂ (<u>arsenic and lead compound</u>)	3687-31-8	0.50	B
√Lead chromate, as Cr (<u>lead compound</u>)	7758-97-6	0.040	B
√Lead compounds	81109*	0.5	C
√Lead phosphate (<u>lead compound</u>)	7446-27-7	TBD	A
Liquified petroleum gas	68476-85-7	6000	B
√Lindane	58-89-9	0.0026	A
Lithium hydride	7580-67-8	0.080	B
Magnesium oxide fumes	1309-48-4	33	B
Malathion	121-75-5	33	B
√Maleic anhydride	108-31-6	3.3	B

√Manganese, dusts and compounds	7439-96-5	0.40	B
√Manganese, fumes	7439-96-5	3.3	B
√Manganese cyclopentadienyl tricarbonyl (<u>manganese compound</u>)	12079-65-1	0.33	B
√Mercury, Aryl & inorganic compounds	7439-97-6	0.33	B
√Mercury, as Hg Alkyl compounds	7439-97-6	0.33	B
√Mercury, vapors except alkyl	7439-97-6	0.17	B
Mesityl oxide	141-79-7	200	B
Methacrylic acid	79-41-4	230	B
Methomyl	16752-77-5	8.3	B
√Methoxychlor	72-43-5	33	B
2-Methoxyethanol (methyl cellosolve)	109-86-4	20	B
√2-Methoxyethyl acetate (<u>glycol ether</u>)	110-49-6	80	B
4-Methoxyphenol	150-76-5	17	B
2-Methyl-1-nitroanthraquinone	129-15-7	TBD	A
Methyl 2-cyanoacrylate	137-05-3	30	B
Methyl acetate	79-20-9	2000	B
Methyl acetylene	74-99-7	5500	B
Methyl acetylene-propadiene mixture (MAPP)	59355-75-8	5500	B
Methyl acrylate	96-33-3	120	B
√Methyl alcohol (Methanol)	67-56-1	870	B
N-Methyl aniline	100-61-8	7.3	B
√2-Methyl aziridine (1,2-Propylene imine)	75-55-8	16	B
Methyl azoxymethyl acetate	592-62-1	TBD	A
√Methyl bromide (Bromomethane)	74-83-9	5.0	B
Methyl cellosolve (2-Methoxyethanol)	109-86-4	20	B
√Methyl chloride (Chloromethane)	74-87-3	340	B
√Methyl chloroform (1,1,1-Trichloroethane)	71-55-6	6400	B
Methyl demeton	8022-00-2	1.7	B
√Methyl ethyl ketone (MEK; 2-Butanone)	78-93-3	1000	B
Methyl ethyl ketone peroxide	1338-23-4	5.0	B
Methyl formate	107-31-3	820	B
√Methyl hydrazine	60-34-4	1.2	B
√Methyl iodide (Iodomethane)	74-88-4	40	B
Methyl isoamyl ketone	110-12-3	780	B
Methyl isobutyl carbinol	108-11-2	350	B
√Methyl isobutyl ketone (MIBK; Hexone)	108-10-1	680	B
√Methyl isocyanate	624-83-9	0.16	B
Methyl isopropyl ketone	563-80-4	2300	B
Methyl mercaptan	74-93-1	3.3	B
√Methyl methacrylate	80-62-6	1400	B
Methyl n-amyl ketone	110-43-0	780	B
Methyl n-butyl ketone	591-78-6	67	B
Methyl parathion	298-00-0	0.67	B
Methyl propyl ketone	107-87-9	2300	B
Methyl silicate	681-84-5	20	B
a-Methyl styrene	98-83-9	810	B

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√Methyl tert-butyl ether	1634-04-4	500	B
Methylacrylonitrile	126-98-7	9.0	B
Methylal	109-87-5	10000	B
Methylamine	74-89-5	43	B
5-Methylchrysene	3697-24-3	TBD	A
Methylcyclohexane	108-87-2	5400	B
Methylcyclohexanol	25639-42-3	780	B
o-Methylcyclohexanone	583-60-8	760	B
√Methylcyclopentadienyl manganese tricarbonyl (<u>manganese compound</u>)	12108-13-3	0.67	B
Methylene bis(4-cyclo-hexylisocyanate)	5124-30-1	0.18	B
4,4'-Methylene bis(2-methylaniline)	838-88-0	TBD	A
√4,4'-Methylene bis(2-chloroaniline)	101-14-4	0.7	C
√Methylene bis(phenyl isocyanate) (Methylene diphenyl diisocyanate, MDI)	101-68-8	0.2	B
√Methylene chloride (Dichloromethane)	75-09-2	0.56	A
√4,4-Methylene dianiline	101-77-9	2.7	C
4,4-Methylenedianiline dihydrochloride	13552-44-8	TBD	A
4-(Methylnitrosamino)-1-(3-pyridyl)-1-butanone	64091-91-4	TBD	A
Metribuzin	21087-64-9	17	B
Mevinphos	7786-34-7	0.33	B
Mirex	2385-85-5	TBD	A
Molybdenum, as Mo soluble compounds	7439-98-7	17	B
Molybdenum, insoluble compounds	7439-98-7	33	B
Monocrotophos	6923-22-4	0.83	B
Morpholine	110-91-8	240	B
5-(Morpholinomethyl)-3-(amino)-2-oxazolidinone (furaltudone)	139-91-3	TBD	A
Naled	300-76-5	10	B
Naphtha (Rubber solvent)	43102*	5300	B
√Naphthalene	91-20-3	170	B
1-Naphthylamine	134-32-7	TBD	A
√Nickel and compounds (as nickel subsulfide or nickel refinery dust)	7440-02-2	0.0021	A
Nicotine	54-11-5	1.7	B
Nitrapyrin	1929-82-4	33	B
Nitric acid	7697-37-2	17	B
Nitric oxide	10102-43-9	100	B
5-Nitroacenaphthene	602-87-9	TBD	A
p-Nitroaniline	100-01-6	10	B
√Nitrobenzene	98-95-3	1.7	B
√4-Nitrobiphenyl	92-93-3	TBD	B
p-Nitrochlorobenzene	100-00-5	2.0	B
Nitroethane	79-24-3	1000	B
Nitrofen	1836-75-5	TBD	A
Nitrofurans Furazolidone	43114*	TBD	A
Nitrofurazone	59-87-0	TBD	A
1-(5-Nitrofurfurylidene)amino)-2-imidazolidinone	555-84-9	TBD	A
Nitrogen mustard N-oxide	126-85-2	TBD	A
Nitrogen mustard n-oxide hydro-chloride	302-70-5	TBD	A
Nitrogen trifluoride	7783-54-2	97	B

Nitroglycerin	55-63-0	1.5	B
Nitromethane	75-52-5	830	B
√4-Nitrophenol	100-02-7	TBD	B
1-Nitropropane	108-03-2	20	B
√2-Nitropropane	79-46-9	0.00037	A
N-Nitrosodiethylamine (diethylnitrosoamine) (DEN)	55-18-5	0.000023	A
√N-Nitrosodimethylamine (Dimethylnitrosoamine)	62-75-9	0.000071	A
N-Nitrosodi-n-butylamine	924-16-3	0.00063	A
N-Nitrosodi-n-propylamine	621-64-1	TBD	A
N-Nitrosodiphenylamine	86-30-6	TBD	A
N-Nitrosomethylethylamine	10595-95-6	TBD	A
√N-Nitrosomorpholine	59-89-2	TBD	A
N-Nitroso-n-ethylurea (NEU)	759-73-9	TBD	A
√N-Nitroso-N-methylurea (NMU)	684-93-5	TBD	B
N-Nitroso-n-methylurethane	615-53-2	TBD	A
Nitrotoluene	88-72-2	37	B
N-(4-(5-Nitro-2-furyl)-2-thiazolyl)acetamide	531-82-8	TBD	A
Nonane	111-84-2	3500	B
Octachloronaphthalene	2234-13-1	0.33	B
Octane	111-65-9	4700	B
Oil mist, mineral	8012-95-1	17	B
Oil orange SS	2646-17-5	TBD	A
Osmium tetroxide as Os	20816-12-0	0.0053	B
Oxalic acid	144-62-7	3.3	B
Oxygen difluoride	7783-41-7	0.37	B
Panfuran S (dihydroxymethyl-furatrizine)	794-93-4	TBD	A
Parafin wax fumes	8002-74-2	6.7	B
Paraquat	4685-14-7	4.5	B
√Parathion	56-38-2	0.33	B
Pentaborane	19624-22-7	0.043	B
Pentachloronaphthalene	1321-64-8	1.7	B
√Pentachloronitrobenzene (quintobenzene)	82-68-8	1.7	B
√Pentachlorophenol	87-86-5	0.33	A
Pentane	109-66-0	6000	B
√Perchloroethylene (Tetrachloroethylene)	127-18-4	1.1	A
Perchloromethyl mercaptan	594-42-3	2.5	B
Perchloryl fluoride	7616-94-6	43	B
√Phenol	108-95-2	63	B
Phenothiazine	92-84-2	1.7	B
Phenoxybenzamine hydrochloride	63-92-3	TBD	A
Phenyl ether	101-84-8	23	B
Phenyl glycidyl ether	122-60-1	2000	B
Phenyl mercaptan	108-98-5	7.7	B
√p-Phenylenediamine	106-50-3	0.33	B
Phenylhydrazine	100-63-0	1.5	B
Phenylphosphine	638-21-1	0.77	B
N-Phenyl-2-naphthylamine	135-88-6	TBD	A

Phorate	298-02-2	0.17	B
√Phosgene	75-44-5	1.3	B
√Phosphine	7803-51-2	1.3	B
Phosphoric acid	7664-38-2	3.3	B
√Phosphorus	7723-14-0	0.33	B
Phosphorus oxychloride	10025-87-3	2.1	B
Phosphorus pentachloride	10026-13-8	2.8	B
Phosphorus pentasulfide	1314-80-3	3.3	B
Phosphorus trichloride	7719-12-2	3.7	B
√Phthalic anhydride	85-44-9	20	B
m-Phthalodinitrile	626-17-5	17	B
Picloram	1918-02-1	33	B
Picric acid	88-89-1	0.33	B
Pindone	83-26-1	0.033	B
Piperazine dihydrochloride	142-64-3	17	B
Platinum, metals	7440-06-4	3.3	B
Platinum, soluble salts as Pt	7440-06-4	0.0067	B
Polyaromatic hydrocarbons (PAH)	43116*	0.00048	A
√Polychlorinated biphenyls (PCB)	1336-36-3	0.0045	A
√Polycyclic Organic Matter	43108*	TBD	A
Ponceau MX	3761-53-3	TBD	A
Potassium hydroxide	1310-58-3	6.7	B
Primary Aluminum Smelter uncontrolled roof vent PAH emissions	81113*	0.0013	A
√1,3-Propane sultone	1120-71-4	TBD	A
Propargyl alcohol	107-19-7	7.7	B
√β-Propiolactone	57-57-8	5.0	B
√Propionaldehyde	123-38-6	TBD	B
√Propoxur	114-26-1	1.7	B
Propionic acid	79-09-4	100	B
n-Propyl acetate	109-60-4	2800	B
n-Propyl alcohol	71-23-8	1600	B
n-Propyl nitrate	627-13-4	360	B
√Propylene dichloride (1,2-Dichloropropane)	78-87-5	4.0	C
Propylene glycol dinitrate	6423-43-4	1.1	B
Propylene glycol mono-methyl ether	107-98-2	2000	B
√Propylene oxide	75-56-9	0.27	A
√1,2-Propylene imine (2-Methyl aziridine)	75-55-8	16	B
Pyrethrum	8003-34-7	1.7	B
Pyridine	110-86-1	53	B
√Quinoline	91-22-5	TBD	B
√Quinone (1,4-Cyclohexadienedione)	106-51-4	1.5	B
√Quintobenzene (Pentachloronitrobenzene)	82-68-8	1.7	B
√Radionuclides (including radon)	81105*		
Resorcinol	108-46-3	150	B
Rhodium, insoluble compounds	7440-16-6	3.3	B
Rhodium, metals	7440-16-6	3.3	B

Rhodium, soluble compounds	7440-16-6	0.033	B
Ronnel	299-84-3	33	B
Rotenone	83-79-4	17	B
Rubber solvent (Naphtha)	43102*	5300	B
√Selenium compounds, as Se	7782-49-2	0.67	B
√Selenium hexafluoride, as Se (<u>selenium compound</u>)	7783-79-1	0.53	B
Sesone	136-78-7	33	B
Silicon tetrahydride	7803-62-5	22	B
Silver, metals	7440-22-4	0.33	B
Silver, soluble compounds, as Ag	7440-22-4	0.033	B
Sodium azide	26628-22-8	1.0	B
Sodium bisulfite	7631-90-5	17	B
Sodium fluoroacetate	62-74-8	0.17	B
Sodium hydroxide	1310-73-2	6.7	B
Sodium metabisulfite	7681-57-4	17	B
Stibine	7803-52-3	1.7	B
Strychnine	57-24-9	0.5	B
√Styrene	100-42-5	1000	B
√Styrene oxide	96-09-3	TBD	B
Subtilisins	1395-21-7	0.0002	B
Sulfotep	3689-24-5	0.67	B
Sulfur hexafluoride	2551-62-4	20000	B
Sulfur monochloride	10025-67-9	18	B
Sulfur pentafluoride	5714-22-7	0.33	B
Sulfur tetrafluoride	7783-60-0	1.5	B
Sulfuric acid	7664-93-9	3.3	B
Sulfuryl fluoride	2699-79-8	67	B
Sulprofos	35400-43-2	3.3	B
2,4,5-T	93-76-5	33	B
TEPP	107-49-3	0.16	B
Tantalum, metals & oxide dusts	7440-25-7	17	B
Tellurium & compounds as Te	13494-80-9	0.33	B
Tellurium hexafluoride, as Te	7783-80-4	0.33	B
Temephos	3383-96-8	33	B
Terphenyls	26140-60-3	16	B
P(p)(ααα) Tetra-chlorotoluene	5216-25-1	TBD	A
√2,3,7,8-Tetrachlorodibenzo-p-dioxin (2,3,7,8-TCDD)	1746-01-6	0.00000003	A
1,1,2,2-Tetrachloro-1,2-difluoroethane	76-12-0	14000	B
1,1,1,2-Tetrachloro-2,2-difluoroethane	76-11-9	14000	B
√1,1,2,2-Tetrachloroethane	79-34-5	23	B
√Tetrachloroethylene (Perchloroethylene)	127-18-4	1.1	A
Tetrachloronaphthalene	1335-88-2	6.7	B
√Tetraethyl lead, as Pb (<u>lead compound</u>)	78-00-2	0.33	B
Tetrahydrofuran	109-99-9	2000	B
√Tetramethyl lead, as Pb (<u>lead compound</u>)	75-74-1	0.5	B
Tetramethyl succinonitrile	3333-52-6	9.3	B
Tetranitromethane	509-14-8	27	B

Tetrasodium pyrophosphate	7722-88-5	17	B
Tetryl	479-45-8	5.0	B
Thallium, soluble compounds, Tl	7440-28-0	0.33	B
4,4-Thiobis(6-tert, butyl-m-cresol)	96-69-5	33	B
4,4'-Thiodianiline	139-65-1	TBD	A
Thioglycolic acid	68-11-1	13	B
Thionyl chloride	7719-09-7	16	B
Thirum	137-26-8	3.3	B
Thorium dioxide	1314-20-1	TBD	A
Tin, metals	7440-31-5	6.7	B
Tin, organic compounds, as Sn	7440-31-5	0.33	B
Tin, oxide & inorganic except SnH ₄	7440-31-5	6.7	B
√Titanium tetrachloride	7550-45-0	TBD	B
√Toluene	108-88-3	400	B
√2,4-Toluene diamine (2,4-Diamino toluene)	95-80-7	0.011	A
√2,4-Toluene diisocyanate (TDI)	584-84-9	0.12	C
m-Toluidine	108-44-1	29	B
√o-Toluidine	95-53-4	0.14	A
o-Toluidine hydrochloride	636-21-5	0.14	A
p-Toluidine	106-49-0	29	B
√Toxaphene (Chlorinated camphene)	8001-35-2	0.0031	A
Trans-2((Dimethylamino)methylimino)-5-(2-(5-nitro-2-furyl)) vinyl-1,3,4-oxadiazole	55738-54-0	TBD	A
Tributyl phosphate	126-73-8	7.3	B
1,1,2-Trichloro-1,2,2-trifluoroethane	76-13-1	27000	B
Trichloroacetic acid	76-03-9	22	B
√1,2,4-Trichlorobenzene	120-82-1	120	B
√1,1,1-Trichloroethane (Methyl chloroform)	71-55-6	6400	B
√1,1,2-Trichloroethane	79-00-5	180	B
√Trichloroethylene	79-01-6	0.59	A
Trichlorofluoromethane	75-69-4	19000	B
Trichloronaphthalene	1321-65-9	17	B
√2,4,5-Trichlorophenol	95-95-4	TBD	B
√2,4,6-Trichlorophenol	88-06-2	0.32	A
1,2,3-Trichloropropane	96-18-4	200	B
√Triethylamine	121-44-8	7.0	B
Trifluorobromomethane	75-63-8	20000	B
√Trifluralin	1582-09-8	TBD	B
Trimellitic anhydride	552-30-7	0.13	B
Trimethyl benzene	2551-13-7	420	B
Trimethyl phosphite	121-45-9	33	B
Trimethylamine	75-50-3	80	B
√2,2,4-Trimethylpentane	540-84-1	TBD	B
2,4,6-Trinitrotoluene	118-96-7	1.7	B
Triorthocresyl phosphate	78-30-8	0.33	B
Triphenyl amine	603-34-9	17	B

Triphenyl phosphate	115-86-6	10	B
Tungsten, insoluble compounds	7440-33-7	17	B
Tungsten, soluble compounds	7440-33-7	3.3	B
Turpentine	8006-64-2	1900	B
Uranium, insoluble & soluble	7440-61-1	0.67	B
Urethan (Ethyl carbamate)	51-79-6	TBD	B
VM & P Naphtha	8032-32-4	4600	B
n-Valeraldehyde	110-62-3	590	B
Vanadium, as V ₂ O ₅	1314-62-1	0.17	B
√Vinyl acetate	108-05-4	200	B
√Vinyl bromide	593-60-2	73	B
√Vinyl chloride	75-01-4	0.012	A
Vinyl cyclohexene dioxide	106-87-6	200	B
Vinyl toluene	25013-15-4	800	B
√Vinylidene chloride (1,1-Dichloroethylene)	75-35-4	67	B
Warfarin	81-81-2	0.33	B
Welding fumes	81108*	17	B
m-Xylene a,a'-diamine	1477-55-0	0.33	B
√Xylenes (m-,o-,p-isomers)	1330-20-7	1500	B
Xylidine	1300-73-8	8.3	B
Yttrium, metals and compounds as Y	7440-65-5	3.3	B
Zinc chloride fumes	7646-85-7	3.3	B
√Zinc chromates (chromium compound)	13530-65-9	0.033	B
Zinc oxide, fumes	1314-13-2	17	B
Zirconium compounds, as Zr	7440-67-7	17	B

PERMANENT

Acceptable Source Impact Level (ASIL) means a concentration of a toxic air contaminant in the outdoor atmosphere in any area that does not have restricted or controlled public access that is used to evaluate the air quality impacts of a single source. There are 3 types of acceptable source impact levels:

			Averaging Time
Risk-Based	Type A	carcinogens	annual arithmetic mean
Threshold-Based	Type B	non-carcinogens	24-hour arithmetic mean
Special	Type C	carcinogens	24-hour arithmetic mean

TBD = To Be Determined

*((PSAPCA assigned numbers)) numbers assigned by Puget Sound Clean Air Agency

√ = EPA 112(b) hazardous air pollutant

**WSR 99-20-006
PERMANENT RULES
PUGET SOUND
CLEAN AIR AGENCY**

[Filed September 24, 1999, 8:58 a.m., effective November 1, 1999]

Date of Adoption: September 9, 1999.

Purpose: To update the regulations with the agency's name.

Citation of Existing Rules Affected by this Order:
Amending Regulation I - Sections 1.01, 1.03, 1.05, 1.07, 3.01, 3.03, 7.03, 8.07, 8.08, 13.01; Regulation II - Sections 1.01, 1.02, 1.03, 1.05; and Regulation III - Section 1.02.

Statutory Authority for Adoption: Chapter 70.94 RCW.
Adopted under notice filed as WSR 99-15-090 on July 21, 1999.

Changes Other than Editing from Proposed to Adopted Version: Removed definitions from Regulation II, Section 1.05 that were deleted at our July public hearing (effective August 13, 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 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: November 1, 1999.

September 21, 1999

David S. Kircher

Manager, Engineering

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 99-21 issue of the Register.

WSR 99-20-007
PERMANENT RULES
PUGET SOUND
CLEAN AIR AGENCY

[Filed September 24, 1999, 9:00 a.m., effective November 1, 1999]

Date of Adoption: September 9, 1999.

Purpose: To adjust maximum civil penalty amount for inflation; adjust fees for Registration and Operating Permit programs to cover administrative costs; reference the North American Industrial Classification System (NAICS) codes for fees based on Standard Industrial Classification (SIC) categories; and update delegations for federal New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants.

Citation of Existing Rules Affected by this Order: Amending Regulation I - Sections 3.11, 5.07, 6.11, and 7.07 and Regulation III - Section 2.02.

Statutory Authority for Adoption: Chapter 70.94 RCW.

Adopted under notice filed as WSR 99-16-091 on August 4, 1999.

Changes Other than Editing from Proposed to Adopted Version: In Sections 5.07 (c)(1), 5.07 (c)(2), and 7.07 (b)(2), the amount to be paid per ton of carbon monoxide was changed from \$35 to \$15.

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: November 1, 1999.

September 21, 1999

John K. Anderson

Senior Engineer

AMENDATORY SECTION

REGULATION I SECTION 3.11 CIVIL PENALTIES

(a) Any person who violates any of the provisions of Chapter 70.94 RCW or any of the rules or regulations in force pursuant thereto, may incur a civil penalty in an amount not to exceed (~~(\$12,288.00)~~) \$12,718.00 per day for each violation.

(b) Any person who fails to take action as specified by an order issued pursuant to Chapter 70.94 RCW or Regulations I, II, and III of the Puget Sound Air Pollution Control Agency shall be liable for a civil penalty of not more than (~~(\$12,288.00)~~) \$12,718.00 for each day of continued non-compliance.

(c) Within 15 days after receipt of a Notice and Order of Civil Penalty, the person incurring the penalty may apply in writing to the Control Officer for the remission or mitigation of the penalty. Any such request must contain the following:

(1) The name, mailing address, telephone number, and telefacsimile number (if available) of the appealing party;

(2) A copy of the Notice and Order of Civil Penalty appealed from;

(3) A short and plain statement showing the grounds upon which the appealing party considers such order to be unjust or unlawful;

(4) A clear and concise statement of facts upon which the appealing party relies to sustain his or her grounds for appeal;

(5) The relief sought, including the specific nature and extent; and

(6) A statement that the appealing party has read the notice of appeal and believes the contents to be true, followed by the party's signature.

Upon receipt of the application, the Control Officer shall remit or mitigate the penalty only upon a demonstration by the requestor of extraordinary circumstances such as the presence of information or factors not considered in setting the original penalty.

(d) Any civil penalty may also be appealed to the Pollution Control Hearings Board pursuant to Chapter 43.21B RCW and Chapter 371-08 WAC if the appeal is filed with the Hearings Board and served on the Agency within 30 days after receipt by the person penalized of the notice imposing the penalty or 30 days after receipt of the notice of disposition on the application for relief from penalty.

(e) A civil penalty shall become due and payable on the later of:

(1) 30 days after receipt of the notice imposing the penalty;

(2) 30 days after receipt of the notice of disposition on application for relief from penalty, if such application is made; or

(3) 30 days after receipt of the notice of decision of the Hearings Board if the penalty is appealed.

(f) If the amount of the civil penalty is not paid to the Agency within 30 days after it becomes due and payable, the Agency may bring action to recover the penalty in King County Superior Court or in the superior court of any county in which the violator does business. In these actions, the pro-

cedures and rules of evidence shall be the same as in an ordinary civil action.

(g) Civil penalties incurred but not paid shall accrue interest beginning on the 91st day following the date that the penalty becomes due and payable, at the highest rate allowed by RCW 19.52.020 on the date that the penalty becomes due and payable. If violations or penalties are appealed, interest shall not begin to accrue until the 31st day following final resolution of the appeal.

(h) To secure the penalty incurred under this section, the Agency shall have a lien on any vessel used or operated in violation of Regulations I, II, and III which shall be enforced as provided in RCW 60.36.050.

AMENDATORY SECTION

REGULATION I SECTION 5.07 REGISTRATION FEES

(a) The Agency shall levy annual fees as set forth in Section 5.07(c) below for services provided in administering the registration program. Fees received under the registration program shall not exceed the cost of administering the program. Registration fees do not apply to sources subject to Article 7 of Regulation I.

(b) Upon assessment by the Agency, registration fees are due and payable within 30 days. They shall be deemed delinquent if not fully paid within 90 days.

(c) Annual registration fees are assessed either by the emission reporting thresholds or, if below emission thresholds, by the primary Standard Industrial Classification (SIC) of the source:

(1) Emission reporting sources under Section 5.05(d) that equal or exceed any of the emission thresholds in ~~((that section))~~ this paragraph shall be charged an annual registration fee of \$1,000 plus an additional emission rate fee of:

\$15 for each ton of CO when the CO emissions are equal to or exceed ~~((25))~~ 100 tons in ~~((1997))~~ 1998, and

\$35 for each ton of NOx when the NOx emissions are equal to or exceed 25 tons in ~~((1997))~~ 1998, and

\$35 for each ton of PM₁₀ when the PM₁₀ emissions are equal to or exceed 25 tons in ~~((1997))~~ 1998, and

\$35 for each ton of SOx when the SOx emissions are equal to or exceed 25 tons in ~~((1997))~~ 1998, and

\$35 for each ton of VOC when the VOC emissions are equal to or exceed 25 tons in ~~((1997))~~ 1998, and

~~\$((15))~~ 35 for each ton of ~~((TAC))~~ HAP when the facility total ~~((TAC))~~ HAP emissions are equal to or exceed 6 tons in ~~((1997))~~ 1998 or when any single individual ~~((TAC))~~ HAP emissions are equal to or exceed 2 tons in ~~((1997))~~ 1998.

(2) Emission reporting sources under Section 5.05(d) that equal or exceed ~~((twice))~~ any of the emission thresholds in ~~((that section))~~ this paragraph shall be charged the annual registration fee of \$2,000 plus an additional emission rate fee of: ((Section 5.07(e)(1) above plus an additional \$1,000.))

\$15 for each ton of CO when the CO emissions are equal to or exceed 200 tons in 1998, and

\$35 for each ton of NOx when the NOx emissions are equal to or exceed 50 tons in 1998, and

\$35 for each ton of PM₁₀ when the PM₁₀ emissions are equal to or exceed 50 tons in 1998, and

\$35 for each ton of SOx when the SOx emissions are equal to or exceed 50 tons in 1998, and

\$35 for each ton of VOC when the VOC emissions are equal to or exceed 50 tons in 1998, and

\$35 for each ton of HAP when the facility total HAP emissions are equal to or exceed 12 tons in 1998 or when any single individual HAP emissions are equal to or exceed 4 tons in 1998.

(3) Automobile body repair and painting (SIC = 7532, NAICS = 811121)

without EnviroStar rating of 4 or 5 stars. \$250
with EnviroStar rating of 4 or 5 stars ~~((as certified at the time of annual fee payment))~~. \$50

(4) Dry-cleaning plants, except rug cleaning (SIC = 7216, NAICS = 812322)

without refrigerated condenser. \$500
with refrigerated condenser. \$150

(5) Gasoline service stations with gasoline annual throughput during the last calendar year (as certified at the time of annual fee payment) of:

(i) more than 1,200,000 gallons. \$400

(ii) 840,001 to 1,200,000 gallons in Kitsap County. \$250

(iii) 600,001 to 1,200,000 gallons in King, Pierce, or Snohomish County. \$250

(iv) 600,001 to 840,000 gallons in Kitsap County \$150

(v) 200,000 to 600,000 gallons \$150

(vi) less than 200,000 gallons. \$100

(6) Sources having 10 or more full-time employees at the facility site (as certified at the time of annual fee payment) and requiring registration under Section 5.03 in the following Standard Industrial Classification (SIC) codes (*Standard Industrial Classification Manual*, Executive Office of the President, Office of Management and Budget, 1987) or North American Industry Classification System (NAICS) codes (*North American Industry Classification System Manual*, U.S. Executive Office of the President, Office of Management and Budget, 1997) shall be charged an annual registration fee of \$1,000:

SIC	NAICS	SIC Description
1422	<u>212312</u>	Crushed and Broken Limestone
1429	<u>212319</u>	Crushed and Broken Stone
1442	<u>212321</u>	Construction Sand and Gravel
1446	<u>212322</u>	Industrial Sand
1611	<u>23411</u>	Highway and Street Construction
2035	<u>311421</u>	Pickled Fruits & Vegetables, Vegetable Sauces & Seasonings, and Salad Dressings
2077	<u>311613</u>	Animal and Marine Fats and Oils
2099	<u>311999</u>	Food Preparations
2491	<u>321114</u>	Wood Preserving
2834	<u>325412</u>	Pharmaceutical Preparations

PERMANENT

2842	<u>325612</u>	Specialty Cleaning, Polishing, and Sanitation Preparations	4911	<u>221122</u>	Electric Services
2873	<u>325311</u>	Nitrogenous Fertilizers	4952	<u>22132</u>	Sewerage Systems, (Treatment Plants)
2875	<u>325314</u>	Fertilizers, Mixing Only	4953	<u>562111</u>	Refuse Systems
2893	<u>32591</u>	Printing Ink	5153	<u>42251</u>	Grain and Field Beans
2951	<u>234110</u>	Asphalt Paving Mixtures and Blocks	5169	<u>42269</u>	Chemicals and Allied Products
2952	<u>324122</u>	Asphalt Felts and Coatings	7694	<u>335312</u>	Armature Rewinding Shops
3061	<u>326291</u>	Molded, Extruded, and Lathe-Cut Mechanical Rubber Goods	8063	<u>62221</u>	Psychiatric Hospitals
3211	<u>327211</u>	Flat Glass	8069	<u>62231</u>	Specialty Hospitals, except Psychiatric
3241	<u>32731</u>	Cement, Hydraulic	8611	<u>81391</u>	Business Associations
3272	<u>32739</u>	Concrete Products, except Block and Brick			
3273	<u>32732</u>	Ready-Mix Concrete			
3275	<u>32742</u>	Gypsum Products			
3291	<u>32791</u>	Abrasive Products	0711	<u>115112</u>	Soil Preparation Services
3292	<u>327999</u>	Asbestos Products	1459	<u>212325</u>	Clay, Ceramic, and Refractory Minerals
3295	<u>327992</u>	Minerals and Earths, Ground or Otherwise Treated	1521	<u>23321</u>	General Contractor — Single-Family Homes
3299	<u>327999</u>	Nonmetallic Mineral Products	1629	<u>23499</u>	Heavy Construction
3312	<u>331111</u>	Steel Works, Blast Furnaces, and Rolling Mills	1731	<u>23531</u>	Electrical Work
3315	<u>331222</u>	Steel Wiredrawing and Steel Nails and Spikes	2013	<u>311612</u>	Sausages and Other Prepared Meat Products
3321	<u>331511</u>	Gray and Ductile Iron Foundries	2032	<u>311422</u>	Canned Specialties
3324	<u>331512</u>	Steel Investment Foundries	2041	<u>311211</u>	Flour and Other Grain Mill Products
3325	<u>331513</u>	Steel Foundries	2045	<u>311822</u>	Prepared Flour Mixes and Doughs
3334	<u>331312</u>	Primary Production of Aluminum	2047	<u>311111</u>	Dog and Cat Food
3341	<u>331492</u>	Secondary Smelting & Refining of Nonferrous Metals	2048	<u>311119</u>	Prepared Feeds and Feed Ingredients for Animals and Fowls, except Dogs and Cats
3365	<u>331524</u>	Aluminum Foundries	2052	<u>311821</u>	Cookies and Crackers
3366	<u>331525</u>	Copper Foundries	2082	<u>31212</u>	Malt Beverages
3369	<u>331528</u>	Nonferrous Foundries, except Aluminum and Copper	2086	<u>312111</u>	Bottled and Canned Soft Drinks and Carbonated Water
3398	<u>332811</u>	Metal Heat Treating	2091	<u>311711</u>	Canned and Cured Fish and Seafoods
3433	<u>333414</u>	Heating Equipment, except Electric and Warm Air Furnaces	2095	<u>31192</u>	Roasted Coffee
3471	<u>332813</u>	Electroplating, Plating, Polishing, Anodizing, and Coloring	2096	<u>311919</u>	Potato Chips, Corn Chips, and Similar Snacks
3479	<u>332812</u>	Coating, Engraving, and Allied Services	2098	<u>311823</u>	Macaroni, Spaghetti, Vermicelli, and Noodles
3599	<u>333999</u>	Industrial and Commercial Machinery & Equipment	2421	<u>321113</u>	Sawmills and Planing Mills
3674	<u>334413</u>	Semiconductors and Related Devices	2426	<u>321912</u>	Hardwood Dimension and Flooring Mills
3679	<u>334418</u>	Electronic Components	2429	<u>321113</u>	Special Product Sawmills
3731	<u>336611</u>	Ship Building and Repairing	2431	<u>32191</u>	Millwork
4013	<u>48821</u>	Railroad Switching and Terminal Establishments	2434	<u>33711</u>	Wood Kitchen Cabinets
4613	<u>48691</u>	Refined Petroleum Pipelines	2439	<u>321213</u>	Structural Wood Members

(7) Other sources having 10 or more full-time employees at the facility site (as certified at the time of annual fee payment) and requiring registration under Section 5.03 in the following Standard Industrial Classification (SIC) codes or North American Industry Classification System (NAICS) codes shall be charged an annual registration fee of \$500:

2441	<u>32192</u>	Nailed and Lock-Corner Wood Boxes and Shook	3567	<u>333994</u>	Industrial Process Furnaces and Ovens
2448	<u>32192</u>	Wood Pallets and Skids	3571	<u>334111</u>	Electronic Computers
2452	<u>321992</u>	Prefabricated Wood Buildings and Components	3629	<u>335999</u>	Electrical Industrial Apparatus
2493	<u>321219</u>	Reconstituted Wood Products	3639	<u>335228</u>	Household Appliances
2631	<u>32213</u>	Paperboard Mills	3648	<u>335129</u>	Lighting Equipment
2652	<u>322213</u>	Setup Paperboard Boxes	3663	<u>33422</u>	Radio & Television Broadcasting and Communications Equipment
2653	<u>322211</u>	Corrugated and Solid Fiber Boxes	3672	<u>334412</u>	Printed Circuit Boards
2657	<u>322212</u>	Folded Paperboard Boxes	3691	<u>335911</u>	Storage Batteries
2671	<u>326112</u>	Packaging Paper and Plastics Film, Coated and Laminated	3713	<u>336211</u>	Truck and Bus Bodies
2675	<u>322231</u>	Die-Cut Paper and Paperboard and Cardboard	3721	<u>336411</u>	Aircraft
2711	<u>51111</u>	Newspapers: Publishing, or Publishing and Printing	3728	<u>336413</u>	Aircraft Parts and Auxiliary Equipment
2721	<u>51112</u>	Periodicals: Publishing, or Publishing and Printing	3743	<u>33651</u>	Railroad Equipment
2731	<u>51113</u>	Books: Publishing, or Publishing and Printing	3823	<u>334513</u>	Industrial Instruments for Measurement, Display, and Control of Process Variables; and Related Products
2752	<u>323110</u>	Commercial Printing, Lithographic	3873	<u>334518</u>	Watches, Clocks, Clockwork Operated Devices, and Parts
2759	<u>32311</u>	Commercial Printing	4173	<u>48849</u>	Terminal and Service Facilities for Motor Vehicle Passenger Transportation
2819	<u>325188</u>	Industrial Inorganic Chemicals	4212	<u>48411</u>	Local Trucking without Storage
2821	<u>325211</u>	Plastic Materials, Synthetic Resins, and Non-vulcanizable Elastomers	4222	<u>49312</u>	Refrigerated Warehousing and Storage
2851	<u>32551</u>	Paints, Varnishes, Lacquers, Enamels, and Allied Products	4491	<u>48832</u>	Marine Cargo Handling
2869	<u>325199</u>	Industrial Organic Chemicals	4492	<u>48833</u>	Towing and Tugboat Services
3089	<u>326199</u>	Plastics Products	4512	<u>481111</u>	Air Transportation, Scheduled
3271	<u>327331</u>	Concrete Block and Brick	4581	<u>48819</u>	Airports, Flying Fields, and Airport Terminal Services
3441	<u>332312</u>	Fabricated Structural Metal	4952	<u>22132</u>	Sewerage Systems, (Pump Stations)
3443	<u>33242</u>	Fabricated Plate Work	4961	<u>22133</u>	Steam and Air-Conditioning Supply
3444	<u>332322</u>	Sheet Metal Work	5032	<u>42132</u>	Brick, Stone, and Related Construction Materials
3446	<u>332323</u>	Architectural and Ornamental Metal Work	5039	<u>44419</u>	Construction Materials
3449	<u>332312</u>	Miscellaneous Structural Metal Work	5051	<u>42151</u>	Metals Service Centers and Offices
3463	<u>332112</u>	Nonferrous Forgings	5065	<u>42169</u>	Electronic Parts and Equipment
3469	<u>332116</u>	Metal Stampings	5093	<u>42193</u>	Scrap and Waste Materials
3483	<u>332993</u>	Ammunition, except for Small Arms	5162	<u>42261</u>	Plastics Materials and Basic Forms and Shapes
3496	<u>332618</u>	Miscellaneous Fabricated Wire Products	5171	<u>42271</u>	Petroleum Bulk Stations and Terminals
3498	<u>332996</u>	Fabricated Pipe and Pipe Fittings	5172	<u>422720</u>	Petroleum and Petroleum Products Wholesalers, except Bulk Stations and Terminals
3499	<u>332999</u>	Fabricated Metal Products	5199	<u>42299</u>	Nondurable Goods
3545	<u>333515</u>	Cutting Tools, Machine Tool Accessories, and Machinists' Precision Measuring Devices	5712	<u>337122</u>	Furniture Stores
3556	<u>333294</u>	Food Products Machinery	5984	<u>454312</u>	Liquefied Petroleum Gas Dealers

	<u>SIC</u>	<u>NAICS</u>	<u>SIC Description</u>
6513	<u>53111</u>		Operators of Apartment Buildings
7218	<u>812332</u>	2911	<u>32411</u> Petroleum Refining
7219	<u>812331</u>	3241	<u>32731</u> Cement, Hydraulic
7261	<u>81221</u> , <u>81222</u>	3312	<u>331111</u> Steel Works, Blast Furnaces, and Rolling Mills
7374	<u>51421</u>	3721	<u>336411</u> Aircraft
		3728	<u>336413</u> Aircraft Parts and Auxiliary Equipment
7534	<u>326212</u>		Tire Retreading and Repair Shops
8062	<u>62211</u>	9711	<u>92811</u> National Security
8221	<u>61131</u>		Colleges, Universities, and Professional Schools
8331	<u>62431</u>		Job Training and Vocational Rehabilitation Services
8422	<u>712190</u>		Arboreta and Botanical or Zoological Gardens
8731	<u>54171</u>	2431	<u>32191</u> Millwork
		2434	<u>33711</u> Wood Kitchen Cabinets
8744	<u>56121</u>	2491	<u>321114</u> Wood Preserving
		2499	<u>321999</u> Wood Products
9221	<u>922120</u>	2672	<u>322222</u> Coated and Laminated Paper
9223	<u>92214</u>	3086	<u>32614</u> , <u>32615</u> Plastics Foam Products
9711	<u>92811</u>		National Security
		\$21,000
			(ii) Operating permit sources with the following SIC/NAICS codes:
		1721	<u>23521</u> Painting and Paper Hanging
		2051	<u>311812</u> Bread and other Bakery Products, except Cookies and Crackers
		2431	<u>32191</u> Millwork
		2434	<u>33711</u> Wood Kitchen Cabinets
		2491	<u>321114</u> Wood Preserving
		2499	<u>321999</u> Wood Products
		2672	<u>322222</u> Coated and Laminated Paper
		3086	<u>32614</u> , <u>32615</u> Plastics Foam Products
		3251	<u>327121</u> Brick and Structural Clay Tile
		3443	<u>332313</u> Fabricated Plate Work
		3498	<u>332996</u> Fabricated Pipe and Pipe Fittings
		3585	<u>333415</u> Air Conditioning and Warm-Air Heating Equipment, and Commercial and Industrial Refrigeration Equipment
		7641	<u>81142</u> Reupholstery and Furniture Repair
		\$3,500

(8) All other sources, not listed above in Sections (1) through (7), requiring registration under Section 5.03, shall be charged an annual registration fee of \$250.

AMENDATORY SECTION

REGULATION I SECTION 6.11 NEW SOURCE PERFORMANCE STANDARDS

It shall be unlawful for any person to cause or allow the operation of any source in violation of any provision of Part 60, Title 40, of the Code of Federal Regulations (CFR) in effect July 1, ((1998)) 1999 herein incorporated by reference.

AMENDATORY SECTION

REGULATION I 7.07 OPERATING PERMIT FEES

(a) The Agency shall levy annual operating permit fees as set forth in Section 7.07(b) below to cover the cost of administering the operating permit program.

(b) Upon assessment by the Agency, the following operating permit fees are due and payable within 30 days. They shall be deemed delinquent if not fully paid within 90 days.

(1) Facility Fees:

(i) Operating permit sources with the following Standard Industrial Classification (SIC) codes or North American Industry Classification System (NAICS) codes (*North American Industry Classification System Manual, U.S. Executive Office of the President, Office of Management and Budget, 1997*):

.....\$7,000
(iii) Operating permit sources with ((a)) SIC/NAICS codes other than listed above

(2) Additional emission rate fees shall be paid in addition to the annual operating permit fees of Section 7.07 (b)(1):

\$15 for each ton of CO when the CO emissions are equal to or exceed ((25)) 100 tons in ((1997)) 1998, and

\$35 for each ton of NOx when the NOx emissions are equal to or exceed 25 tons in ((1997)) 1998, and

\$35 for each ton of PM₁₀ when the PM₁₀ emissions are equal to or exceed 25 tons in ((1997)) 1998, and

\$35 for each ton of SOx when the SOx emissions are equal to or exceed 25 tons in ((1997)) 1998, and

\$35 for each ton of VOC when the VOC emissions are equal to or exceed 25 tons in ((1997)) 1998, and

\$((15)) 35 for each ton of ((TAC)) HAP when the facility total ((TAC)) HAP emissions are equal to or exceed 6 tons in ((1997)) 1998 or when any single individual ((TAC)) HAP emissions are equal to or exceed 2 tons in ((1997)) 1998.

(c) In addition to the fees under Sections 7.07 (b)(1) and (b)(2) above, the Agency shall, on a source-by-source basis, levy the following fees:

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(1) for the issuance, reissuance, or renewal of an operating permit, a fee equal to 20% of the annual operating permit fee, not to exceed \$5,000.00, and

(2) to cover the cost of public involvement under WAC 173-401-800, and

(3) to cover the cost incurred by the Washington State Department of Health in enforcing 40 CFR Part 61, Subpart I and Chapter 246-247 WAC.

(d) In addition to the fees described under Sections 7.07(b) and (c) above, the Agency shall collect and transfer to the Washington State Department of Ecology a surcharge established by the Department of Ecology under WAC 173-401 to cover the Department of Ecology's program development and oversight costs.

(e) Continued payment to the Agency of the annual operating permit fee maintains the operating permit and the status of the source as an operating facility.

AMENDATORY SECTION

REGULATION III SECTION 2.02 NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS

It shall be unlawful for any person to cause or allow the operation of any source in violation of any provision of Part 61 or Part 63, Title 40, of the Code of Federal Regulations (CFR) in effect July 1, ((1998)) 1999 herein incorporated by reference.

WSR 99-20-011

PERMANENT RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

(Division of Child Support)

[Filed September 24, 1999, 12:15 p.m.]

Date of Adoption: September 24, 1999.

Purpose: Removes prior exemptions from requirements to report new hires under RCW 26.23.040. Allows employer to comply with reporting requirements by filing a completed copy of the employee's W-4 form.

Citation of Existing Rules Affected by this Order: Amending WAC 388-14-490.

Statutory Authority for Adoption: RCW 26.23.040.

Adopted under notice filed as WSR 99-17-052 on August 13, 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 1, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

September 24, 1999

Marie Myerchin-Redifer, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending Order 3403, filed 6/9/92, effective 7/10/92)

WAC 388-14-490 (~~(Employer reporting program—Exemptions)~~) All Washington employers must report new hires to the Washington state support registry. (1) (~~In addition to the exemptions established under~~) RCW 26.23.040(~~the employers assigned the following standard industrial classification (SIC) codes are exempt from the requirements of the employer reporting program as authorized under chapter 26.23 RCW:~~

(a) SIC code 7363, temporary services;

(b) SIC code 8011, ~~offices and clinics of medical doctors;~~

(c) SIC code 8021, ~~offices and clinics of dentists;~~

(d) SIC code 8031, ~~offices of osteopath physicians;~~

(e) SIC code 8041, ~~offices and clinics of chiropractors;~~

(f) SIC code 8042, ~~offices and clinics of optometrists;~~

(g) SIC code 8043, ~~offices and clinics of podiatrists;~~

(h) SIC code 8049, ~~offices of health practitioners;~~

(i) SIC code 8071, ~~medical laboratories;~~

(j) SIC code 8072, ~~dental laboratories; and~~

(k) SIC code 8092, ~~kidney dialysis centers~~) requires all

employers doing business in the state of Washington to comply with the employer reporting requirements regarding new hires.

(2) The minimum information that must be reported is the employee's name, date of birth, social security number and date of hire.

(3) An employer who submits a copy of the employee's completed W-4 form complies with the filing requirements of RCW 26.23.040(3).

(4) An employer may choose to voluntarily report the other statutory elements.

WSR 99-20-012

PERMANENT RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

(Division of Child Support)

[Filed September 24, 1999, 12:17 p.m.]

Date of Adoption: September 24, 1999.

Purpose: Reviewed and revised the case closure rules because (1) federal regulation 45 C.F.R. 303.11 was amended and (2) reviewed under Governor's Executive Order 97-02 for clarity. New rules WAC 388-14-421, 388-14-422, 388-14-423, and 388-14-424.

Citation of Existing Rules Affected by this Order: Amending WAC 388-14-420.

Statutory Authority for Adoption: RCW 26.23.035, 34.05.220, 74.20A.310.

Adopted under notice filed as WSR 99-17-010 on August 6, 1999.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 4, Amended 1, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 4, 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 4, Amended 1, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

September 24, 1999

Marie Myerchin-Redifer, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 97-13-092, filed 6/18/97, effective 7/19/97)

WAC 388-14-420 (~~Termination of~~) Once a support enforcement ((services)) case is opened, under what circumstances can it be closed? ((1) After the IV-D agency begins providing services under chapter 74.20 RCW and RCW 26.23.045 (1)(a), (b), (c), (e), or (f), the IV-D agency may terminate services when:

~~(a) There is no current support order and the support debt is less than five hundred dollars or cannot be enforced under the laws of the state of Washington;~~

~~(b) The IV-D agency determines that the responsible parent or putative father is dead and has no available assets, income, or estate subject to collection action;~~

~~(c) The IV-D agency determines that the responsible parent does not have any available assets, income, or estate subject to collection action, and is and will be unable to pay support because the parent is:~~

~~(i) Institutionalized in a psychiatric facility;~~

~~(ii) Incarcerated without possibility of parole; or~~

~~(iii) Medically verified as totally and permanently disabled with no evidence of support potential.~~

~~(d) The applicant, agency, or person receiving nonassistance services submits a written request to terminate services, and no current assignment to the state of medical support~~

~~rights exists. If there is accrued debt under a support order that is assigned to the state:~~

~~(i) That portion of the case shall remain open; and~~

~~(ii) The IV-D agency may close the nonassistance portion of the case.~~

~~(e) The IV-D agency makes reasonable efforts to identify or locate the responsible parent, using local, state, and federal locate sources over a three-year period and does not find new locate information;~~

~~(f) The IV-D agency is unable to contact a nonassistance physical custodian within a thirty-day period using both a telephone call and one or more registered letters;~~

~~(g) The IV-D agency documents:~~

~~(i) Instances of the physical custodian's failure or refusal to cooperate with the IV-D agency; and~~

~~(ii) That the physical custodian's cooperation is essential for the next step in providing support enforcement services;~~

~~(h) The IV-D agency cannot obtain a paternity order because:~~

~~(i) The putative father is dead;~~

~~(ii) A genetic test has excluded all known putative fathers and no other putative father can be identified;~~

~~(iii) The child is eighteen years of age or older; or~~

~~(iv) The department, a court of competent jurisdiction, or an adjudicative proceeding determines that paternity establishment would not be in the best interest of the child in a case involving:~~

~~(A) Incest;~~

~~(B) Rape; or~~

~~(C) Pending adoption.~~

~~(i) The department or a court of competent jurisdiction finds the person receiving services has wrongfully deprived the responsible parent of physical custody of a dependent child under WAC 388-11-065(3);~~

~~(j) The department or a court of competent jurisdiction finds that action establishing or enforcing a support obligation cannot proceed without risk of harm to the child or the child's custodian;~~

~~(k) The IV-D agency has provided locate-only services in response to a request for state parent locator services;~~

~~(l) The responsible parent is a citizen of, and lives in, a foreign country and:~~

~~(i) Does not have any assets which can be reached by the IV-D agency; and~~

~~(ii) Washington state has been unable to establish reciprocity in child support matters with that country; or~~

~~(m) The dependent child is confined to a juvenile rehabilitation facility for a period of ninety day or more; or~~

~~(n) Any other circumstances exist which would allow closure under 45 CFR 303.11 or any other federal statute or regulation.~~

~~(2) After the IV-D agency provides services under RCW 26.23.045 (1)(d), the IV-D agency shall:~~

~~(a) Terminate support enforcement services;~~

~~(i) If a court of competent jurisdiction orders the IV-D agency to terminate services based on:~~

~~(A) An approved alternate payment plan under RCW 26.23.050; or~~

~~(B) A finding that it is not in the child's best interest for the IV-D agency to continue providing services.~~

~~(ii) After filing a satisfaction of judgment with the court as provided under WAC 388-14-205; or~~

~~(iii) If the responsible parent is dead and the IV-D agency receives proof there is no available estate.~~

~~(b) Terminate services, except records maintenance and payment processing:~~

~~(i) For the reasons stated under subsections (1)(e), (d), (e), (f), (g), (j), (k), (l), or (m) of this section; or~~

~~(ii) If the payee under the order fails to submit an application for support enforcement services.~~

~~(3) Sixty days before terminating services, the IV-D agency shall mail a notice to the physical custodian. The IV-D agency shall:~~

~~(a) Send the notice by regular mail to the last known address of the physical custodian;~~

~~(b) Include in the notice the reasons for terminating services; and~~

~~(c) State in the notice that the physical custodian may ask for a hearing to contest the decision terminating services.~~

~~(4) After terminating support enforcement services, the IV-D agency shall return support money the IV-D agency receives to the payor except as provided under subsection (2)(b) of this section)) Once the division of child support (DCS) starts providing support enforcement services under RCW 26.23.045 and chapter 74.20 RCW, the case must remain open, unless DCS determines that:~~

~~(1) There is no current support order, and the support debt owed by the noncustodial parent (NCP) is less than five hundred dollars, or cannot be enforced under Washington law;~~

~~(2) The NCP or putative (alleged) father is dead with no assets, income or estate available for collection;~~

~~(3) The NCP has no assets or income available for collection and is not able to provide support during the child's minority because of being:~~

~~(a) Institutionalized in a psychiatric facility;~~

~~(b) Incarcerated without possibility of parole; or~~

~~(c) Medically verified as totally and permanently disabled with no evidence of ability to provide support.~~

~~(4) The applicant, agency or recipient of nonassistance services submits a written request for closure, and there is no current assignment of medical or support rights;~~

~~(5) DCS has enough information to use an automated locate system, and has not been able to locate the NCP after three years of diligent efforts;~~

~~(6) DCS does not have enough information to use an automated locate system, and has not been able to locate the NCP after one year of diligent efforts;~~

~~(7) DCS is unable to contact the applicant, agency or recipient of services for at least sixty days;~~

~~(8) DCS documents failure to cooperate by the physical custodian or the initiating jurisdiction, and that cooperation is essential for the next step in enforcement;~~

~~(9) DCS cannot obtain a paternity order because:~~

~~(a) The putative father is dead;~~

~~(b) Genetic testing has excluded all putative fathers;~~

~~(c) The child is at least eighteen years old;~~

~~(d) DCS, a court of competent jurisdiction or an administrative hearing determines that establishing paternity would~~

not be in the best interests of the child in a case involving incest, rape, or pending adoption; or

(e) The biological father is unknown and cannot be identified after diligent efforts, including at least one interview by DCS or its representative with the recipient of support enforcement services.

(10) DCS, a court of competent jurisdiction or an administrative hearing determines that the recipient of services has wrongfully deprived the noncustodial parent of physical custody of the child as provided in WAC 388-11-065(3);

(11) DCS, the department of social and health services, a court of competent jurisdiction or an administrative hearing determines that action to establish or enforce a support obligation cannot occur without a risk of harm to the child or the physical custodian;

(12) DCS has provided locate-only services in response to a request for state parent locator services (SPLS);

(13) The NCP is a citizen and resident of a foreign country, and:

(a) NCP has no assets which can be reached by DCS; and

(b) The country where NCP resides does not provide reciprocity in child support matters.

(14) The child is incarcerated or confined to a juvenile rehabilitation facility for a period of ninety days or more; or

(15) Any other circumstances exist which would allow closure under 45 CFR 303.11 or any other federal statute or regulation.

NEW SECTION

WAC 388-14-421 Under what circumstances may DCS deny a request to close a support enforcement case?

(1) The division of child support (DCS) may deny a request to close a support enforcement case when:

(a) There is a current assignment of support or medical rights on behalf of the children in the case;

(b) There is accrued debt under a support order which has been assigned to the state;

(c) Support or medical rights on behalf of the children have previously been assigned to the state;

(d) The person who requests closure is not the recipient of support enforcement services; or

(e) A superior court order requires payments to the Washington state support registry (WSSR).

(2) If there is no current assignment of support or medical rights, DCS may close the portion of the case which is owed to the physical custodian, but if there is accrued debt under a support order which has been assigned to the state, DCS keeps that portion of the case open.

(3) If a superior court order specifies that the noncustodial parent (NCP) must make payments to the WSSR, but the physical custodian does not want support enforcement services, DCS keeps the case open as a payment services only (PSO) case, which means that:

(a) DCS provides payment processing and records maintenance, and

(b) DCS does not provide enforcement services.

NEW SECTION

WAC 388-14-422 Who is mailed notice of DCS' intent to close a case? (1) Sixty days before closing a case the division of child support (DCS) sends a notice of intent to close, advising the parties why DCS is closing the case.

(a) DCS does not send a notice when closing a case under WAC 388-14-420(11) or (12).

(b) DCS does not provide sixty days' prior notice when closing a case under WAC 388-14-420(4).

(2) DCS mails a notice by regular mail to the last known address of the physical custodian and the noncustodial parent.

(3) In an interstate case, DCS mails the notice to the physical custodian by regular mail in care of the other state's child support agency.

(4) If DCS is closing an interstate case because of noncooperation by the initiating jurisdiction, DCS also mails the notice to the other state's child support agency.

NEW SECTION

WAC 388-14-423 What if I don't agree with the case closure notice? (1) Only the person who applied for support enforcement services, also known as the recipient of services, may request a hearing to challenge closure of a case.

(2) If the recipient of services requests a hearing, the other party may participate in the hearing.

(3) The closure of a child support case does not stop the physical custodian or noncustodial parent from filing an application for support enforcement services in the future, but the reason for closure may affect whether the division of child support will open a new case.

NEW SECTION

WAC 388-14-424 What happens to payments that come in after a case is closed? After support enforcement services are terminated, DCS returns support money to the noncustodial parent except if the case remains open as a payment services only (PSO) case as described in WAC 388-14-421(4).

WSR 99-20-013**PERMANENT RULES****UTILITIES AND TRANSPORTATION
COMMISSION**

[Docket No. A-980247, General Order No. R-465—Filed September 24, 1999, 12:47 p.m.]

In the matter of amending WAC 480-14-060, 480-15-040, 480-30-015, 480-31-100, 480-31-120, 480-31-130, 480-31-140, 480-40-015, 480-62-090, 480-70-055, 480-75-005, and 480-93-010, relating to updating the incorporation by reference of certain federal safety and transportation regulations and national motor vehicle safety standards.

STATUTORY OR OTHER AUTHORITY: The Washington Utilities and Transportation Commission takes this action under Notice No. WSR 99-14-079, filed with the code

reviser on July 7, 1999. The commission brings this proceeding pursuant to RCW 34.05.310, 34.05.356, 80.01.040, 80.04.160, and 80.04.160 [81.04.160].

STATEMENT OF COMPLIANCE: This proceeding complies with the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.05 RCW), the State Register Act (chapter 34.08 RCW), the State Environmental Policy Act of 1971 (chapter 34.21C [43.21C] RCW), and the Regulatory Fairness Act (chapter 19.85 RCW).

DATE OF ADOPTION: The commission adopted this rule on September 22, 1999.

CONCISE STATEMENT OF PURPOSE AND EFFECT OF THE RULE: Periodically, the commission updates references to federal law and to other universal standards so that the state's regulations are as close as reasonably possible, consistent with Washington state needs, to the regulations enforced by the federal government and other states. These amendments update the commission's existing rules that have previously adopted regulations found in the Code of Federal Regulations and the Commercial Vehicle Safety Alliance's *North American Out-of-Service Criteria* to reflect a consistent application throughout the administrative code of recent versions of those resources. The amendments adopt federal pipeline safety regulations in effect on September 7, 1999; federal transportation regulations in effect on October 1, 1998, and the out of service criteria in effect on April 1, 1999.

For the majority of the transportation industries, the commission chose the dates of October 1, 1998, for the Code of Federal Regulations and April 1, 1999, for the Commercial Vehicle Safety Alliance's *North American Out-of-Service Criteria* because those dates reflect the most recent publication of a complete title or manual, and both compliance and enforcement are therefore rendered more simple through use of the printed volume. However, for pipeline safety the commission wants the most up-to-date rules feasible. Therefore, the adoption by reference date in chapters 480-75 and 480-93 WAC is September 7, 1999.

REFERENCE TO AFFECTED RULES: This action amends the following sections of the Washington Administrative Code:

WAC 480-14-060 Adoption by reference defined.

WAC 480-15-040 Adoption by reference.

WAC 480-30-015 Adoption by reference defined.

WAC 480-31-100 Equipment—Safety.

WAC 480-31-120 Equipment—Inspection—Ordered for repairs.

WAC 480-31-140 Safety inspections.

WAC 480-40-015 Adoption by reference defined.

WAC 480-62-090 Hazardous materials regulations.

WAC 480-70-055 Adoption by reference defined.

WAC 480-75-005 Compliance with federal standards.

WAC 480-93-010 Compliance with federal standards.

PREPROPOSAL STATEMENT OF INQUIRY AND ACTIONS THEREUNDER: No preproposal statement of inquiry was filed because this proposal is exempt from the requirement to issue a preproposal statement of inquiry (CR-101) pursuant to RCW 34.05.356 (1)(b) which states that a

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preproposal inquiry is not required if the proposed rule change adopts by incorporating by reference without material change federal statutes or regulations or consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule. This rule making meets these criteria.

NOTICE OF PROPOSED RULE MAKING: The commission filed a notice of expedited adoption—Proposed rule making (CR-102XA) on July 7, 1999, at WSR 99-14-079. The notice included the following language: 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 to Carole J. Washburn, Secretary, at Washington Utilities and Transportation Commission, P.O. Box 47250, Olympia, WA 98504-7250 or e-mail to records@wutc.wa.gov.

Pursuant to RCW 34.05.356(3), the commission sent a copy of the notice of the proposed expedited rule making to those people who have identified themselves as having an interest in rule makings affecting the relevant industries. The commission also sent the notice to transportation associations, pipeline companies, and consumer groups.

COMMENTERS (WRITTEN COMMENTS): The commission received one objection, jointly from the Union Pacific Railroad Company and the Burlington Northern and Santa Fe Railway Company regarding the hazardous materials regulations but the objection was withdrawn prior to adoption of the rules.

RULE-MAKING HEARING: This matter is exempt under RCW 34.05.356(6) from the requirement of a rule-making hearing. The commission held no such hearing.

CHANGES FROM PROPOSAL: The commission adopts the proposal with no changes from the text noticed at WSR 99-14-079.

STATEMENT OF ACTION; STATEMENT OF EFFECTIVE DATE: In reviewing the entire file in this matter, the commission determines that WAC 480-14-060, 480-15-040, 480-30-015, 480-31-100, 480-31-120, 480-31-130, 480-31-140, 480-40-015, 480-62-090, 480-70-055, 480-75-005, and 480-93-010 should be amended and adopted to read as set forth in Appendix A, as rules of the Washington Utilities and Transportation Commission, to take effect pursuant to RCW 34.05.380(2) on the thirty-first day after filing with the code reviser.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 12, 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.

ORDER

THE COMMISSION ORDERS:

1. WAC 480-14-060, 480-15-040, 480-30-015, 480-31-100, 480-31-120, 480-31-130, 480-31-140, 480-40-015, 480-62-090, 480-70-055, 480-75-005, and 480-93-010 should be amended and adopted to read as set forth in Appendix A, as rules of the Washington Utilities and Transportation Commission, to take effect on the thirty-first day after the date of filing with the code reviser pursuant to RCW 34.05.380(2).

2. This order and the rules set out below, after being recorded in the register of the Washington Utilities and Transportation Commission, shall be forwarded to the code reviser for filing pursuant to chapters 80.01 and 34.05 RCW and chapter 1-21 WAC.

DATED at Olympia, Washington this 23rd day of September, 1999.

Washington Utilities and Transportation Commission
Marilyn Showalter, Chair
William R. Gillis, Commissioner

AMENDATORY SECTION (Amending Order R-435, Docket No. TV-941290, filed 11/22/95, effective 12/23/95)

WAC 480-14-060 Adoption by reference defined. Where referred to in this chapter, the following definitions shall apply:

(1) "North American Uniform Out-of-Service Criteria" published by Commercial Vehicle Safety Alliance (CVSA) refers to the version in effect on (~~May 1, 1995~~) April 1, 1999.

(2) "Title 49 Code of Federal Regulations," cited as 49 CFR, includes the regulations and all appendices and amendments in effect on (~~April 1, 1995~~) October 1, 1998.

(3) The documents are available for public inspection at the commission branch of the Washington state library, located with the headquarters office of the commission. A copy of either document may be obtained upon request from the commission secretary, subject to any pertinent charge. The Code of Federal Regulations is also available from the Government Printing Office, Seattle office.

AMENDATORY SECTION (Amending Order R-454, Docket No. TV-971477, filed 12/15/98, effective 1/15/99)

WAC 480-15-040 Adoption by reference. We have adopted by reference the following publications:

(1) "North American Uniform Out-of-Service Criteria" published by The Commercial Vehicle Safety Alliance, in effect on April 1, (~~1998~~) 1999.

(2) The sections of "Title 49 Code of Federal Regulations," cited as 49 CFR, listed below, including all regula-

tions and appendices and amendments to those sections in effect on October 1, 1998:

- (a) 49 CFR Part 382: Controlled Substance and Alcohol Use and Testing;
- (b) 49 CFR Part 383: Commercial Driver's License Standards; Requirements and Penalties;
- (c) 49 CFR Part 390: Safety Regulations, General;
- (d) 49 CFR Part 391: Qualification of Drivers;
- (e) 49 CFR Part 392: Driving of Motor Vehicles;
- (f) 49 CFR Part 393: Parts and Accessories Necessary for Safe Operations;
- (g) 49 CFR Part 395: Hours of Service of Drivers;
- (h) 49 CFR Part 396: Inspection, Repair, and Maintenance; and
- (i) 49 CFR Part 397: Transportation of Hazardous Materials; Driving and Parking.

AMENDATORY SECTION (Amending Order R-420, Docket No. T-940457, filed 6/23/94, effective 7/24/94)

WAC 480-30-015 Adoption by reference defined. Where referred to in this chapter, the following definitions shall apply:

- (1) "North American Uniform Out-of-Service Criteria" published by Commercial Vehicle Safety Alliance (CVSA) refers to the version in effect on (~~May 16, 1994~~) April 1, 1999.
- (2) "Title 49 Code of Federal Regulations", cited as 49 CFR, includes the regulations and all appendices and amendments in effect on (~~April 1, 1994~~) October 1, 1998.
- (3) The documents are available for public inspection at the commission branch of the Washington state library, located with the headquarters offices of the commission. A copy of either document may be obtained upon request from the commission secretary, subject to any pertinent charge. The Code of Federal Regulations is also available from the Government Printing Office, Seattle office.

AMENDATORY SECTION (Amending Order R-440, Docket No. TC 961102, filed 3/27/97, effective 4/27/97)

WAC 480-31-100 Equipment—Safety. In addition to other laws and regulations of this state, all providers must comply with the following:

The rules and regulations governing motor carrier safety prescribed by the United States Department of Transportation in Title 49, Code of Federal Regulations, part 392 (Driving of Motor Vehicles), part 393 (Parts and Accessories Necessary for Safe Operation), part 396 (Inspection, Repair and Maintenance), and part 397 (Transportation of Hazardous Materials; Driving and Parking rules).

The commission adopts by reference the provisions of federal rules (~~cited in this section~~) in effect on October 1, 1998. The material incorporated by reference in this section is available for public examination in the Washington utilities and transportation commission branch of the Washington state library associated with the commission's headquarters office in Olympia and is available for purchase at the Seattle office of the government printing office.

AMENDATORY SECTION (Amending Order R-440, Docket No. TC 961102, filed 3/27/97, effective 4/27/97)

WAC 480-31-120 Equipment—Inspection—Ordered for repairs. (1) All motor vehicles operated by providers must be maintained in a safe and sanitary condition. They must at all times be subject to inspection by the commission and its duly authorized representatives who will have power to order out-of-service any vehicle failing to meet the standards set forth in this section, or if not being operated in compliance with state laws in regard to equipment or method.

(2) Every provider must ensure that all its vehicles are regularly inspected, repaired and maintained, as required by the United States Department of Transportation in Title 49, Code of Federal Regulations, part 396 (Inspection, Repair and Maintenance).

(3) All vehicle parts and accessories must be in safe and proper working condition at all times.

(4) Equipment standards. The purpose of this subsection is to identify critical vehicle inspection items and provide criteria for placing a vehicle(s) in an out-of-service category. The criteria for out-of-service condition are those defined in the current North American Uniform Out-Of-Service Criteria.

Out-of-service condition. When any motor vehicle(s) is in out-of-service condition, no provider will require nor will any person operate such motor vehicle until all required repairs have been satisfactorily completed. The commission adopts by reference the "North American Uniform Out-of-Service Criteria" published by the Commercial Vehicle Safety Alliance in effect on April 1, 1999. These documents may be viewed at the Washington utilities and transportation commission branch of the Washington state library.

AMENDATORY SECTION (Amending Order R-440, Docket No. TC 961102, filed 3/27/97, effective 4/27/97)

WAC 480-31-130 Operation of motor vehicles. (1) All motor vehicles must be operated in accordance with the requirements of existing state laws and no driver or operator will operate the same in any other than a careful and prudent manner, nor at any greater speed than is reasonable or proper, having due regard to the traffic and use of the highways by others, or so as to endanger the life and limb of any person.

(2) Qualification of drivers. The rules and regulations governing qualifications of drivers prescribed by the United States Department of Transportation in Title 49, Code of Federal Regulations, part 391 (Qualifications of Drivers), are adopted and prescribed by the commission to be observed by all providers. Vehicles meeting the definition of a commercial motor vehicle must also comply with part 382 (Controlled Substances and Alcohol Use and Testing), and part 383 (Commercial Driver's License Standards; Requirements and Penalties).

(3) The rules and regulations relating to drivers' logs and drivers' hours of service adopted by the United States Department of Transportation in Title 49, Code of Federal Regulations, part 39 (Hours of Service of Drivers), are adopted and prescribed by the commission.

(4) No driver or operator of a motor vehicle carrying passengers may smoke any cigar, cigarette, tobacco or other substance in such vehicle while driving the vehicle.

(5) No driver or operator of any motor vehicle will permit smoking on said vehicle by passengers or other persons.

Suitable signs, of sufficient size and number to adequately inform passengers, must be placed in buses to inform passengers that smoking is not permitted in the motor vehicle.

(6) No driver or operator of a motor vehicle will create any disturbance or unnecessary noise to attract persons to the vehicle.

(7) The driver or operator of any motor vehicle may refuse to carry any person who is in an intoxicated condition or conducting themselves in an unreasonably boisterous or disorderly manner or is using profane language, or whose condition is such as to be obnoxious to other passengers. A driver is responsible for the comfort and safety of passengers and should be constantly on the alert for and immediately correct any act of misconduct on the part of occupants of the vehicle.

(8) The commission adopts by reference the provisions of federal rules cited in this section in effect on October 1, 1998. The material incorporated by reference in this section is available for public examination in the Washington utilities and transportation commission branch of the Washington state library associated with the commission's headquarters office in Olympia and is available for purchase at the Seattle office of the government printing office.

AMENDATORY SECTION (Amending Order R-440, Docket No. TC 961102, filed 3/27/97, effective 4/27/97)

WAC 480-31-140 Safety inspections. All providers must keep on file in their main office, subject to inspection by an authorized representative of the commission, or subject to provision to the commission upon request:

(1) Description of each vehicle used, including make, serial number, and year. If the provider does not own the vehicle, the records must show the name of the person providing the vehicle;

(2) Driver's hours of service (duty status);

(3) Each driver's license number;

(4) Records of complaints, as required by WAC 480-31-090;

(5) Records of repair, inspection and maintenance, to include their date and type, as required by the United States Department of Transportation in Title 49, Code of Federal Regulations, part 396;

(6) The commission adopts by reference the provisions of federal rules cited in this section in effect on October 1, 1998. The material incorporated by reference in this section is available for public examination in the Washington utilities and transportation commission branch of the Washington state library associated with the commission's headquarters office in Olympia and is available for purchase at the Seattle office of the government printing office.

AMENDATORY SECTION (Amending Order R-420, Docket No. T-940457, filed 6/23/94, effective 7/24/94)

WAC 480-40-015 Adoption by reference defined. Where referred to in this chapter, the following definitions shall apply:

(1) "North American Uniform Out-of-Service Criteria" published by Commercial Vehicle Safety Alliance (CVSA) refers to the version in effect on (~~May 16, 1994~~) April 1, 1999.

(2) "Rules and regulations adopted by the United States Department of Transportation in Title 49 Code of Federal Regulations", cited as 49 CFR, includes the regulations and all appendices and amendments in effect on (~~April 1, 1994~~) October 1, 1998.

(3) The documents are available for public inspection at the commission branch of the Washington state library, located with the headquarters offices of the commission. A copy of either document may be obtained upon request from the commission secretary, subject to any pertinent charge. The Code of Federal Regulations is also available from the Government Printing Office, Seattle office.

AMENDATORY SECTION (Amending Order R-413, Docket No. TR-940126, filed 5/4/94, effective 6/4/94)

WAC 480-62-090 Hazardous materials regulations.

(1) The rules and regulations governing hazardous materials prescribed by the United States Department of Transportation in Title 49, Code of Federal Regulations, parts 171 through 174, and parts 178 and 179, as well as and including all appendices and amendments thereto, in effect on (~~January 1, 1992~~) October 1, 1998, are adopted and prescribed by the commission to define hazardous materials for purposes of carriage by rail, and to state the precautions that must be observed in storage packaging, loading, and unloading such materials, and in maintaining, placarding, marking, and certifying railroad cars and equipment used in transporting such materials, and in the maintenance of shipping papers prepared in conjunction with transporting such materials. The rules and regulations adopted and prescribed by this rule shall be observed by all railroad companies operating in this state. A copy of the federal rules referenced in this chapter is available for inspection at the commission branch of the Washington state library, located in conjunction with the commission's headquarters office. A copy may be obtained from the secretary of the commission, upon payment of any required fee, or from the United States government printing office, which operates a retail sales facility in Seattle, Washington.

(2) In addition to any accident reporting requirement now or hereafter prescribed by the commission, every railroad company operating in this state who reports to the United States Department of Transportation any incidents occurring in this state involving hazardous materials, shall send a copy of any such report to the commission.

AMENDATORY SECTION (Amending Order R-419, Docket No. TG-940456, filed 6/23/94, effective 7/24/94)

WAC 480-70-055 Adoption by reference defined.

Where referred to in this chapter, the following definitions shall apply:

(1) "North American Uniform Out-of-Service Criteria" published by Commercial Vehicle Safety Alliance (CVSA) refers to the version in effect on (~~May 16, 1994~~) April 1, 1999.

(2) "Title 49 Code of Federal Regulations", cited as 49 CFR, includes the regulations and all appendices and amendments in effect on (~~April 1, 1994~~) October 1, 1998.

(3) The documents are available for public inspection at the commission branch of the Washington state library, located with the headquarters offices of the commission. A copy of either document may be obtained upon request from the commission secretary, subject to any pertinent charge. The Code of Federal Regulations is also available from the Government Printing Office, Seattle office.

AMENDATORY SECTION (Amending Order R-456, Docket No. TO-980905, filed 12/30/98, effective 1/30/99)

WAC 480-75-005 Compliance with federal standards. Hazardous liquid pipeline companies transporting gasoline, oil, petroleum, or hazardous liquids in this state shall design, construct, maintain, and operate pipeline facilities in compliance with the provisions of 49 CFR, Parts 195 and 199, in effect on (~~the effective date of this rule~~) September 7, 1999. The provision in this chapter shall govern to the extent that the standards in the state regulations are compatible with the federal standards. The incorporation of 49 CFR, Part 195, Subpart B, Reporting Accidents and Safety-Related Conditions, is revised as follows:

1. Include "Washington Utilities and Transportation Commission" where "Administrator, Office of Pipeline Safety, Research and Special Programs Administration, or Department of Transportation" appear.
2. Include "Washington Utilities and Transportation Commission Pipeline Safety Section, at its office at 1300 S. Evergreen Park Drive SW, P.O. Box 47250, Olympia, Washington, 98504-7250," where telephone or addresses appear for the "Information Officer, Information Resources Manager, or Office of Pipeline Safety."

Copies of the above referenced regulations can be viewed at the commission branch of the Washington state library or are available from the Government Printing Office Bookstore, Seattle, Washington.

AMENDATORY SECTION (Amending Order 457, Docket No. UG-980962, filed 12/30/98, effective 1/30/99)

WAC 480-93-010 Compliance with federal standards. Gas companies' gathering, storage, distribution, and transmission facilities must be designed, constructed, maintained, and operated in compliance with the provisions of Title 49 Code of Federal Regulations (CFR), Parts 191, 192, 193 and 199 in effect on (~~the effective date of this rule~~) September 7, 1999.

September 7, 1999. The provisions of this chapter shall govern to the extent that the standards in the state regulations are compatible with the federal standards. Copies of the above referenced regulations can be viewed at the commission branch of the Washington state library or are available from the Government Printing Office Bookstore, Seattle, Washington.

WSR 99-20-021

PERMANENT RULES

**SUPERINTENDENT OF
PUBLIC INSTRUCTION**

[Order 98-07—Filed September 28, 1999, 9:58 a.m., effective September 29, 1999]

Date of Adoption: September 28, 1999.

Purpose: To determine school district eligibility for state funding for up to three learning improvement days beginning in the 1999-2000 school year.

Citation of Existing Rules Affected by this Order: Amending WAC 392-121-031, 392-123-047, and 392-123-049.

Statutory Authority for Adoption: RCW 28A.150.290(2).

Other Authority: Section 503(7), chapter 309, Laws of 1999.

Adopted under notice filed as WSR 99-15-048 on July 15, 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 10, Amended 3, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 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 10, Amended 3, Repealed 0.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: Emergency rules expire on September 29, 1999. Therefore, the Office of the Superintendent of Public Instruction requests an earlier effective date.

Effective Date of Rule: September 29, 1999.

September 28, 1999

Dr. Terry Bergeson

Superintendent of Public Instruction

PERMANENT

Learning Improvement Days

NEW SECTION

WAC 392-140-950 Learning improvement days—Applicable provisions. The provisions of WAC 392-140-950 through 392-140-967 govern state funding for up to three learning improvement days for certificated instructional staff in the 1999-2000 school year and thereafter.

NEW SECTION

WAC 392-140-951 Learning improvement days—Purpose. These rules determine eligibility for state funding and establish guidelines for the use of learning improvement days. The purpose of these days is to expand the state-funded school year for certificated instructional staff. These additional days will provide time for teachers, other certificated instructional staff, and administrators to work together to plan and implement education reforms designed to increase student achievement.

NEW SECTION

WAC 392-140-955 Learning improvement days—Definition—Learning improvement day. As used in this chapter "learning improvement day" means a scheduled work day during the school year for certificated instructional staff funded by the state for the purpose of improving student learning and implementing education reform.

(1) A learning improvement day is a scheduled work day on a district or school calendar.

(2) The length of a learning improvement day shall not be less than the length of a full work day for certificated instructional staff on a school day during the school year: Provided, That two half days may be scheduled in lieu of one full learning improvement day if the combined work hours equal or exceed hours in a full learning improvement day.

(3) No learning improvement day, or half day, shall be scheduled on a school day as defined in WAC 392-121-033.

(4) A school district may schedule learning improvement days for different school buildings or groups of employees on different calendar days.

(5) Learning improvement days shall be compensated as part of the employee's base contract.

NEW SECTION

WAC 392-140-956 Learning improvement days—Other definitions. As used in WAC 392-140-950 through 392-140-967:

(1) "Certificated instructional staff" means district certificated instructional employees and contractor certificated instructional employees as defined in WAC 392-121-205 and 392-121-206.

(2) "Base contract" means a contract protected by the continuing contract law, RCW 28A.405.300. The base contract does not include hours or compensation provided under a supplemental contract as defined in RCW 28A.400.200.

(3) "Number of days in the base contract" means the number of full work days in the school year for a full-time certificated instructional employee holding the position for the full school year. Days include paid leave. The number of hours in a full work day is determined by each school district. Days scheduled before September 1 can be counted in the school year if included and compensated in the base contract for the school year beginning September 1.

(4) "Selected state-funded programs" means the following programs as defined in the *Accounting Manual for Public School Districts in the State of Washington*:

- 01 Basic Education
- 21 Special Education-Supplemental-State
- 31 Vocational-Basic-State
- 45 Skills Center-Basic-State
- 55 Learning Assistance Program-State
- 65 Transitional Bilingual-State
- 74 Highly Capable
- 94 Instruction Support
- 97 District-wide Support

(5) "State institutional education programs" means the following programs:

- 26 Special Education-Institutions-State
- 56 State Institutions, Centers, and Homes-Delinquent

NEW SECTION

WAC 392-140-957 Learning improvement days—Allowable activities. Activities that may be conducted on learning improvement days include: Developing and updating student learning improvement plans; implementing curriculum materials and instructional strategies; providing professional development to implement the selected curricula and instruction; developing and implementing assessment strategies and training in assessment scoring; and conducting other activities intended to improve student learning for all students, including students with diverse needs. Activities shall be consistent with district and school plans for improving student learning. District and school plans shall delineate how the learning improvement days will be used to assist students in meeting the essential academic learning requirements and help the district or school achieve state and local accountability goals. Plans shall be made available to the public and to others upon request.

NEW SECTION

WAC 392-140-960 Learning improvement days—Determination of the number of days in the base contract in the 1998-99 school year. The superintendent of public instruction shall separately determine for selected state-funded programs and state institutional education programs the number of days in the base contract for each school district for the 1998-99 school year as follows:

(1) Using personnel data reported on the S-275 Personnel Report as of April 1999, select all certificated instructional staff with assignments in the programs.

(2) Exclude staff with administrative assignments if the assignment percent is greater than zero.

(3) Determine if eighty percent or more of remaining staff have the same number of days reported in the base contract.

(a) If so, use this number.

(b) If not, average the number of days for all staff in the calculation and use the result.

NEW SECTION

WAC 392-140-961 Learning improvement days—Determination of the number of funded learning improvement days in the 1999-2000 school year and thereafter. The superintendent of public instruction shall separately determine for selected state-funded programs and for institutional education programs the number of funded learning improvement days for each school district for the 1999-2000 school year and for each school year thereafter as follows:

(1) In September through December of each school year, the superintendent will use the number of learning improvement days budgeted by the district and reported on Form F-203.

(2) Monthly, beginning in January of the school year, using current personnel data reported on the S-275 Personnel Report:

(a) Select all certificated instructional staff with assignments in the programs.

(b) Exclude staff with administrative assignments if the assignment percent is greater than zero.

(c) For each employee, from the number of days reported in the base contract, subtract the district's number of days in the base contract for the 1998-99 school year.

(d) Take the lesser of three days or the result of (c) of this subsection but not less than zero.

(e) Sum the number of days determined for all employees pursuant to (c) and (d) of this subsection.

(f) Divide the result of (e) of this subsection by the number of employees and round to two decimal places.

(g) The result is the number of funded learning improvement days for the district.

NEW SECTION

WAC 392-140-962 Learning improvement days—Salary allocations for learning improvement days. Using the number of learning improvement days determined pursuant to WAC 392-140-961, the superintendent of public instruction shall adjust salary allocations to school districts as follows:

(1) For general apportionment, the derived base salary allocation for learning improvement days as shown on LEAP Document 12E shall be reduced pro rata for any district with less than three learning improvement days in selected state-funded programs.

(2) Special education allocations shall be adjusted based on adjustments to the unenhanced basic education allocation per full-time equivalent student.

(3) For transitional bilingual, highly capable, and learning assistance program allocations, the additional state allo-

cation per pupil for three learning improvement days as calculated by the superintendent shall be reduced pro rata for any district with less than three learning improvement days in selected state-funded programs.

(4) For state institutional education programs the salary allocation for three learning improvement days as calculated by the superintendent shall be reduced pro rata for any district with less than three learning improvement days in state institutional education programs. Educational service districts or contractors operating state-funded institutional education programs shall be eligible for learning improvement day funding in the same manner as school districts.

(5) The superintendent shall reduce or eliminate a district's allocations for learning improvements days if the district fails to report as required by WAC 392-140-967, or if the district's report indicates that the activities provided during learning improvement days do not meet the requirements of WAC 392-140-957.

NEW SECTION

WAC 392-140-965 Learning improvement days—School district requests for review and adjustment. A school district may at any time request that the superintendent of public instruction review and adjust data and calculations used to determine funding for learning improvement days pursuant to this chapter.

(1) Requests for adjustment to the number of days in the base contract in the 1998-99 school year shall be considered if the district shows that:

(a) The April 1999 S-275 data or calculations were in error;

(b) The district reported days in the base contract for services beyond the regular school calendar for a full-time certificated instructional employee of the district;

(c) The district had a signed multiyear collective bargaining agreement in April 1999 to reduce the number of days in the base contract in subsequent years; or

(d) Other bona fide adjustments are necessary.

(2) Requests for adjustment to the number of learning improvement days provided in the 1999-2000 school year and thereafter shall be considered if the district shows that the data or calculations are in error, or other bona fide adjustments are necessary.

(3) Requests for adjustment shall be accompanied by the relevant pages of a signed collective bargaining agreement stating the number of days in the base contract in the school district.

NEW SECTION

WAC 392-140-967 Learning improvement days—School district reporting requirements. School districts receiving funding for learning improvement days shall report annually to the superintendent of public instruction according to the superintendent's instructions. The report shall show the number of learning improvement days provided by the district and describe the activities on those days.

AMENDATORY SECTION (Amending Order 85-3, filed 7/24/85)

WAC 392-123-047 Definitions—Revenue, accrual basis expenditures, cash basis expenditures, appropriation, and disbursements. As used in this chapter, the term:

(1) "Revenue" shall mean an addition to assets of a fund of a school district during a fiscal period that is available to finance the funds' expenditures during the fiscal period. Revenue does not accompany the increase of liabilities or represent refunds of previous disbursements. Revenue may be in the form of cash, or in the form of noncash assets such as donated commodities. Revenue for accrual basis expenditure funds is limited to amounts received in cash or noncash donations, plus or minus adjustments for revenue accruals.

(2) "Cash basis revenue" shall mean the actual receipt of revenue not adjusted for revenue accruals.

(3) "Revenue accruals" shall mean those revenues which are (a) anticipated to be received in cash after the close of the fiscal period and (b) represent reimbursement for expenditures incurred by the end of the fiscal period. In order for revenue to be included in revenue accruals, it must meet the above tests.

Revenue accruals, if they meet both tests include: Reimbursements on categorical grants for which expenditures have been made but payment has not been received; payments from other school districts that are due, but are not collected by the end of the fiscal period; deferrals of apportionment payments by the state when a deferral occurs because of district request or state mandate, and the revenue is due to the district; and rental or lease payments that are currently due, and there is reasonable assurance of payment.

Revenue that cannot be accrued because it does not meet the above tests includes: Collection of excess levies not expected to be received until after the end of the fiscal period and PL 874 funds that are to be received in cash in the following fiscal period, i.e. the twenty-five percent payment that is received after the end of the fiscal period.

(4) "Expenditures" shall mean the decrease in assets with no corresponding decrease in liabilities, or the increase in liabilities with no corresponding increase in assets. Expenditures for activities prior to September 1, but within the school year as defined in WAC 392-121-031, are considered expenditures of the school year commencing September 1.

(5) "Expenditure refunds" shall mean the increase in assets with a corresponding decrease in expenditures.

(6) "Revenue refunds" shall mean the increase in liabilities with a corresponding decrease in revenues.

(7) "Liabilities" shall mean debt or other legal obligations arising out of transactions in the past which are payable but not necessarily due.

(8) "Accrual basis expenditures" shall mean expenditures incurred during a given fiscal period, whether paid or unpaid.

(9) "Cash basis expenditures" shall mean the disbursement of cash for expenditures during a given fiscal period regardless of when liabilities are incurred, and the disbursement of inventory.

(10) "Appropriation" shall mean the maximum authorization during a given fiscal period to incur expenditures.

(11) "Disbursements" shall mean payments in cash, including the issuance of warrants, and the disbursement of inventory.

AMENDATORY SECTION (Amending Order 83-12, filed 10/10/83)

WAC 392-123-049 Basis of budgeting and accounting. All school districts must utilize the following methods of revenue and expenditure recognition in budgeting, accounting, and financial reporting:

(1) Recognize revenue as defined in WAC 392-123-047: Provided, That school districts that elect the cash basis of expenditure recognition as defined below shall recognize revenue on the cash basis.

(2) Recognition of expenditures for all funds shall be on the accrual basis: Provided, That school districts with under one thousand full time equivalent students for the preceding fiscal year may make a uniform election for all funds, except debt service funds, to be on the cash basis of expenditure recognition. Notification of such election shall be given to the state superintendent of public instruction in the budget of the school district and shall remain in effect for one full fiscal year.

(3) Expenditures for activities prior to September 1, but within the school year as defined in WAC 392-121-031, are considered expenditures of the school year commencing September 1.

AMENDATORY SECTION (Amending Order 88-8, filed 1/11/88)

WAC 392-121-031 Definition—School year. As used in this chapter, "school year" means the annual period commencing on the first day of September of one calendar year and ending the last day of August of the ~~((next))~~ ensuing calendar year: Provided, That for those school districts commencing basic education program((s)) prior to ~~((the))~~ September 1, ~~((school days scheduled prior to September 1))~~ the following activities shall be considered to be within the school year that commences September 1.

(1) School days scheduled prior to September 1; and

(2) Staff days and activities in preparation for the school year included in employee contracts for the school year, but occurring before September 1.

WSR 99-20-031**PERMANENT RULES****DEPARTMENT OF****LABOR AND INDUSTRIES**

[Filed September 29, 1999, 10:24 a.m., effective November 1, 1999]

Date of Adoption: September 29, 1999.

Purpose: A task force was formed to develop guidelines for mental health treatment of crime victims. These amendments are made to implement the recommendations from the Mental Health Treatment Guidelines Task Force. Other sections of the rules effected have been rewritten for more clarity

in connection with Executive Order 97-02 on regulatory improvement. New sections were added to separate out topics into separate rules.

Citation of Existing Rules Affected by this Order: See Statutory Authority below.

Statutory Authority for Adoption:

Amendments to:	Statutory authority:
WAC 296-31-010 Mental health treatment overview	RCW 7.68.030, 7.68.130, 51.04.030, 51.36.010
WAC 296-31-060 Reporting requirements	RCW 7.68.030, 51.04.030, 51.36.060
WAC 296-31-065 Ongoing treatment	RCW 7.68.030, 51.04.030

New sections:

WAC 296-31-012 What mental health treatment and services are not authorized?	RCW 7.68.030, 51.04.030, 51.36.010
WAC 296-31-016 What treatment or services require authorization from the crime victims compensation program?	RCW 7.68.030, 51.04.030
WAC 296-31-067 When is concurrent treatment allowed?	RCW 7.68.030, 51.04.030
WAC 296-31-068 When can a client transfer providers?	RCW 7.68.030, 7.68.130, 51.36.010

Adopted under notice filed as WSR 99-15-100 on July 21, 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 4, Amended 3, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 4, Amended 3, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 4, Amended 3, Repealed 0.

Effective Date of Rule: November 1, 1999.

September 29, 1999

Gary Moore

Director

AMENDATORY SECTION (Amending WSR 97-02-090, filed 12/31/96, effective 1/31/97)

WAC 296-31-010 (~~Mental health treatment overview~~) **What mental health treatment and services are available?** (1) The crime victims compensation program pro-

vides payment for mental health treatment and services to victims of crime (~~(, except for the provisions of WAC 296-30-025 (6)(b), secondary to treatment available from any other public or private insurance,)) who are eligible for compensation under (~~(the provisions of)~~) chapter 7.68 RCW, the Crime Victims' Act. (~~(Eligible claimants are entitled to receive proper and necessary mental health treatment.))~~)~~

EXCEPTION: Benefits under the crime victims compensation program are secondary to services available from any other public or private insurance.

(2) Services and treatment are limited to (~~(those)~~) procedures (~~(which are proper and necessary, and at the least cost, consistent with accepted standards of mental health care which will enable the claimant to obtain maximum recovery and/or:~~

(3) ~~In the case of a permanent partial disability, treatment or services are not to extend beyond the date when permanent partial impairment or disability compensation is awarded. No treatment or services will be authorized beyond the point that the accepted condition is fixed and stable.~~

(4) ~~In the case of a permanent total disability, treatment is not to extend beyond the date on which the claimant is placed upon a permanent pension roll except that in the sole discretion of the department continued treatment for conditions previously accepted by the department may be allowed when such treatment is deemed necessary to protect the claimant's life or to provide for the administration of therapeutic measures. This includes payment of prescription medications necessary to alleviate continuing pain resulting from the accepted condition but does not include those controlled substances scheduled by the state board of pharmaceuticals as schedule I, II, III, IV substances under chapter 69.50 RCW.~~

- (5) ~~Mental health treatment requiring preauthorization:~~
- ~~Inpatient hospitalization;~~
 - ~~Individual therapy exceeding one hour per week;~~
 - ~~Group therapy exceeding one session per week;~~
 - ~~Concurrent treatment;~~
 - ~~Family therapy to family members of sexual assault victims beyond twelve sessions;~~
 - ~~Therapy for survivors of victims of homicide beyond twelve sessions;~~
 - ~~Electroconvulsive therapy;~~
 - ~~Neuropsychological evaluation (testing);~~
 - ~~Day treatment for seriously ill persons less than eighteen years of age;~~
 - ~~Referrals to special programs;~~
 - ~~Requests for authorization must be in writing and include a statement of:~~
 - ~~(a) The condition(s) diagnosed;~~
 - ~~(b) ICD-9-CM and/or DSM-III-R or DSM-IV codes;~~
 - ~~(c) The relationship of the condition(s) diagnosed to the assault, if any;~~
 - ~~(d) An outline of the proposed treatment program, its length and components, procedure codes, and expected prognosis;~~

PERMANENT

~~(6) Rejected and closed claims. Therapy for eligible survivors of victims of homicide can be provided on closed claims:~~

~~No payment will be made for treatment or medication on rejected claims or for services rendered after the date of closure of a claim.~~

~~When the department has denied responsibility for an alleged crime victim injury or condition, the only services which will be paid are those which were carried out at the specific request of the department and/or those assessment or diagnostic services which served as a basis for the adjudication decision. Following the date of the order and notice of claim closure, the department will be responsible only for those services specifically requested or those assessments and/or diagnostic services necessary to complete and file a reopening application)) that are:~~

- ~~(a) Proper and necessary for the diagnoses of an accepted condition;~~
- ~~(b) Available at the least cost;~~
- ~~(c) Consistent with accepted standards of mental health care; and~~
- ~~(d) Will enable the client to reach maximum recovery.~~

NEW SECTION

WAC 296-31-012 What mental health treatment and services are not authorized? (1) The crime victims compensation program will not authorize services and treatment:

- (a) Beyond the point that the accepted condition becomes fixed and stable (i.e., maintenance care);
- (b) After the date a permanent partial disability award is made;
- (c) After a client is placed on a permanent pension roll, except as allowed in RCW 51.36.010;
- (d) After consultation and advice to the department, any treatment deemed to be dangerous or inappropriate; or
- (e) When treatment is defined as unnecessary or prohibited in WAC 296-31-020.

(2) We will not pay for services or treatment, including medications:

- (a) On rejected claims;

EXCEPTION: We will pay for assessments or diagnostic services used as a basis for the department's decision.

- (b) After the date a claim is closed.

EXCEPTION: Therapy for eligible survivors of victims of homicide can be provided on closed claims.

NEW SECTION

WAC 296-31-016 What treatment or services require authorization from the crime victims compensation program? (1) The program must authorize the following mental health services and/or treatment:

- (a) Treatment beyond thirty sessions for adults or forty sessions for children;

(b) Treatment beyond fifty sessions for adults or sixty sessions for children;

(c) Consultations beyond what are allowed in WAC 296-31-065;

- (d) Inpatient hospitalization;
- (e) Concurrent treatment with more than one provider;
- (f) Electroconvulsive therapy;
- (g) Neuropsychological evaluation (testing);
- (h) Day treatment for seriously ill children under eighteen years old;

(i) Referrals for services or treatment not in our fee schedule (see WAC 296-31-040).

(2) Your request for authorization must be in writing and include:

- (a) A statement of the condition(s) diagnosed;
- (b) Current DSM or ICD codes;
- (c) The relationship of the condition(s) diagnosed to the criminal act; and

(d) An outline of the proposed treatment program that includes its length, components, procedure codes and expected prognosis.

AMENDATORY SECTION (Amending WSR 95-15-004, filed 7/5/95, effective 8/5/95)

WAC 296-31-060 ((Reporting requirements)) What reports are required from mental health providers? ((The department may require reports at any time as is necessary in order to determine initial or continued authorization of benefits or services. However, the department requires the following reports at various stages of a claim in order to authorize mental health treatment or services, time loss compensation, and bill payments for innocent victims of crime:

~~(1) Initial report of injury: To establish a claim, an application for benefits must be completed and submitted to the department. The provider may bill under code 1040M for the filing of the application. In addition, the examination or assessment charge may be billed. Reimbursement of these services will be paid if the claim is allowed by the department. Billing for an extended or comprehensive visit of more than one hour may require submission of additional reports.~~

~~(2) Initial evaluation report: This report must be submitted by the provider no later than thirty days from the date of first treatment or the date the claim is allowed, whichever is later. The report must include the preliminary diagnosis and symptoms, proposed treatment plan and treatment goals, including the treatment modality or modalities to be employed, and expected length of treatment. It must also include a diagnosis of any preexisting conditions and their potential effect on the condition resulting from the assault. Any change in the treatment plan must be addressed either in a modified treatment plan submitted to the department or in a ninety day narrative report. Absence of a response from the department to the proposed treatment plan or modification within fourteen days shall constitute authorization to proceed with the plan as long as the treatment plan does not contain measures requiring preauthorization per WAC 296-31-010(5).~~

PERMANENT

(3) **Office notes and follow-up visits:** Legible copies of office or progress notes or other work products may be, as determined by the department, required documentation to substantiate all follow-up visits or treatment following the initial evaluation. Office notes are not acceptable in lieu of requested narrative reports.

(4) **Ninety-day narrative reports:** When treatment is to continue beyond ninety days from the first date of treatment, submission of a narrative report is required every ninety days to substantiate the need for continued care. A narrative report must contain the basic information outlined in these rules. A narrative report should be billed under code 0100C and described as a ninety-day report. Treatment in excess of ninety days may be authorized by the department only after receipt and review of the ninety-day narrative report. Absence of a response from the department to a report shall constitute authorization for continued treatment. When treatment beyond ninety days will not be authorized or is authorized with limits on frequency or provider type, notification will be sent by the department giving a thirty-day transition period. In the case of a contested decision, a claimant or a provider may file a written protest to the department or appeal to the board of industrial insurance appeals. Ninety-day progress reports must include current DSM-III, DSM-IV, and/or ICD-9-CM diagnosis(es), their relationship (if any) to the conditions sustained as the result of the criminal act, a summary of the progress made toward therapy goals or issue resolutions established in the initial evaluation, an estimate of the duration and frequency of further sessions and an updated prognosis for recovery.

(5) **Hospital reports:** When the claimant is hospitalized, it is the responsibility of the attending mental health provider to submit his or her reports to the hospital for submission with the hospital billing. The attending mental health provider may bill for hospital visits without attaching copies of the reports.

(6) **Consultation reports:** To substantiate treatment of more than one hundred eighty days, a consultation with a consultant chosen by the attending mental health provider is required. The department may require the claimant to be examined by the consultant as part of the consultation process with supervisory approval. Although no prior authorization is required for such consultations, the consultant must meet crime victims compensation program's provider registration requirements and the department must be notified when such consultation is arranged. The consultant is responsible for submitting a copy of the report, following guidelines developed by the department, within fifteen days from the date of the consultation. Treatment may only be authorized to extend beyond one hundred eighty days in mental health cases after the department has received this report. Absence of response, by the department upon receipt of the report shall constitute authorization for additional treatment. When extended treatment will not be authorized or will be terminated, notification will be sent by the department giving a thirty-day transition period. The department may request additional consultations and/or independent assessments as warranted by the individual case.

(7) **Termination reports:** When a mental health practitioner discontinues treatment of a claimant because the condition for which treatment was provided is fixed and stable or for any other reason, a termination report shall be completed and provided to the program within sixty days of the last visit.

(8) **Reopening application:** On claims closed over sixty days, the department will pay for completion of a reopening application (Code 1041M), an office visit and diagnostic studies necessary to complete the application. No other benefits will be paid until the adjudication decision is rendered. When reopening is granted, the department can pay benefits for a period not to exceed sixty days prior to the date the reopening application is received by the department.)) The crime victims compensation program requires the following reports from mental health providers:

(1) Initial response and assessment: Form I: This report is required if you are seeing the client for six sessions or less, and must contain:

(a) The client's initial description of the criminal act for which they have filed a crime victims compensation claim;

(b) The client's presenting symptoms/issues by your observations and the client's report;

(c) An estimate of time loss from work as a result of the crime injury, if any. Provide an estimate of when the individual will return to work, why they are unable to work, the extent of impairment and the prognosis for future occupational functioning; and

(d) What type of intervention(s) you provided.

EXCEPTION: If you will be providing more than six sessions it is not necessary to complete Form I, instead complete Form II.

(2) Initial response and assessment: Form II: This report is required if more than six sessions are anticipated. Form II must be submitted no later than the sixth session, and must contain:

(a) The client's initial description of the criminal act for which they have filed a crime victims compensation claim;

(b) A summary of the essential features of the client's symptoms related to the criminal act, beliefs/attributions, vulnerabilities, defenses and/or resources that lead to your clinical impression (refer to current DSM and crime victims compensation program guidelines);

(c) Any preexisting or coexisting emotional/behavioral or health conditions relevant to the crime impact if present, and how they may have been exacerbated by the crime victimization;

(d) Specific diagnoses with current DSM or ICD code(s), including axes 1 through 5, and the highest GAF in the past year;

(e) Treatment plan based on diagnoses and related symptoms, to include:

(i) Specific treatment goals you and the client have set;

(ii) Treatment strategies to achieve the goals;

(iii) How you will measure progress toward the goals; and

(iv) Any auxiliary care that will be incorporated.

(f) A description of your assessment of the client's treatment prognosis, as well as any extenuating circumstances and/or barriers that might affect treatment progress; and

(g) An estimate of time loss from work as a result of the crime injury, if any. Provide an estimate of when the individual will return to work, why they are unable to work, the extent of impairment and the prognosis for future occupational functioning.

(3) Progress note: Form III: This report must be completed after session fifteen has been conducted, and must contain:

(a) Whether there has been substantial progress towards recovery for the crime related condition(s);

(b) If you expect treatment will be completed within thirty visits (for adults) or forty visits (for children); and

(c) What complicating or confounding issues are hindering recovery.

(4) Treatment report: Form IV: This report must be completed for authorization for treatment beyond thirty sessions for adults or forty sessions for children, and must contain:

(a) The diagnoses at treatment onset with current DSM or ICD code(s), including axes 1 through 5, and the highest GAF in the past year;

(b) The current diagnoses, if different now, with current DSM or ICD code(s), including axes 1 through 5, and the highest GAF in the past year; and

(c) Proposed plan for treatment and number of sessions requested, and an explanation of:

(i) Substantial progress toward treatment goals;

(ii) Partial progress toward treatment goals; or

(iii) Little or no progress toward treatment goals.

(5) Treatment report: Form V: This report must be completed for authorization for treatment beyond fifty sessions for adults or sixty sessions for children, and must contain:

(a) The diagnoses at treatment onset with current DSM or ICD code(s), including axes 1 through 5, and the highest GAF in the past year;

(b) The current diagnoses, if different now, with current DSM or ICD code(s), including axes 1 through 5, and the highest GAF in the past year;

(c) Proposed plan for treatment and number of sessions requested, and an explanation of:

(i) Substantial progress toward treatment goals;

(ii) Partial progress toward treatment goals; or

(iii) Little or no progress toward treatment goals.

(6) Termination report: Form VI: If you discontinue treatment of a client for any reason, a termination report should be completed within sixty days of the client's last visit, and must contain:

(a) Date of last session;

(b) Diagnosis at the time client stopped treatment;

(c) Reason for termination (e.g., goals achieved, client terminated treatment, client relocated, referred to other services, etc.); and

(d) At this point in time do you believe there is any permanent loss in functioning as a result of the crime injury? If yes, describe symptoms based on diagnostic criteria for a DSM diagnosis.

(7) Reopening application: This application is required to reopen a claim that has been closed more than ninety days, to demonstrate a worsening of the client's condition and a need for treatment. We will reimburse you for filing the application, for an office visit, and diagnostic studies needed to complete the application. No other benefits will be paid until a decision is made on the reopening. If the claim is reopened, we will pay benefits for a maximum of sixty days prior to the date we received the reopening application.

AMENDATORY SECTION (Amending WSR 95-15-004, filed 7/5/95, effective 8/5/95)

WAC 296-31-065 ((Ongoing treatment.)) Can my client be referred for a consultation? (((1) Cases that remain open more than one hundred eighty days: When the claimant requires treatment beyond one hundred eighty days, a consultation with another mental health provider who meets the department's provider registration requirements, is necessary to determine and/or establish the need for continued treatment and/or payment of time-loss compensation. A detailed consultation report must be provided to the department.

Three levels of consultation are recognized: Limited, extensive and complex. Detailed descriptions of each type of consultation are included under procedure codes 0108C, 0109C and 0110C in the publication entitled *Crime Victims Compensation Mental Health Treatment Rules and Fees*.

(2) Procedures and/or continued treatment requiring consultation: In the event of complication, controversy, or dispute over the treatment aspects of any claim, the department will not authorize continued treatment until the complication, controversy, or dispute has been resolved and the department has received notification of any findings and reviewed any recommendations.

(a) The department may consider claims as complicated, controversial or disputed when involving treatment or conditions as follows:

(i) All counseling or psychotherapy, pertaining to immediate family members, requiring treatment sessions of more than twelve visits.

(ii) All family therapy visits, not including the claimant, requiring more than twelve visits.

(iii) All conditions not related to the accepted condition involving emotional, psychiatric, or social problems which are likely to complicate recovery.

(iv) All therapeutic procedures of a controversial nature or type not in common use for the specific condition.

(v) Cases where there are complications or unfavorable circumstances such as age, preexisting conditions, or, because of occupational requirements, etc.

(vi) Elective nonemergent hospital admission.

(vii) Any other circumstance that the department may define.

(b) The department may resolve issues of claim complication, controversy, or dispute using consultants, independent assessments and/or requesting a review of policies or procedures by the department's mental health advisory committee. The committee may recommend courses of action to

resolve these issues to including, but not limited to, recommendation of an independent assessment.

(e) In cases presenting diagnostic or therapeutic problems difficult to resolve to the attending mental health provider (psychiatrist, psychologist and/or counselor), consultation with a specialist will be allowed without prior authorization. The consultant must submit his or her findings and recommendations immediately to the attending provider and the department.

(i) Whenever possible, the referring mental health provider should make his or her records available to the consultant to avoid unnecessary duplication. Consultants may proceed with indicated and reasonable diagnostic studies as permitted within their scope of practice.

(ii) Consultations must be held within the local geographic area of the claimant's residence, if possible, and with a consultant not having a mutual proprietary or business interest with the attending mental health provider. Exceptions to this requirement may be made only with department preauthorization. The department does not prohibit the use of members of the same professional or social associations.

(iii) The mental health provider will not arrange a consultation if notification has been received that an independent assessment is being arranged by the department. If a recent consultation has been completed and the attending mental health provider is notified that the department is arranging an assessment, the department must be advised immediately of the consultation.

(iv) The consultation fee will be paid only if a consultation report is complete and contains all psychological findings as well as all pertinent negative or normal findings. The report must be received in the department within fifteen days from the date of the consultation. No fee may be paid to the consultant, by the department, if the claimant misses/fails to attend the appointment. However, the claimant may be billed directly.

(v) The consultant may not order, prescribe, or provide treatment without the consent of the claimant. No transfer will be made to the consultant without the written request of the claimant.

(3) Concurrent treatment: In some cases, treatment by more than one provider may be allowed. The department will consider authorization of concurrent treatment when the accepted condition requires specialty or multidisciplinary care. (Individual and group counseling sessions provided by more than one provider is not concurrent treatment.) When requesting consideration of concurrent treatment, the attending mental health provider must provide the department with the following: The name, address, discipline, and specialty of all other providers requested to assist in the treatment of the claimant and an outline of their responsibility in the case and an estimate of the length of the period of concurrent care. When concurrent care is allowed, the department will recognize one primary attending mental health provider, who will be responsible for directing the over all treatment program; providing copies of all reports and other data received from the involved providers and, in time loss cases, providing the adequate certification evidence of the claimant's inability to work. The department will approve concurrent care on an individual case basis.

(4) Transfer of attending provider: All transfers from one provider to another must be approved by the department. Normally transfers will be allowed only after the claimant has been under the care of the attending mental health provider for sufficient time for the provider to: Complete the necessary diagnostic studies, establish an appropriate treatment regimen, and evaluate the efficacy of the therapeutic program. Under RCW 51.36.010 claimants are entitled to free choice of attending provider subject to the limitations of RCW 7.68.130. Except as provided under (a) through (g) of this subsection, no reasonable request for transfer will be denied. The claimant must be advised when and why a transfer is denied. The department reserves the right to require a claimant to select another provider for treatment, under the following conditions:

(a) When more conveniently located providers, qualified to provide the necessary treatment, are available.

(b) When the attending provider fails to cooperate in observance and compliance with the department rules.

(c) In time loss cases where reasonable progress towards return to work is not shown.

(d) Cases requiring specialized treatment, which the attending provider's authority is not qualified to render, or is outside the scope of the attending provider's authority to practice.

(e) Where the department finds a transfer of provider to be appropriate and has requested the claimant to transfer in accordance with this rule, the department may select a new attending provider if the claimant unreasonably refuses or delays in selecting another attending provider.

(f) In cases where the attending provider is not qualified to treat each of several accepted conditions. This does not preclude concurrent care where indicated.

(g) No transfer will be approved to a consultant without the written request of the claimant. Transfers will be authorized for the foregoing reasons or where the department in its discretion finds that a transfer is in the best interest of returning the claimant to a productive role in society.)) (1) There may be instances when the client's accepted mental health condition presents a diagnostic or therapeutic challenge. In such cases, you or the department may refer the client for a consultation or you may ask the department for an independent mental health examination.

(2) There are two levels of consultations that can be performed: Limited and extensive. Descriptions and procedure codes are included in the Crime Victims Compensation Program Mental Health Treatment Rules and Fees.

(3) The consultant will be required to submit a report to the department that contains the following elements:

(a) The reason(s) for the consultation referral; and

(b) Consultants related recommendations.

(4) Authorization from the department is required for:

(a) More than two consultations before the thirtieth session for adults or fortieth session for children; and

(b) More than one consultation between thirty and fifty sessions for adults or between forty and sixty sessions for children.

(5) You may not make a referral for a consultation if:

(a) An independent mental health examination has been scheduled;

(b) Claim reopening is pending; or

(c) The claim is closed.

Note: The consultant must meet provider registration requirements per WAC 296-31-030.

NEW SECTION

WAC 296-31-067 When is concurrent treatment allowed? (1) In some cases, treatment by more than one provider may be allowed by the crime victims compensation program. We may authorize concurrent treatment on an individual basis:

(a) If the accepted condition requires specialty or multi-disciplinary care.

Note: Individual and group counseling sessions given by more than one provider is not concurrent treatment.

(b) If we receive and approve your written request that contains:

(i) The name, address, discipline, and specialty of each provider requested to assist in treating the client;

(ii) An outline of each provider's responsibility in the case; and

(iii) An estimated length for the period of concurrent treatment.

(2) If we approve concurrent treatment, we will recognize one primary attending mental health treatment provider. That provider will be responsible for:

(a) Directing the overall treatment program for the client;

(b) Providing us with copies of all reports received from involved providers; and

(c) In time loss cases, providing us with adequate evidence certifying the claimant's inability to work.

NEW SECTION

WAC 296-31-068 When can a client transfer providers? (1) RCW 51.36.010 provides that clients are entitled to a free choice of attending providers, subject to the limits of RCW 7.68.130 and the requirements of the claimant's public or private insurance. The provider must meet registration requirements of WAC 296-31-030.

(2) The department must be notified if a client changes providers.

(3) We may require a client to select another provider for treatment under the following conditions:

(a) When a provider, qualified and available to provide treatment, is more conveniently located;

(b) When the attending provider fails to comply with our rules;

(c) Subject to the limits of RCW 7.68.130 outlined in subsection (1) of this section.

WSR 99-20-036
PERMANENT RULES
DEPARTMENT OF HEALTH
[Filed September 29, 1999, 11:25 a.m.]

Date of Adoption: September 21, 1999.

Purpose: Adds a new section that sets a fee to support specialty treatment clinics. This requirement was authorized under chapter 76, Laws of 1999. WAC 246-650-990 was revised to provide consistent language and distinguish between the newly authorized clinic support fees and the charge for newborn screening services.

Citation of Existing Rules Affected by this Order: Amending WAC 246-650-990.

Statutory Authority for Adoption: Chapter 76, Laws of 1999 (RCW 70.83.040).

Adopted under notice filed as WSR 99-16-115 on August 4, 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 1, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 1, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

September 29, 1999

Eric Slagle

for Mary C. Selecky

Secretary

AMENDATORY SECTION (Amending Order 224, filed 12/23/91, effective 1/23/92)

WAC 246-650-990 ((Fees)) Screening charge. The department has authority under RCW 43.20B.020 to require a reasonable ((fee)) charge from parents or responsible parties for the costs of newborn ((metabolic)) screening. The charge is to be collected through the ((hospital)) facility where the specimen was obtained.

NEW SECTION

WAC 246-650-991 Specialty clinic support fee. The department has the authority under RCW 70.83.040 to collect a fee for each infant screened to fund specialty clinics that provide treatment services for hemoglobin diseases, phenylketonuria, congenital adrenal hyperplasia and congenital hypothyroidism. The specialty clinic support fee is \$3.50. It is to be collected in conjunction with the screening charge

from the parents or other responsible party through the facility where the screening specimen is obtained.

WSR 99-20-053
PERMANENT RULES
DEPARTMENT OF REVENUE

[Filed October 1, 1999, 2:45 p.m.]

Date of Adoption: October 1, 1999.

Purpose: New chapter 458-29A WAC, WAC 458-29A-100 Overview and definitions, 458-29A-200 Taxable rent and contract rent, 458-29A-400 Exemptions, 458-29A-500 Liability, and 458-29A-600 Collection and administration. The department is adopting these rules to explain chapter 82.29A RCW, the leasehold excise tax statutes. The department currently has no rules on this subject, and taxpayers and department personnel have requested that the department adopt rules to explain the administration of the leasehold excise tax. These rules will provide important tax information to taxpayers, cities and counties imposing a leasehold tax, and to department personnel.

Statutory Authority for Adoption: RCW 82.29A.140.

Adopted under notice filed as WSR 99-17-088 on August 17, 1999.

Changes Other than Editing from Proposed to Adopted Version: 1. WAC 458-29A-100 Definitions, has been changed to add a definition of the term "improvement" as follows:

"Improvement" means a modification to real property, resulting in an actual change in the nature of the property or an increase in the value of the property. It is distinguishable from routine repair and maintenance, which are activities resulting from normal wear and tear associated with the use of property, and which do not result in a change in the nature or value of the property itself. For example, replacing worn boards in a stairway is repair and maintenance; removing the stairway and replacing it with an elevator or a ramp is an improvement.

2. WAC 458-29A-200 Contract rent and taxable rent, has been changed as follows:

a. In subsection (1), first sentence, "lessor" has been changed to "lessee."

b. In subsection (2) (Contract rent exclusions) in the second sentence, the words "repairs and maintenance" have been added following the words "security services."

c. In subsection (2) (Contract rent exclusions), the following paragraph has been added after the description of "utility charges:"

In some circumstances a private lessee that is occupying or using public property may collect fees from third parties and remit them to the public lessor. In those situations where:

(a) The fee structure, rate, or amount collected by the private party is established by or subject to the review and approval of the public lessor or other public entity; and

(b) The amounts received by the private entity from third parties are remitted entirely to the public lessor or credited to

the account of the public lessor, those amounts are not considered part of the contract rent under this chapter, provided that nothing in this section shall preclude or prevent the imposition of tax, as appropriate, under any other chapter of Title 82 RCW on any amounts retained by or paid to the private entity as consideration for services provided to the public property owner.

And in the first part of the sentence immediately following, the word "however" has been changed to "notwithstanding the provisions of this subsection..."

d. To the end of subsection (5) (expenditures for improvements) the following sentence has been added:

If the lessee vacates prior to the end of the lease without the agreement of the lessor, thereby defaulting on the lease, no additional LET is due for the term remaining pursuant to the contract between the lessor and that lessee.

e. In the last sentence of subsection (6)(b), the words "in its discretion" were stricken.

3. WAC 458-29A-400 Exemptions, was changed to add the following paragraph:

(18) State route 16 corridor transportation systems. All leasehold interests in the state route number 16 corridor transportation systems and facilities constructed and operated under chapter 47.46 RCW are exempt from leasehold excise tax.

Corrections to citations and typographical errors were made as appropriate.

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 5, 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 5, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 5, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

October 1, 1999

Russell W. Brubaker

Assistant Director

Legislation and Policy

NEW SECTION

WAC 458-29A-100 Leasehold excise tax—Overview and definitions. (1) **Introduction.** Chapter 82.29A RCW establishes an excise tax on the act or privilege of occupying or using publicly owned real or personal property through a leasehold interest. The intent of the law is to ensure that lessees of property owned by public entities bear their fair share of the cost of governmental services when the property is

rented to someone who would be subject to property taxes if the lessee were the owner of the property. The tax is an excise tax triggered by the private use and possession of the public property. RCW 82.29A.030.

(2) **Definitions.** For the purposes of chapter 458-29A WAC, the following definitions apply unless the context requires otherwise.

(a) "Department" means the department of revenue.

(b) "Concession" means the right to operate a business in an area of public property.

(c) "Contract rent" means that portion of the payment made by a lessee (including a sublessee) to a public lessor (or to a third party for the benefit of that lessor) for a leasehold interest in land and improvements or tangible personal property.

(d) "Franchise" means a right granted by a public entity to a person to do certain things that the person could not otherwise do. A franchise is distinguishable from a leasehold interest even when its exercise and value is inherently dependent upon the use and possession of publicly owned property.

(e) "Improvement" means a modification to real property, resulting in an actual change in the nature of the property or an increase in the value of the property. It is distinguishable from routine repair and maintenance, which are activities resulting from normal wear and tear associated with the use of property, and which do not result in a change in the nature or value of the property itself. For example, replacing worn boards in a stairway is repair and maintenance; removing the stairway and replacing it with an elevator or a ramp is an improvement.

(f) "Leasehold interest" means an interest granting the right to possession and use of publicly owned real or personal property as a result of any form of agreement, written or oral, without regard to whether the agreement is labeled a lease, license, or permit.

(i) Regardless of what term is used to label an agreement providing for the use and possession of public property by a private party, it is necessary to look to the actual substantive arrangement between the parties in order to determine whether a leasehold interest has been created.

(ii) Both possession and use are required to create a leasehold interest, and the lessee must have some identifiable dominion and control over a defined area to satisfy the possession element. The defined area does not have to be specified in the agreement but can be determined by the practice of the parties. This requirement distinguishes a taxable leasehold interest from a mere franchise, license, or permit.

For example, Sam sells hot dogs from his own trailer at varying sites within a county fairgrounds during events. Sam is not assigned a particular place to set up his trailer nor does he store his trailer on the fairground between events. Sam's right to sell and his use of the property is considered a franchise and not a leasehold interest. The necessary element of possession, involving a greater degree of dominion and control over a more defined area, is lacking.

(iii) The use or occupancy of public property where the purpose of such use or occupancy is to render services to the public owner does not create a leasehold interest. The les-

see's possession and use of the property is in furtherance of the public owner's purposes, and it is the public owner who benefits from the governmental services rendered in respect to the property.

For example, Contractor A operates a snack bar at a publicly owned facility where food and beverages are sold to members of the public, and derives a profit from the proceeds of the snack bar sales. Contractor B operates a cafeteria where food is provided at no charge to persons with appropriate I.D., and is reimbursed on a cost-plus basis. Contractor A is engaged in a business enterprise the same as any other restaurateur. Contractor A is using the public property for a private purpose, and has a taxable leasehold interest on the premises. Contractor B is merely providing a service to government personnel that the government agency would otherwise provide. Contractor B is using public property for a public purpose, and does not have a taxable leasehold interest.

(iv) "Leasehold interest" includes the use and occupancy by a private party of property that is owned in fee simple, held in trust, or controlled by a public corporation, commission, or authority created under RCW 35.21.730 or 35.21.660 if:

(A) The property is within a special review district established by ordinance after January 1, 1976; or

(B) The property is listed on, or is within a district listed on, any federal or state register of historical sites in existence after January 1, 1987.

(v) "Leasehold interest" does not include:

(A) Road or utility easements;

(B) Rights of access, occupancy, or use granted solely for the purpose of removing materials or products purchased from a public owner or the lessee of a public owner, including permits to graze livestock, cut brush, pick wild mushrooms, or mine ore; and

(C) Any right to use personal property (excluding land or buildings) owned by the United States (as a trustee or otherwise), or by a foreign government, when the right to use the property is granted by a contract solely to manufacture or produce articles for sale to the United States or the foreign government.

(g) "Lessee" means a private person or entity with a leasehold interest in public property who would be subject to property tax if the person or entity owned the property in fee.

(h) "Lessor" or "public lessor" means an entity exempted from property tax obligations pursuant to Article 7, section 1 of the state Constitution that grants a leasehold interest in public property to a private person or entity.

(i) "License" means permission to enter on land for some purpose, without conferring any rights to the land upon the person granted the permission. For example, a permit to enter federal lands to launch rafts into the water for the purpose of conducting whitewater river rafting tours is a license, not a leasehold interest.

(j) "Management agreement" means a written agency agreement between a public property owner and a private person or entity for the use and possession of public property under the following circumstances:

(i) The public property owner retains all liability for payment of business operating costs and business related dam-

ages (other than costs and damages attributable to the activities of the private party);

(ii) The public property owner has title and ownership of all receipts from sales of services or products relating to the management agreement (whether such amounts are collected by the private party on behalf of the public owner or whether the public owner permits the private party to retain a portion of the receipts as payment for services rendered by the private party), and the full discretion of whether to eliminate, reduce or expand the business activity conducted on the property; and

(iii) The public property owner has full control of the prices to be charged for the goods or services provided in the course of use of the property.

If each of these criteria is met, the arrangement between the parties is considered a "true" management agreement which does not, by itself, create a taxable leasehold interest in the property.

(k) "Permit" means a written document creating a license to enter land for a specific purpose.

(l) "Product lease" means a lease of public property which will be used to produce agricultural or marine products (aquaculture) wherein the lease or agreement requires that:

(i) The leasehold payment be made by delivering a stated percentage of the agricultural or marine products to the credit of the lessor; or

(ii) The lessor be paid a stated percentage of the proceeds from the sale of the agricultural or marine products.

(m) "Public property" means all property owned by an entity exempted from property tax obligations pursuant to Article 7, section 1 of the state Constitution (and, in some instances, property held in trust by the United States).

(n) "Renegotiated" means a change in the leasehold agreement, other than one specifically required by the terms of the agreement itself, which alters:

(i) The agreed time of possession and use of the property;

(ii) The restrictions on the manner in which the property may be used; or

(iii) The rate of cash rental or other consideration paid by the lessee to or for the benefit of the lessor.

The term also includes the continued possession of the property by the lessee beyond the original date when, according to the terms of the agreement, the lessee had the right to vacate the premises without incurring further liability to the lessor.

(o) "Taxable rent" means the amount of rent upon which the measure of leasehold excise tax is based. It is either the contract rent or an amount established by the department in accordance with the procedures set forth in RCW 82.29A.020(2). (See also WAC 458-29A-200.)

(p) "Utility easement" means the right to use publicly owned land for the purpose of providing access or installation of publicly regulated utilities.

NEW SECTION

WAC 458-29A-200 Leasehold excise tax—Taxable rent and contract rent. (1) **Introduction.** Ordinarily, the amount of taxable rent is the amount of contract rent paid by

a lessee for a taxable leasehold interest. The law does authorize the department to establish a taxable rent different from the contract rent in certain cases. This rule explains the exclusions of certain moneys and other property received by or on behalf of a lessor from the measure of contract rent. It also explains the conditions under which the department is authorized to establish a taxable rent different from the contract rent.

(2) **Contract rent exclusions.** Even when a leasehold interest is present, not all payments made to a lessor constitute taxable contract rent. For example, payments made to or on behalf of the lessor for actual utility charges, janitorial services, security services, repairs and maintenance, and for special assessments such as storm water impact fees attributable to the lessee's space or prorated among multiple lessees, are not included in the measure of contract rent, if the actual charges are separately stated and billed to the lessee(s). "Utility charges" means charges for services provided by a public service business subject to the public utility tax under chapter 82.16 RCW, and, for the purpose of this section only, also includes water, sewer, and garbage services and cable television services.

In some circumstances a private lessee that is occupying or using public property may collect fees from third parties and remit them to the public lessor. In those situations where:

(a) The fee structure, rate, or amount collected by the private party is established by or subject to the review and approval of the public lessor or other public entity; and

(b) The amounts received by the private entity from third parties are remitted entirely to the public lessor or credited to the account of the public lessor, those amounts are not considered part of the contract rent under this chapter, provided that nothing in this section shall preclude or prevent the imposition of tax, as appropriate, under any other chapter of Title 82 RCW on any amounts retained by or paid to the private entity as consideration for services provided to the public property owner.

Notwithstanding the provisions of this subsection, if such deductions are determined by the department to reduce the amount of contract rent to a level below market value, the department may establish a taxable rent in accordance with section (6) below.

For example, Dan leases retail space in a building owned by the Port of Whistler. He pays \$800 per month for the space, which includes building security services. Additionally, he is assessed monthly for his pro rata share of actual janitorial and utility services provided by the Port. The Port determines Dan's share of these charges in the following manner: The average annual amount actually paid by the Port for utilities in the prior year is divided by 12. Dan's space within the building is approximately ten percent of the total space in the building, so the averaged monthly charge is multiplied by .10 (Dan's pro rata share based upon the amount of space he leases), and that amount is added to Dan's monthly statement as a line item charge for utilities, separate from the lease payment. The charges for janitorial services are treated in the same manner. In this case, Dan's payment for utilities and janitorial services are not included in the measure of contract rent. His payments for security services

are included in the measure of contract rent, and subject to the leasehold excise tax, because they are not calculated and charged separately from the lease payments.

Contract rent also does not include:

(a) Expenditures made by the lessee for which the lease agreement requires the lessor to reimburse the lessee;

(b) Expenditures made by the lessee for improvements and protection if the lease or agreement requires the improved property to be open to the general public (e.g., a public boat launch) and prohibits the lessee from enjoying any profit directly from the lease;

(c) Expenditures made by the lessee to replace or repair the facilities due to fire or other catastrophic event including, but not necessarily limited to, payments:

(i) For insurance to reimburse losses;

(ii) To a public or private entity to protect the property from damage or loss; or

(iii) To a public or private entity for alterations or additions made necessary by an action of government which occurred after the date the lease agreement was executed.

(d) Improvements added to public property if the improvements are taxed as any person's personal property.

(3) **Combined payments.** When the payment for a leasehold interest is made in combination with payment for concession, franchise or other rights granted by the public lessor, only that part of the payment which represents consideration for the leasehold interest is considered part of the contract rent. For example, if the payment made by the lessee to the public lessor exceeds the fair market rental value for comparable property with similar use, the excess is generally attributable to payment for a concession or other right.

(4) **Lease payments based on a percentage of sales.** The measure of contract rent subject to the leasehold excise tax may be based upon a lease which provides that the rent shall be a percentage of business proceeds. The manner in which the rent is calculated does not, in itself, determine the character of the underlying right or interest for which the payment is made.

(5) **Expenditures for improvements.** Expenditures by the lessee for nonexcludable improvements (see WAC 458-29A-200(2)) with a useful life of more than one year will be treated as prepaid contract rent if the expenditures were intended by the parties to be included as part of the contract rent. Such intention may be demonstrated by a contract provision granting ownership or possession and use to the public owner of the underlying property and/or by the conduct of the parties. These expenditures should be prorated over the useful life of the improvement, or over the remaining term of the lease or agreement if the useful life of the improvement exceeds that term. If the lessee vacates prior to the end of the lease without the agreement of the lessor, thereby defaulting on the lease, no additional LET is due for the term remaining pursuant to the contract between the lessor and that lessee.

(6) **Department's authority to establish taxable rent.** RCW 82.29A.020(2) authorizes the department to establish a "taxable rent" that is different from contract rent in some situations.

(a) If the department determines that a lessee has a leasehold interest in publicly owned property and that such lease-

hold interest has not been established through competitive bidding, or negotiated in accordance with statutory requirements regarding the rent payable, or negotiated under circumstances, established by public record, clearly showing that the contract rent was the maximum attainable by the lessor, the department may establish a taxable rent computation for use in determining the tax payable under authority granted under chapter 82.29A RCW. The department shall base its computation on the following criteria:

(i) Consideration shall be given to rent being paid to other lessors by lessees of similar property for similar purposes over similar periods of time; or

(ii) Consideration shall be given to what would be considered a fair rate of return on the market value of the property leased less reasonable deductions for any restrictions on use, special operating requirements or provisions for concurrent use by the lessor, another person or the general public.

(b) If the department establishes taxable rent pursuant to RCW 82.29A.020(2), and the contract rent was established in accordance with the procedures set forth in that section, but the lease is ten or more years old and has not been renegotiated, the taxable rent for leasehold excise tax purposes shall be prospective only. However, if upon examination the department determines that the contract rent was not set in accordance with the statutory provisions of RCW 82.29A.020(2) and the rent is below fair market rate, the department may (and in most instances, will) apply the taxable rental rate retroactively for purposes of determining the leasehold excise tax, subject to the provisions of RCW 82.32.050(3).

(c) The department will not establish taxable rent if one of the following four situations apply:

(i) The leasehold interest has been established or renegotiated through competitive bidding;

(ii) The rent was set or renegotiated according to statutory requirements;

(iii) Public records demonstrate that the rent was the maximum attainable; or

(iv) A lease properly established or renegotiated in compliance with (6)(c)(i), (ii), or (iii) has been in effect for ten years or less without renegotiation.

(d) Where the contract rent has been established in accordance with one of the first three criteria set forth above, and the lease agreement has not been in effect for ten years or more, or has been properly renegotiated within the past ten years, the taxable rent is deemed to be the stated contract rent.

(e) If land on the Hanford reservation is subleased to a private or public entity by the state of Washington, "taxable rent" means only the annual cash rental payment made by the sublessee to the state and specifically referred to as rent in the sublease agreement.

NEW SECTION

WAC 458-29A-400 Leasehold excise tax—Exemptions. (1) **Introduction.** RCW 82.29A.130 establishes a number of exemptions from the leasehold excise tax. To be exempt from the leasehold excise tax, the property subject to the leasehold interest must be used exclusively for the purposes for which the exemption is granted.

(2) **Operating properties of a public utility.** All leasehold interests that are part of the operating properties of a public utility are exempt from leasehold excise tax if the leasehold interest is assessed and taxed as part of the operating property of a public utility under chapter 84.12 RCW. For example, tracks leased to a railroad company at the Port of Seaside are exempt from leasehold excise tax because the railroad is a public utility assessed and taxed under chapter 84.12 RCW and the tracks are part of the railroad's operating properties.

(3) **Nonprofit schools and colleges.** All leasehold interests in facilities owned or used by a public school, college, or university to provide housing to students are exempt from leasehold excise tax if the student housing is exempt from property tax under RCW 84.36.010 and 84.36.050. For example, the leasehold interest associated with a building used as a dormitory for Public University students is exempt from the leasehold excise tax.

(4) **Subsidized housing.** All leasehold interests of subsidized housing are exempt from leasehold excise tax if the United States, the state of Washington, or any political subdivision owns the property in fee simple and residents of the housing are subject to specific income qualification requirements. For example, a leasehold interest in an apartment house that is subsidized by the Federal Department of Housing and Urban Development is exempt from leasehold excise tax if the property is owned by the state of Washington and residents are subject to income qualification requirements.

(5) **Nonprofit fair associations.** All leasehold interests used for fair purposes of a nonprofit fair association are exempt from leasehold tax if the fair association sponsors or conducts a fair or fairs supported by revenues collected under RCW 67.16.100 and allocated by the director of the department of agriculture. The property must be owned in fee simple by the United States, the state of Washington, or any public political subdivision. However, if a nonprofit association subleases exempt property to a third party, the sublease is a taxable leasehold interest. For example, a leasehold interest held by the Local Nonprofit Fair Association is considered exempt from leasehold excise tax. However, if buildings on the fairgrounds are rented to private parties for storage during the winter, these rentals may be subject to the leasehold excise tax.

(6) **Public employee housing.** All leasehold interests in public property used as a residence by an employee of the public owner are exempt from leasehold tax if the employee is required to live on the public property as a condition of his or her employment. For example, a cabin used as a residence by a forest ranger in the Northwest National Forest is exempt from leasehold excise tax if the cabin is owned by the United States, the ranger is employed by the U.S. Forest Service (an agency of the United States government), and the ranger is required to live in the Northwest National Forest as a condition of his/her employment.

(7) **Interests held by enrolled Indians.** Leasehold interests held by enrolled Indians are exempt from leasehold excise tax if the lands are owned or held by any Indian or Indian tribe, and the fee ownership of the land is vested in or held in trust by the United States, unless the leasehold inter-

ests are subleased to a lessee which would not qualify under chapter 82.29A RCW, RCW 84.36.451 and 84.40.175 and the tax on the lessee is not preempted due to the balancing test (see WAC 458-20-192).

Any leasehold interest held by an enrolled Indian or a tribe, where the leasehold is located within the boundaries of an Indian reservation, on trust land, on Indian country, or is associated with the treaty fishery or some other treaty right, is not subject to leasehold excise tax. For example, if an enrolled member of the Puyallup tribe leases port land at which the member keeps his or her boat, and the boat is used in a treaty fishery, the leasehold interest is exempt from the leasehold tax. For more information on excise tax issues related to enrolled Indians, see WAC 458-20-192 (Indians—Indian reservations).

(8) **Leases on Indian lands to non-Indians.** Leasehold interests in any real property of any Indian or Indian tribe, band, or community held in trust by the United States or subject to a restriction against alienation imposed by the United States that are held by a non-Indian not otherwise exempt from tax due to the application of the balancing test under WAC 458-20-192 are exempt from leasehold excise tax if the amount of contract rent paid is greater than or equal to ninety percent of fair market rental value. In determining whether the contract rent of such lands meets the required level of ninety percent of market value, the department will use the same criteria used to establish taxable rent under RCW 82.29A.020 (2)(b) (WAC 458-29A-200).

For example, Harry leases land held in trust by the United States for the Yakima tribe for the sum of \$900 per month. The fair market value for similar lands used for similar purposes is \$975 per month. The lease is exempt from the leasehold tax because Harry pays at least ninety percent of the fair market value for the qualified lands. For more information on the preemption analysis and other tax issues, see WAC 458-20-192.

(9) **Annual taxable rent is less than two hundred fifty dollars.** Leasehold interests for which the taxable rent is less than \$250 per year are exempt from leasehold tax. For the purposes of this exemption, if the same lessee has a leasehold interest in two or more contiguous parcels of property owned by the same public lessor, the taxable rent for each contiguous parcel will be combined and the combined taxable rent will determine whether the threshold established by this exemption has been met. To be considered contiguous, the parcels must be in closer proximity than merely within the boundaries of one piece of property. When determining the annual leasehold rent, the department will rely upon the actual substantive agreement between the parties. Rent payable pursuant to successive leases between the same parties for the same property within a twelve-month period will be combined to determine annual rent; however, a single lease for a period of less than one year will not be projected on an annual basis.

The following examples identify a number of facts and then state a conclusion. These examples should be used only as a general guide. The status of each situation must be determined after a review of all of the facts and circumstances.

(a) The yacht club rents property from the Port of Bay City for its clubhouse and moorage. It also rents a parking stall for its commodore. The parking stall is separated from the clubhouse only by a common walkway. The parking stall lease is a part of the clubhouse lease because it is contiguous to the clubhouse, separated only by a necessary walkway.

(b) Ace Flying Club rents hangars, tie downs, and ramps from the Port of Desert City. It has separate leases for several parcels. The hangars are separated from the tie down space by a row of other hangars, each of which is leased to a different party. Common ramps and roadways also separate the club's hangars from its tie-downs. The hangars, because they are adjacent to one another, create a single leasehold interest. The tie downs are a separate taxable leasehold interest because they are not contiguous with the hangars used by Ace Flying Club.

(c) Grace leases a lot from the City of Flora, from which she sells crafts at different times throughout the year. She pays \$50 per month for the lot, and has a separate lease for each season during which she sells. She has one lease from May through September, and a separate lease for the time between Thanksgiving and Christmas, which might run thirty to forty days, depending on the year. The leases will be combined for the purposes of determining the leasehold excise tax. They relate to the same piece of property, for the same activity by the same lessee, and occur within the same year.

(d) Elizabeth owns a Christmas tree farm. Every year she rents a small lot from the Port of Capital City, adjacent to its airport, to sell Christmas trees. She pays \$125 to the port to rent the lot for 6 weeks. It is the only time during the year that she rents the lot. Her lease is exempt from the leasehold excise tax, because it does not exceed \$250 per year in taxable rent.

(10) Leases for a continuous period of less than thirty days. Leasehold interests that provide use and possession of public property for a continuous period of less than thirty days are exempt from leasehold tax. In determining the duration of the lease, the department will rely upon the actual agreement and/or practice between the parties. If a single lessee is given successive leases or lease renewals of the same property, the arrangement is considered a continuous use and possession of the property by the same lessee. A leasehold interest does not give use and possession for a period of less than thirty days based solely on the fact that the public lessor has reserved the right to use the property or to allow third parties to use the property on an occasional, temporary basis.

(11) Month-to-month leases in residential units to be demolished or removed. Leasehold interests in properties rented for residential purposes on a month-to-month basis pending destruction or removal for construction of a public highway or building are exempt from the leasehold excise tax. For example, if the state or other public entity has acquired private properties for highway expansion, airport expansion, or capitol campus expansion, and rents those residential units pending their removal for construction, these leases do not create taxable leasehold interests. This exemption does not require evidence of imminent removal of the residential units; the term "pending" merely means "while awaiting." The exemption is based upon the purpose for

which the public entity holds the units. For example, State University has obtained capital development funding for the construction of new campus buildings, and has purchased a block of residential property adjacent to campus for the sole purpose of expansion. Jim leases these houses from State University pursuant to a month-to-month rental agreement and rents them to students. Construction of the new buildings is not scheduled to begin for two years. Jim is not subject to the leasehold excise tax, because State University is holding the residential properties for the sole purpose of expanding its facilities, and Jim is leasing them pending their certain, if not imminent, destruction.

(12) Public works contracts. Leasehold interests in publicly owned real or personal property held by a contractor solely for the purpose of a public improvements contract or work to be executed under the public works statutes of Washington state or the United States are exempt from leasehold tax. To receive this exemption, the contracting parties must be the public owner of the property and the contractor that performs the work under the public works statutes.

For example, during construction of a second deck on the Nisqually Bridge pursuant to a public works contract between the state of Washington and Tinker Construction, any leasehold interest in real or personal property created for Tinker solely for the purpose of performing the work necessary under the terms of the contract is exempt from leasehold tax.

(13) Correctional industries in state adult correctional facilities. Leasehold interests for the use and possession of state adult correctional facilities for the operation of correctional industries under RCW 72.09.100 are exempt from leasehold tax. For example, a profit or nonprofit organization operating and managing a business within a state prison under an agreement between it and the department of corrections is exempt from leasehold tax for its use and possession of state property.

(14) Camp facilities for disabled persons. Leasehold interests in a camp facility are exempt from leasehold tax if the property is used to provide organized and supervised recreational activities for disabled persons of all ages, and for public recreational purposes, by a nonprofit organization, association, or corporation which would be exempt from property tax under RCW 84.36.030(1) if it owned the property. For example, a county park with camping facilities leased to a nonprofit charitable organization is exempt from leasehold tax if the nonprofit allows the property to be used by the general public for recreational activities throughout the year, and to be used as a camp for disabled persons for two weeks during the summer.

(15) Public or entertainment areas of certain baseball stadiums. Leasehold interests in public or entertainment areas of a baseball stadium with natural turf and a retractable roof or canopy, located in a county with a population of over one million people, with a seating capacity of over forty thousand, and constructed on or after January 1, 1995, are exempt from leasehold excise tax.

"Public or entertainment areas" for the purposes of this exemption include ticket sales areas, ramps and stairs, lobbies and concourses, parking areas, concession areas, restau-

rants, hospitality and stadium club areas, kitchens or other work areas primarily servicing other public areas, public rest rooms, press and media areas, control booths, broadcast and production areas, retail sales areas, museum and exhibit areas, scoreboards or other public displays, storage areas, loading, staging, and servicing areas, seating areas and suites, the playing field, and any other areas to which the public has access or that are used for the production of the entertainment event or other public usage, and any other personal property used for such purposes. "Public or entertainment areas" does not include locker rooms or private offices used exclusively by the lessee.

(16) **Public or entertainment areas of certain football stadiums and exhibition centers.** Leasehold interests in the public or entertainment areas of an open-air stadium suitable for national football league football and for Olympic and world cup soccer, with adjacent exhibition facilities, parking facilities, and other ancillary facilities constructed on or after January 1, 1998, are exempt from leasehold excise tax. For the purpose of this exemption, the term "public and entertainment areas" has the same meaning as set forth in subsection (15) above.

(17) **Public facilities districts.** All leasehold interests in public facilities districts, as provided in chapter 36.100 or 35.57 RCW are exempt from leasehold excise tax.

(18) **State route 16 corridor transportation systems.** All leasehold interests in the state route number 16 corridor transportation systems and facilities constructed and operated under chapter 47.46 RCW are exempt from leasehold excise tax.

NEW SECTION

WAC 458-29A-500 Leasehold excise tax—Liability.

(1) **Introduction.** The event triggering a leasehold excise tax liability is the use by a private person or entity of publicly owned, tax-exempt property.

Where a lessee is also a tax-exempt government entity, the tax will apply against a private sublessee, even though no contractual arrangement exists between the sublessee and the public lessor.

(2) **Lessor's responsibility to collect and remit tax.** The public lessor is responsible for collecting and remitting the leasehold excise tax from its private lessees. If the public lessor collects the leasehold excise tax but fails to remit it to the department, the public lessor is liable for the tax.

(a) Where the public lessor has attempted to collect the tax, but has received neither contract rent nor leasehold excise tax from the lessee, the department will proceed directly against the lessee for payment of the tax and the lessee shall be solely liable for the tax, provided, the lessor notifies the department in writing when the lessor is unable to collect rent and/or taxes, and the amount of the leasehold excise tax arrearage is \$1000 or greater. If the lessor fails to notify the department, the department may, in its discretion, look to the public lessor for payment of the tax.

(b) If, upon examining all of the facts and circumstances, the department determines that the public lessor in good faith believed the lessee to be exempt from all or part of the lease-

hold excise tax, the department will look to the public lessor for assistance in collection of the tax due, but will not hold the public lessor personally liable for payment of such tax. To satisfy the requirement of "good faith" the public lessor must have acted with reasonable diligence and prudence to determine whether the leasehold excise tax was due from the lessee.

(3) The following examples, while not exhaustive, illustrate some of the circumstances in which a public lessor may or may not be held liable for the leasehold excise tax. These examples should be used only as a general guide. The status of each situation must be determined after a review of all of the facts and circumstances.

(a) Doug has been newly hired in the accounting department at City Port and is assigned the responsibility for its rental accounts. He is unaware of the leasehold excise tax laws and fails to bill new tenants for the leasehold excise tax. In this situation, City Port does not avoid possible liability for the tax. Accounting errors and lack of knowledge regarding City Port's responsibility to collect and remit the leasehold excise tax do not qualify as reasonable diligence and prudence.

(b) Sybil rents an apartment in a building owned by State University but she is not a student of the University and the building is not used for student housing. She pays \$900 per month in rent. The terms of the lease require her to give at least thirty days' notice of intent to vacate. In the month of March, she fails to pay her rent, and State University serves her with a notice to pay or quit the premises. On April 1, she sends a check to State University for \$2016 (two months' rent, plus leasehold excise tax). The bank does not honor the check, and Sybil abandons the premises in mid-April without notice. When State University discovers that she has left, it timely notifies the department of the unpaid rent and leasehold excise tax. State University has acted with reasonable prudence and diligence and will not be held liable for the unpaid leasehold excise tax. In serving Sybil with a notice to pay or quit when she first defaulted, State University attempted to mitigate the amount of rent and taxes which were unpaid, and it complied with all other requirements regarding its duty to report the arrearages to the department.

(c) Sonata City owns several houses on property which may be used in the future for office buildings, a fire station, or perhaps a park, depending on its future needs. The city leases the houses on six-month terms, mainly to students who attend the local college. Over the past four years that the city has rented the properties, it has not collected leasehold excise tax from the tenants, because city officials believed the property to be exempt since they planned someday to use the property for a public purpose. Following an audit, it is determined that there is no definite plan for destruction of the houses nor any funds allocated for construction of public buildings on the site. Further, the houses were not rented on a month-to-month basis. Therefore, leasehold excise tax is due. Most of the prior tenants have left the area, and there is no convenient way for the city to collect the unpaid leasehold tax. Sonata City is liable for the tax because although its managers did not believe the tax was due, the lack of knowledge regarding the city's responsibility to collect and remit the leasehold excise tax does not qualify as reasonable diligence

and prudence. Sonata City had a duty to make a good faith effort to determine its obligations under the applicable leasehold excise tax statutes and rules.

NEW SECTION

WAC 458-29A-600 Leasehold excise tax—Collection and administration. (1) **Introduction.** Leasehold excise tax is levied by the state under RCW 82.29A.030 and by counties and/or cities under RCW 82.29A.040. The administrative procedures contained in chapters 82.02 and 82.32 RCW apply to the administration and collection of the leasehold excise tax.

(2) **Tax imposed.** The rates at which leasehold excise tax is levied are contained in RCW 82.29A.030 and 82.29A.040. The department publishes documents containing the applicable rates, credits, and formulas. These documents are updated as necessary and are available upon request.

(3) **Separate listing requirement.** The amount of leasehold excise tax due must be listed separately from the amount of contract rent on any statement or other document provided to the lessee by the lessor. If the leasehold excise tax is not stated separately from the contract rent, it is assumed that the leasehold excise tax is not included in the amount stated as due.

(4) **Credits allowed against leasehold excise tax.** Because the leasehold excise tax is intended only to equalize treatment between private property owners and lessees of public entities, the amount of leasehold excise tax should not exceed the amount of property tax that would be due if the leased property was privately owned. Therefore, in calculating the taxes imposed under RCW 82.29A.030 and 82.29A.040, RCW 82.29A.120 authorizes the following credits:

(a) **Leasehold interests created after April 1, 1986, or situations where the department has established taxable rent.** Where a leasehold interest other than a product lease was created after April 1, 1986, or where the department has established taxable rent in accordance with RCW 82.29A.020 (2)(b), and the amount of leasehold excise tax due is greater than the amount of property tax that would be due if the property was privately owned by the lessee, without regard to any property tax exemption under RCW 84.36.381, a credit equal to the difference between the leasehold excise tax and the comparable property tax will be allowed.

If the property is subleased, the credit must be passed on to the sublessee. Lessees and sublessees of residential property who would qualify for either a partial or total exemption from property tax under RCW 84.36.381 if they owned the property in fee are eligible for a corresponding reduction in the amount of leasehold excise tax due. The leasehold excise tax for the qualifying lessees or sublessees is reduced by the same percentage as the percentage reduction in property that would result from the property tax exemption under RCW 84.36.381.

(b) **Product leases.** A credit of thirty-three percent of the total leasehold excise tax due is allowed for product leases.

(5) **When payment is due.** The leasehold excise taxes are due on the same date that the contract rent is due to the lessor. If the contract rent is paid to someone other than the lessor, the leasehold tax is due at the time the payment is made to that other person or entity. Any prepaid contract rent will be deemed to have been paid in the year due and not in the year in which it was actually paid if the prepayment is for more than one year's rent. If contract rent is prepaid, the leasehold tax payment may be prorated over the number of years for which the contract rent is prepaid. The prorated portion of the tax will be due in two installments per year, with no less than one-half due on or before May 31 and the second half due no later than November 30 of each year.

(6) **Collection and distribution of tax by the department.** The department collects and distributes the leasehold excise taxes authorized by RCW 82.29A.030 and 82.29A.040.

(a) **Taxes levied by the state.** All money received by the department from leasehold taxes levied under RCW 82.29A.030 is transmitted to the state treasurer for deposit in the general fund.

(b) **Taxes levied by counties and cities.** Prior to the effective date of the ordinance imposing a leasehold excise tax, the county or city imposing the tax must contract with the department for administration and collection services. The department may deduct a percentage, not to exceed two percent, of the taxes collected as reimbursement for administration and collection expenses. The department deposits the balance of the taxes collected in the local leasehold excise tax account with the state treasury, and the state treasurer bimonthly distributes those moneys to the counties and cities.

County treasurers must proportionately distribute the moneys they receive in the same manner they distribute moneys collected from property tax levies in accordance with RCW 84.56.230, provided that no moneys are to be distributed to the state or any city, and the pro rata calculation for proportionate distribution cannot include any levy rates by the state or any city.

(7) **Leasehold interests in federally owned land or federal trust land.** Lessees with a leasehold interest in federally owned lands or federal trust lands must report and remit the leasehold tax due directly to the department on an annual reporting basis.

WSR 99-20-063

PERMANENT RULES

DEPARTMENT OF HEALTH

[Filed October 1, 1999, 4:09 p.m.]

Date of Adoption: September 9, 1999.

Purpose: The language in this rule is outdated, unclear and unnecessary. The content of the rule is redundant of WAC 246-828-095 and 246-828-100 and is no longer appropriate.

Citation of Existing Rules Affected by this Order: Repealing WAC 246-828-280.

Statutory Authority for Adoption: RCW 18.35.161.

Adopted under preproposal statement of inquiry filed as WSR 99-16-046 on July 30, 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 0, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 1.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 1.

Effective Date of Rule: Thirty-one days after filing.

September 27, 1999

T. Diane Young
Program Manager

WSR 99-20-082
PERMANENT RULES
OFFICE OF THE
STATE TREASURER

[Filed October 5, 1999, 9:05 a.m.]

Date of Adoption: October 5, 1999.

Purpose: To amend and update the procedures to be followed by financial institutions who hold public funds in Washington state in accordance with the Public Deposit Protection Act.

Citation of Existing Rules Affected by this Order: Amending WAC 389-12-020 through 389-12-230.

Statutory Authority for Adoption: Chapter 39.58 RCW.
Other Authority: RCW 39.58.040.

Adopted under notice filed as WSR 99-16-034 on July 28, 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 0, Amended 13, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 13, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 13, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

October 5, 1999

Gretchen D. Gale

Legal Counsel

AMENDATORY SECTION (Amending Order 86-I, Resolution No. 86-003, filed 6/19/86)

WAC 389-12-020 Definitions. Unless the context requires otherwise:

(1) (~~Qualified public depository.~~ "Qualified") "Public depository" means a financial institution which does not claim exemption from the payment of any sales or compensating use or ad valorem taxes under the laws of this state, which has segregated for the benefit of the commission eligible collateral having a value of not less than its maximum liability and ~~((which))~~ whose charter has been approved by the commission to hold public deposits.

(2) (~~Financial institution.~~ "A") "Financial institution" means any of the following which are located in this state and are lawfully engaged in business:

(a) Bank depositories—Any branch of a bank engaged in the banking business in this state in accordance with RCW 30.04.300, and any state bank or trust company or national banking association.

(b) Thrift depositories—Any state chartered mutual savings bank or stock savings bank, any state or federally chartered savings and loan association (including federally chartered savings bank).

(3) (~~Investment deposits.~~ The term) "Investment deposit" shall mean time deposits, savings deposits, and money market deposit accounts of public funds available for investment. Savings ~~((deposit[s]))~~ deposits shall mean an interest bearing deposit of public funds that is subject to withdrawal and that is not payable on a specified date or at the expiration of a specified time after the date of deposit. Time deposit shall mean a single maturity or multiple maturity interest bearing investment deposit of public funds, which is either evidenced by a certificate of deposit issued by a ~~((qualified))~~ public depository, or reflected in a book-entry system of such depository approved by federal regulatory authorities, state supervisor of banking and/or state supervisor of savings and loan associations, and which is payable to a treasurer on a date certain. Such certificate shall not be negotiable, nor an interest in an investment deposit transferable, except between treasurers and/or ~~((qualified))~~ public depositories. Money market deposit account shall mean an account established with a ~~((qualified))~~ public depository in accordance with Public Law No. 97-320, the Garn-St. Germain Depository Institutions Act of 1982.

(4) (~~Commission report.~~ The) "Commission report" shall mean a formal accounting rendered by ~~((qualified))~~ public depositories to the commission, which details pertinent information of each depository as of the close of the last business day of each calendar quarter; the commission report is due in the office of the commission not later than thirty days after the end of ~~((the))~~ each calendar quarter. In addition, each public depository shall submit to the commission a nonquarter monthly reporting of public funds. This report

PERMANENT

shall be due eight working days after the end of each non-quarter month.

(5) ~~((Date of loss. The term))~~ "Date of loss" shall mean the date on which a loss shall be deemed to have occurred within the meaning of the act, and shall be the first to happen of the following:

(a) The date of the taking of possession of the financial institution by a supervisory agency; or

(b) The date of the appointment of the receiver or conservator for a financial institution; or

(c) The date of the commencement of a voluntary liquidation proceeding for a financial institution; or

(d) The date of an order issued by a regulatory authority or a court of competent jurisdiction restraining a financial institution from making payments on deposit liabilities; or

(e) The date on which the commission declares that a financial institution no longer has the ability to repay public deposits in full.

(6) ~~((Depository pledge agreement.))~~ "Depository pledge agreement" means a written tri-party agreement, on a form supplied by the commission, wherein a financial institution, in compliance with the act and as a condition precedent to becoming or continuing to be a ~~((qualified))~~ public depository, transfers and delivers securities which are eligible collateral to a corporate fiduciary under the exercise of its trust powers, to ~~((a))~~ the federal reserve bank ((or any branch thereof)) of San Francisco, the federal home loan bank ((or any branch thereof)) of Seattle, the trust department of the public depository, or any other institution as approved by the commission, which agrees to safekeep such securities for the primary benefit of the commission under the terms and conditions of the agreement and for the purposes set forth by the act and the regulations of the commission. Such agreement shall be executed on behalf of the commission by the chairman, who shall be the state treasurer. Upon completion, the agreement shall be approved by the board of directors or loan committee of the financial institutions. The agreement must be continuously, from the time of its execution, an official record of the bank. Copies of the meeting minutes which reflect this are to be provided to the commission.

(7) ~~((Segregation of collateral.))~~ "Segregation of collateral" means the transfer and delivery of eligible securities by a ~~((qualified))~~ public depository pursuant to a depository pledge agreement (RCW 39.58.050). A depository wishing to reduce the amount of securities pledged as collateral must submit a written request to the commission. The trustee holding the collateral shall not allow a reduction of securities without the prior written approval of the commission. When a ~~((qualified))~~ public depository pledges eligible securities whose payments include a periodic principal reduction, the ~~((depository))~~ trustee shall ~~((promptly))~~ advise the commission, on no less than a monthly basis, of the ((dates and)) amounts of such principal payments as well as the new total value which result from the principal payments.

(8) ~~((Net worth.))~~ "Net worth" of a ~~((qualified))~~ public depository means:

(a) For a bank depository, the aggregate of capital, surplus, undivided profits and all capital notes and debentures which are subordinate to the interest of depositors;

(b) For a thrift depository, the aggregate of such capital stock, guaranty fund, general reserves, surplus, undivided profits, and all capital notes and debentures which are subordinate to the interest of depositors, as are eligible for inclusion in otherwise determining the net worth of a mutual savings bank, stock savings bank, or savings and loan association, excluding appraised equity capital, income capital certificates, net worth certificates~~((f))~~, and deferred losses on loans sold;

Net worth for both bank and thrift depositories headquartered outside Washington state may be adjusted by the commission to reflect the depositories' proportional net worth position in Washington state.

(9) ~~((Corporate fiduciary.))~~ "Corporate fiduciary" for the purposes of these rules means a financial institution as defined herein which is possessed of statutorily granted trust authority: Provided, That for the purposes of this definition such financial institution need not be located or doing business in the state of Washington.

(10) ~~((Banking institution.))~~ "Banking institution" for the purposes of these rules means an institution organized under the laws of the United States, any state of the United States, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, or the Virgin Islands, except an institution the accounts of which are insured by the federal savings and loan insurance corporation or an institution chartered by the federal home loan bank board, which (1) accepts deposits that the depositor has a legal right to withdraw on demand, and (2) engages in the business of making commercial loans.

(11) ~~((Out of state bank.))~~ "Out-of-state bank" for the purposes of these rules means a ~~((banking))~~ financial institution ((as defined in WAC 389-12-020(10))) which has its principal place of business outside the state of Washington.

~~((12))~~ Alien bank. (11) "Alien bank" for the purposes of these rules means a ~~((bank))~~ financial institution organized under the laws of a foreign country and having its principal place of business in that country, the majority of the beneficial ownership and control of which is vested in citizens of countries other than the United States of America.

AMENDATORY SECTION (Amending Order 84-II, Resolution No. 84-004, filed 10/11/84)

WAC 389-12-030 New ~~((qualified))~~ public depositories. Any financial institution in the state of Washington eligible under the act, in order to become a ~~((qualified))~~ public depository, must be approved by the commission and segregate collateral in the manner as set forth in these rules prior to the receipt of public deposits. Until such time as ~~((qualified))~~ public depositories have submitted four consecutive reports to the commission as required by RCW 39.58.100, they shall at all times be required to pledge and segregate eligible securities, valued at market value, in an amount equal to not less than 10% of all public funds on deposit in said depository. During the interim period in which a financial institution is required to file four consecutive reports, each such institution shall report to the commission on each commission report date ((on forms)) in a format supplied by the commission.

AMENDATORY SECTION (Amending Order 84-II, Resolution No. 84-004, filed 10/11/84)

WAC 389-12-040 Computation and report of maximum liability. On each commission report date each public depository shall ~~((recompute))~~ recalculate its maximum liability ~~((on a form))~~ in a format to be supplied by the commission. Such report shall, in addition to other information, show the current amount of deposits of Washington state and its political subdivisions for the most recent commission report date, such deposits as shown on the four most recent reports (i.e., current report and three immediately preceding reports), the average of these deposits for the four report periods, and the depository's maximum liability as defined in RCW 39.58.010(6).

The quarterly report to the commission shall be received in the office of the commission not later than thirty days following each calendar quarter end, and shall have attached a completed copy of the balance sheet and deposit liabilities portion of the depository's most recent consolidated report of condition or ~~((most recent report to the Federal Home Loan Bank, whichever is applicable))~~ consolidated statement of condition as reported to the depository's primary regulator.

At the end of each calendar quarter, the commission shall provide ~~((appropriate reporting forms to))~~ each ~~((qualified))~~ public depository ~~((and))~~ the amount constituting thirty percent of total public funds on deposit in Washington state for the preceding quarter. Depositories will use this figure for the current report period and to monitor their total public funds on deposit for the ensuing quarter, unless notified of a revised figure by the commission.

Upon written request from a public depository the commission may, for good cause shown, extend the due date for commission reports for a period not to exceed ten days.

If the maximum liability has increased from the previous report or if aggregate public deposits exceed the limitations prescribed in section 19, chapter 177, Laws of 1984, the depository shall immediately increase its collateral and the commission shall be so notified.

Each public depository shall provide to the commission a copy of any changes, amendments, or alterations to the depository's financial report as submitted to appropriate regulatory authority which relate to (a) deposits of states and political subdivision, and/or (b) net worth.

A monthly report of public funds shall, in a format supplied by the commission, be submitted by each public depository to the commission no later than eight working days following the end of each month. If applicable, adjustments to the depositories' last reported net worth and/or additional collateral being pledged shall be listed on the monthly report. The monthly report shall be submitted to the commission every month, except for those months in which the quarterly report must be submitted to the commission.

AMENDATORY SECTION (Amending Order 84-II, Resolution No. 84-004, filed 10/11/84)

WAC 389-12-050 Valuation. Securities pledged as collateral by a ~~((qualified))~~ public depository shall be reported at market value.

Market value shall be computed as of the date of segregation or the last preceding commission report date, whichever is later. When the commission report is submitted, each depository shall provide ~~((on))~~ in a ((form)) format supplied by the commission a current listing of those securities pledged and their then current market and par value.

AMENDATORY SECTION (Amending Order 77-XIII, filed 9/27/77)

WAC 389-12-060 Deposit of collateral. Except for the exchange or substitution of securities having a like or greater market value, the trustee shall not permit the withdrawal of any security without advance written approval of the commission.

The trustee, under a depository pledge agreement, shall inform the commission whenever assets are delivered to or by the trustee by mailing to the commission, within twenty-four hours following such deposit or withdrawal, a copy of the receipt signed by the party that accepted delivery of such assets.

No costs, fees and expenses incidental to the functioning of the pledge agreement shall be a charge against the commission or its interest in the securities pledged.

Each ~~((qualified))~~ public depository shall at all times maintain eligible collateral segregated and pledged with its trustee having a value at least equal to its maximum liability as defined in the act and under these rules and regulations. Compliance with the foregoing requirement shall be the depository's responsibility regardless of the frequency and form of reports required by the commission.

AMENDATORY SECTION (Amending Order 84-II, Resolution No. 84-004, filed 10/11/84)

WAC 389-12-065 Aggregate deposit limitations. Whenever the public funds on deposit in a ~~((qualified))~~ public depository exceed the limits set forth in section 19, chapter 177, Laws of 1984, such depository shall immediately:

(1) Notify the commission; and

(2) Provide additional collateral, if necessary, to provide one hundred percent collateralization of such excess deposits.

When a depository's net worth position is reduced, such depository shall determine if any public treasurer's funds on deposit exceed the revised net worth. If any such excess deposits exist, the depository shall immediately notify the commission and provide the commission with a detailed accounting of deposits. The depository shall also advise the commission of its intent to:

(1) Provide one hundred percent collateralization of the excess deposits; or

(2) Allow the treasurer to withdraw such deposits in accordance with section 18, chapter 177, Laws of 1984.

AMENDATORY SECTION (Amending Order 86-I, Resolution No. 86-003, filed 6/19/86)

WAC 389-12-071 Minimum standards for the financial condition of ~~((qualified))~~ public depositories. Notwithstanding any other provisions of chapter 39.58 RCW and

chapter 389-12 WAC, a ~~((qualified))~~ public depository must maintain a specified ratio of net worth to assets of not less than three percent. If such ratio for a depository shall fall below three percent, the depository shall pledge securities as collateral, valued at current market value, in a total amount at least equal to one hundred percent of its current public deposits: Provided, That the commission may, at any time, in its discretion, require a depository to pledge additional collateral after consultation with appropriate regulatory authorities.

The collateral pledged under this section shall not be less than the maximum liability as required in RCW 39.58.050(1), but may include collateral required by RCW 39.58.130, 39.58.135, and WAC 389-12-065.

AMENDATORY SECTION (Amending Order 86-I, Resolution No. 86-003, filed 6/19/86)

WAC 389-12-075 Collateral level to be maintained.

Whenever a public depository must pledge securities as collateral in accordance with RCW 39.58.130, 39.58.135, WAC 389-12-065, and 389-12-071, the depository must monitor its public funds on deposit on a daily basis and maintain securities, valued at current market value, accordingly.

AMENDATORY SECTION (Amending Order 84-II, Resolution No. 84-004, filed 10/11/84)

WAC 389-12-080 Maximum deposit limitation.

In determining the maximum deposit limitation of any financial institution, a treasurer, unless advised to the contrary by the commission, may assume that each public depository's net worth has remained unchanged from that stated in the most recently rendered commission report.

AMENDATORY SECTION (Amending Order 86-I, Resolution No. 86-003, filed 6/19/86)

WAC 389-12-140 Demand deposit account with ~~((banking))~~ financial institution located outside the state of Washington. A treasurer may, with the approval of the commission, establish a demand deposit account with an out-of-state bank or an alien bank. Prior to establishing such account, a treasurer shall submit, in writing, for review by the commission, the following information: (1) Detailed information setting forth the justification for such account, projected cash flows, and other benefits which will accrue to the public entity through the establishment of such account; (2) period of time such account will be in use; (3) reasons such account cannot be established with a ~~((qualified))~~ public depository; (4) name and location of ~~((banking))~~ financial institution or alien bank and name and telephone number of contact person at ~~((banking))~~ financial institution or alien bank; (5) extent of deposit insurance provided by ~~((banking))~~ financial institution or alien bank; (6) most recent fiscal year end and quarterly financial report, if any, provided to regulatory agency and/or shareholders by ~~((banking))~~ financial institution or alien bank; (7) proposed method of ensuring safety of deposits if not fully covered by deposit insurance, and (8) such other information as the commission reasonably may require.

The account shall not be established until it shall have been authorized by a resolution of the commission or action authorized by the chair, setting forth the terms and conditions for such account. A copy of such resolution will be forwarded to the public entity~~((;))~~ and the state auditor~~((; and the appropriate committee of the legislature))~~.

Accounts authorized under this section are not considered to be protected against loss by the Public Deposit Protection Act.

AMENDATORY SECTION (Amending Order XII, filed 11/28/73)

WAC 389-12-210 Definitions. (1) ~~((Public records.))~~

"Public record" includes any writing containing information relating to the conduct of governmental or proprietary function prepared, owned, used or retained by any state or local agency regardless of physical form or characteristics.

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

(3) ~~((Washington public deposit commission.))~~ The "Washington public deposit protection commission" is the commission established by chapter 39.58 RCW. The Washington state public deposit protection commission shall hereinafter be referred to as the "commission." Where appropriate, the term Washington public deposit protection commission also refers to the staff and employees of the commission.

AMENDATORY SECTION (Amending Order XII, filed 11/28/73)

WAC 389-12-220 Description of central and field organization of the Washington public deposit protection commission. ~~((1) Washington public deposit protection commission.))~~ The Washington public deposit protection commission is a state agency empowered to perform all duties prescribed by law with respect to the collateralization of public funds. The administrative offices of the Washington public deposit protection commission and its staff are located in the state treasurer's office in the Legislative Building, Olympia, Washington.

AMENDATORY SECTION (Amending Order 84-II, Resolution No. 84-004, filed 10/11/84)

WAC 389-12-230 Operations and procedures. The Washington public deposit protection commission is charged with the duty of protecting public funds on deposit by Washington's public treasurers in the event of a default of a ~~((qualified))~~ public depository, and such other duties as set forth in chapter 39.58 RCW.

WSR 99-20-096
PERMANENT RULES
DEPARTMENT OF HEALTH
(Podiatric Medical Board)
[Filed October 5, 1999, 11:05 a.m.]

Date of Adoption: September 10, 1999.

Purpose: Revise the continuing education reporting period from one year to two years.

Citation of Existing Rules Affected by this Order: Amending WAC 246-922-300 Podiatric continuing education and 246-922-310 Categories of creditable podiatric continuing education activities.

Statutory Authority for Adoption: RCW 18.22.015.

Adopted under notice filed as WSR 99-15-104 on July 27 [21], 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 0, Amended 2, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 2, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

September 10, 1999

William Ith, Chair

Podiatric Medical Board

AMENDATORY SECTION (Amending WSR 98-05-060, filed 2/13/98, effective 3/16/98)

WAC 246-922-300 Podiatric continuing education required. The podiatric medical board encourages licensees to deliver high-quality patient care. The board recognizes that continuing education programs designed to inform practitioners of recent developments within podiatric medicine and relative fields and review of various aspects of basic professional education and podiatric practice are beneficial to professional growth. The board encourages participation in podiatric continuing education as a mechanism to maintain and enhance competence.

(1) ~~((Twenty-five))~~ Fifty contact hours of scientific podiatric continuing education ~~((shall be))~~ is required ~~((annually))~~ every two years when the license is renewed to maintain a current license as provided in chapter 246-12 WAC, Part 7.

Five credit hours may be granted for one hour of course instruction. A maximum of ~~((five))~~ ten hours may be claimed per ~~((renewal))~~ reporting period.

(2) Approved courses shall be scientific in nature designed to provide information and enhancement of current

knowledge of the mechanisms of disease and treatment, which may include applicable clinical information.

(a) Serving as a resident in an approved post-graduate residency training program shall satisfy the continuing education credit for ~~((license renewal))~~ the reporting period.

(b) Continuing education activities which do not affect the delivery of patient care, (e.g., marketing and billing), may not be claimed for continuing education credit.

AMENDATORY SECTION (Amending WSR 94-05-051, filed 2/10/94, effective 3/13/94)

WAC 246-922-310 Categories of creditable podiatric continuing education activities. The following categories of creditable podiatric continuing education activities sponsored by the following organizations are approved by the board. The credits must be earned in the ~~((twelve-))~~ twenty-four month period preceding ~~((application for renewal of license))~~ the licensee's reporting period. One contact hour is defined as a typical fifty-minute classroom instructional session or its equivalent.

(1) Scientific courses or seminars approved by the American Podiatric Medical Association and its component societies and affiliated and related organizations.

(2) Scientific courses or seminars offered by accredited, licensed, or otherwise approved hospitals, colleges, and universities and their associated foundations and institutes offering continuing education programs in podiatric medicine.

(3) Scientific courses or seminars offered by recognized nonpodiatric medical and health-care related societies (e.g., the American Medical Association, the American Physical Therapy Association) offering continuing education programs related to podiatric medicine.

(4) Scientific courses or seminars offered by other non-profit organizations, other proprietary organizations, and individuals offering continuing education in podiatric medicine.

(5) A post-graduate residency training program accredited by the council on podiatric medical education.

WSR 99-20-115
PERMANENT RULES
OFFICE OF
ADMINISTRATIVE HEARINGS

[Filed October 6, 1999, 9:33 a.m.]

Date of Adoption: October 6, 1999.

Purpose: Update model procedural rules for conducting administrative hearings for other agencies. Update rules to access OAH public records. Clerical revisions to OAH rules on SEPA. Publish procedures for making complaints about the conduct of administrative law judges.

Citation of Existing Rules Affected by this Order: Repealing WAC 10-08-260 and 10-08-261; and amending WAC 10-04-010, 10-04-020, 10-04-030, 10-04-040, 10-04-050, 10-04-060, 10-04-070, 10-04-080, 10-04-090, 10-08-001, 10-08-035, 10-08-040, 10-08-045, 10-08-050, 10-08-090, 10-08-110, 10-08-120, 10-08-130, 10-08-140, 10-08-

150, 10-08-160, 10-08-180, 10-08-200, 10-08-210, 10-08-251, 10-12-010, and 10-12-020.

Statutory Authority for Adoption: RCW 34.05.020, 34.05.250 (for chapter 10-08 WAC), 34.12.030, 34.12.080 (for chapter 10-08 WAC), 42.17.250 (for chapter 10-04 WAC), 43.21C.120 (for chapter 10-12 WAC).

Adopted under notice filed as WSR 99-17-107 on August 18, 1999.

Changes Other than Editing from Proposed to Adopted Version: Amends WAC 10-08-120(2) to allow a subpoena duces tecum for producing items to specify a reasonably convenient time and place in advance of the hearing instead of just at the hearing itself.

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 27, Repealed 2.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 6, Amended 27, 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 0.

Effective Date of Rule: Thirty-one days after filing.

October 6, 1999

Art Wang

Chief Administrative Law Judge

AMENDATORY SECTION (Amending Order 3, filed 11/1/82)

WAC 10-04-010 Purpose. The purpose of this chapter is to provide rules implementing RCW ((34.04.020 and)) 42.17.250 ((through 42.17.320)) et seq. for the office of administrative hearings.

AMENDATORY SECTION (Amending WSR 93-10-098, filed 5/5/93, effective 6/5/93)

WAC 10-04-020 Function—Organization—Offices. The office of administrative hearings ((was created by chapter 34.12 RCW for the impartial administration of)) conducts impartial administrative hearings for state agencies and local governments pursuant to chapter 34.12 RCW. The office is under the direction of the chief administrative law judge ((and is organized in two divisions)).

Administrative law judges ((assigned to the two divisions)) preside over hearings in adjudicative proceedings and issue initial or final orders, including findings of fact and conclusions of law. ((Division one is responsible for hearings held before [and] [the] department of social and health services, the utilities and transportation commission, the liquor control board, the department of licensing, the superintendent

~~of public instruction, and any other state agency requiring administrative law judge services except the employment security department. Division two is responsible for hearings held before the employment security department.~~)

The administrative office is located at ((2424 Heritage Court SW, Suite 302)) 919 Lakeridge Way SW, 2nd Floor, P.O. Box 42488, Olympia, Washington, 98504-2488. The office hours are 8:00 a.m. to noon and 1:00 p.m. to 5:00 p.m., Monday through Friday except legal holidays. Administrative law judges are ((housed in)) assigned to field offices located in Everett, Olympia, Seattle, Spokane, Vancouver, and Yakima. Each ((of these)) office((s)) is headed by a senior administrative law judge.

All written ((communication[s])) communications by parties pertaining to a particular case shall be filed with the field office, if any, assigned to the case, and otherwise with the ((deputy)) chief administrative law judge or designee at the administrative office.

AMENDATORY SECTION (Amending Order 3, filed 11/1/82)

WAC 10-04-030 Public records—Availability. Public records are available for public inspection and copying except as otherwise provided ((by RCW 42.17.310)) under chapter 42.17 RCW and these rules.

AMENDATORY SECTION (Amending Order 3, filed 11/1/82)

WAC 10-04-040 Public records—Officer. The public records officer for the administrative office shall be the ((confidential secretary to the chief administrative law judge)) executive assistant. For those records maintained at field office locations, the public records officer shall be the senior administrative law judge ((in benefits division field offices and the deputy chief administrative law judge for regulatory and special assignments field offices)).

AMENDATORY SECTION (Amending Order 3, filed 11/1/82)

WAC 10-04-050 Requests for public records. ((In accordance with requirements of chapter 42.17 RCW that agencies prevent unreasonable invasions of privacy, protect public records from damage or disorganization, and prevent excessive interference with essential functions of the agency, public records may be inspected or copied or copies of such records may be obtained, by members of the public, upon compliance with the following procedures:))

(1) ((A request shall be made in writing upon a form prescribed by the office which shall be available at the offices where records are maintained. The form shall be presented to the public records officer, or to a member of the staff designated by him or her if the public records officer is not available, during office hours.)) Members of the public may inspect or obtain copies of public records in accordance with chapter 42.17 RCW by submitting a written request to the public records officer (or designee) during office hours. The

office shall provide a form for submitting a request for public records. The request shall include the following information:

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

and

(e) Where and how to deliver the record requested.

~~((In all cases in which a member of the public is making a request, it shall be the obligation of the))~~ The public records officer ((or designated staff member to whom the request is made to)) shall assist the member of the public in appropriately identifying the public record requested.

AMENDATORY SECTION (Amending Order 6, filed 6/15/89)

WAC 10-04-060 Copying fees. No fee shall be charged for the inspection of public records. The office shall charge a fee of ~~((ten))~~ fifteen cents per page of copy for providing copies of public records and for the use of the office's copy equipment, ~~((subject to a minimum charge per order of \$1.00))~~ including electronic telefacsimile transmission, plus the actual postage ((at actual cost)) or delivery charge. ((This charge is the amount necessary to reimburse the office for its actual costs incident to such copying and mailing or transmission by telefacsimile.)) Fees may be waived for minimal copies.

AMENDATORY SECTION (Amending Order 3, filed 11/1/82)

WAC 10-04-070 Exemptions. (1) The office reserves the right to determine that a public record requested in accordance with the procedures outlined in WAC 10-04-050 is exempt under the provisions of chapter 42.17 RCW ((47.17.310)) or other law.

(2) In addition, pursuant to RCW 42.17.260(1), the office reserves the right to delete identifying details when it makes available or publishes any public record in any cases where there is reason to believe that disclosure of such details would be an invasion of personal privacy protected by chapter 42.17 RCW. The public records officer will fully justify such deletion in writing.

(3) All denials of requests for public records must be accompanied by a written statement specifying the reason for the denial, including a statement of the specific exemption authorizing the withholding of the record and a brief explanation of how the exemption applies to the records withheld.

AMENDATORY SECTION (Amending Order 3, filed 11/1/82)

WAC 10-04-080 Review of denials of public records request. (1) ~~((Any person who objects to the denial of a))~~ A person whose request for a public record has been denied may petition for prompt review of ((such decision by tendering)) the denial by submitting a written request for review. The written request shall specifically refer to the written

statement by the public records officer or other staff member which constituted or accompanied the denial.

(2) Immediately after receiving a written request for review of a decision denying a public record, the public records officer or other staff member denying the request shall refer it to the chief administrative law judge or ~~((his))~~ designee. The chief administrative law judge or ~~((his))~~ designee shall immediately consider the matter and ~~((either))~~ affirm, modify, or reverse ~~((such))~~ the denial within ~~((five))~~ two business days following the original denial.

~~((Administrative remedies shall not be considered exhausted until the chief administrative law judge or his designee has returned the petition with a decision or until the close of the fifth business day following denial of inspection, whichever occurs first.))~~ A person whose request for a public record has been denied may request the attorney general to review the matter pursuant to RCW 42.17.325.

AMENDATORY SECTION (Amending Order 3, filed 11/1/82)

WAC 10-04-090 Protection of public records. (1) No person shall knowingly alter, deface, or destroy public records of the office.

(2) Original copies of public records of the office shall not be removed from the premises where maintained by the office.

(3) Care and safekeeping of public records of the office, furnished pursuant to a request for inspection or copying, shall be the sole responsibility of the requestor.

(4) Records furnished for public inspection or copying shall be returned in good condition and in the same file sequence or organization as when furnished.

~~((Boisterous or otherwise disruptive conduct by those requesting public records of the office shall not be permitted.))~~ Persons requesting, inspecting, or copying public records shall not disrupt the office.

AMENDATORY SECTION (Amending Order 6, filed 6/15/89)

WAC 10-08-001 Declaration of purpose. (1) Chapter 10-08 WAC contains the model rules of procedure which RCW 34.05.250 requires the chief administrative law judge to adopt for use by as many agencies as possible. The model rules deal with general functions and duties performed in common by the various agencies. The model rules supplement Administrative Procedure Act provisions which contain grants of rulemaking authority to agencies. It is not the purpose of the model rules to duplicate all procedural provisions of the Administrative Procedure Act. This chapter sets forth general rules applicable to proceedings before many state agencies. It should be read in conjunction with the provisions of the Administrative Procedure Act (chapter 34.05 RCW) and with any administrative rules governing adjudicative proceedings which have been adopted by the particular agency.

(2) Except to the extent an agency is excluded from chapter 34.05 RCW or parts of chapter 34.05 RCW, each agency must adopt as much of the model rules as is reasonable under its circumstances. Any agency adopting a rule of

procedure that differs from these model rules must include in the order of adoption a finding stating the reasons for variance.

(3) Adoption of these 1999 amendments to the model rules does not invalidate any variances in rules adopted by agencies between the effective date of the 1988 amendments to the Administrative Procedure Act and the effective date of these 1999 amendments to the model rules.

(4) In the absence of other rules to the contrary, these model rules shall govern any adjudicative proceedings under the Administrative Procedure Act.

AMENDATORY SECTION (Amending Order 6, filed 6/15/89)

WAC 10-08-035 Adjudicative proceedings—Application. An application for an adjudicative proceeding may be on a form provided by the agency for that purpose or in other writing signed by the applicant or the applicant's representative. The application for an adjudicative proceeding should specify the issue to be (~~adjudicated~~) decided in the proceeding.

AMENDATORY SECTION (Amending Order 6, filed 6/15/89)

WAC 10-08-040 Adjudicative proceedings—Notice of hearing. (1) In any adjudicative proceeding all parties shall be served with a notice of hearing within the time required by (~~(statute) law~~) law governing the respective agency or proceeding (~~(, and, in the absence of a)~~). If there is no requirement under other law, all parties shall be served with a notice of hearing not less than seven days before the date set for the hearing. The notice shall include the information specified in RCW 34.05.434 (~~(and)~~). If the hearing is to be conducted by teleconference call, the notice shall so state.

(2) The notice shall state that if a limited-English-speaking or hearing impaired party or witness needs an interpreter, a qualified interpreter will be appointed and (~~(that)~~) there will be no cost to the party or witness. The notice shall include a form for a party to indicate whether the party needs an interpreter and to identify the primary language or hearing impaired status of the party.

(3) Defects in (~~(the)~~) the notice may not be waived unless:

(a) The presiding officer determines that the waiver has been made knowingly, voluntarily and intelligently;

(b) The party's representative, if any, consents; and

(c) If a party is an impaired person, the waiver is requested through the use of a qualified interpreter.

AMENDATORY SECTION (Amending Order 6, filed 6/15/89)

WAC 10-08-045 Adjudicative proceedings—Notice to limited-English-speaking parties. (1) When an agency is notified or otherwise made aware that a limited-English-speaking person is a party in an adjudicative proceeding, all notices concerning the hearing, including notices of hearing, continuance, and dismissal, (~~(shall)~~) either:

(a) Shall be written in the primary language of the party; or

(b) Shall include a notice in the primary language of the party which describes the significance of the notice and how the party may receive assistance in understanding and responding to(~~(, if necessary,)~~) the notice.

(2) For purposes of this chapter, the term "limited-English-speaking person" means any person involved in a legal proceeding who cannot readily speak or understand the English language. The term has the same meaning as "non-English-speaking person" as defined in RCW 2.43.020.

AMENDATORY SECTION (Amending Order 6, filed 6/15/89)

WAC 10-08-050 Adjudicative proceedings—Assignment of administrative law judge—Motion of prejudice.

(1) Whenever a state agency as defined in RCW 34.12.020(4) conducts a hearing which is not presided over by officials of the agency who are to render the final decision, the agency shall use one of the following methods for requesting assignment of an administrative law judge:

(a) Not less than twenty days prior to the date of the hearing, notify the chief administrative law judge or his or her designee of the date, time, and place of the hearing and request assignment of an administrative law judge to preside over the hearing, or

(b) File with the office of administrative hearings a copy of the hearing file, which filing shall be deemed to be a request for assignment of an administrative law judge to issue the notice of hearing and preside over the hearing, or

(c) Schedule its hearings to be held at times and places reserved and provided to the agency for that purpose by the office of administrative hearings.

(2) Motions of prejudice with supporting affidavits under RCW 34.12.050 must be filed at least three days prior to the hearing or to any earlier stage of the adjudicative proceeding at which the administrative law judge may be required to issue a discretionary ruling. If the notice of hearing does not state the name of the presiding administrative law judge, the chief administrative law judge or his or her designee shall make such assignment at least five days prior to the hearing and shall disclose the assignment to any party or representative making inquiry. Subsequent motions of prejudice filed by the same party in the same proceeding shall be ruled upon by the chief administrative law judge or his or her designee.

NEW SECTION

WAC 10-08-083 Notice of appearance. If a party is represented, the representative should provide the presiding officer and other parties with the representative's name, address, and telephone number. The presiding officer may require the representative to file a written notice of appearance or to provide documentation that an absent party has authorized the representative to appear on the party's behalf. If the representative is an attorney admitted to practice in this state, the attorney shall file a written notice of appearance and

shall file a notice of withdrawal upon withdrawal of representation.

NEW SECTION

WAC 10-08-085 Consolidation of proceedings. If there are multiple adjudicative proceedings involving common issues or parties, upon motion of any party or upon his or her own motion, the presiding officer may, in his or her discretion, consolidate the proceedings.

AMENDATORY SECTION (Amending Order 6, filed 6/15/89)

WAC 10-08-090 Adjudicative proceedings—Continuances. (1) Postponements, continuances, extensions of time, and adjournments may be ordered by the presiding officer on his or her own motion or may be granted on timely request of any party, with notice to all other parties, ~~((showing))~~ if the party shows good ~~((and sufficient))~~ cause ~~((therefor)).~~

(2) A request for a continuance ~~((made prior to the hearing date))~~ may be oral or written ~~((and shall state that))~~. The party seeking the continuance ~~((has notified))~~ shall notify all other parties of the request ~~((and that either))~~. The request for a continuance shall state whether or not all other parties agree to the continuance ~~((or that all parties do not agree to the continuance))~~. If all parties do not agree to the continuance, the presiding officer shall promptly schedule a prehearing conference to receive argument and to rule on the request.

AMENDATORY SECTION (Amending Order 6, filed 6/15/89)

WAC 10-08-110 Adjudicative proceedings—Filing and service of papers. (1) **Filing.**

(a) Papers required to be filed with the agency shall be deemed filed upon actual receipt during office hours at any office of the agency. Papers required to be filed with the presiding officer shall be deemed filed upon actual receipt during office hours at the office of the presiding officer.

(b) The following conditions apply for filing papers with the presiding officer by fax:

(i) As used in this chapter, "fax" means electronic telefacsimile transmission.

(ii) Papers may be filed by fax with the presiding officer. Filing by fax is perfected when a complete legible copy of the papers is reproduced on the presiding officer's fax machine during normal working hours, excluding weekends and holidays. If a transmission of papers commences after these office hours, the papers shall be deemed filed on the next succeeding business day.

(iii) Any papers filed by fax with the presiding officer should be accompanied by a cover page or other form identifying the party making the transmission, listing the address, telephone, and fax number of the party, identifying the adjudicative proceeding to which the papers relate, and indicating the date of and the total number of pages included in the transmission.

(iv) Papers filed by fax should not exceed fifteen pages in length, exclusive of any cover page.

(v) The party attempting to file the papers by fax bears the risk that the papers will not be timely received or legibly printed, regardless of the cause. If the fax is not received in legible form, it will be considered as if it had never been sent.

(vi) The original of any papers filed by fax should be mailed to the presiding officer within twenty-four hours of the time that the fax was sent. The presiding officer has discretion to require this.

(c) The filing of papers with the presiding officer by electronic mail ("e-mail") is not authorized without the express approval of the presiding officer and under such circumstances as the presiding officer allows.

(2) Service.

(a) All notices, pleadings, and other papers filed with the presiding officer shall be served upon all counsel and representatives of record and upon unrepresented parties or upon their agents designated by them or by law.

~~((2))~~ (b) Service shall be made personally or, unless otherwise provided by law, by first-class, registered, or certified mail ~~((, or by telegraph; by electronic telefacsimile transmission))~~; by fax and same-day mailing of copies; or by commercial parcel delivery company.

~~((3))~~ (c) Service by mail shall be regarded as completed upon deposit in the United States mail properly stamped and addressed. Service by ~~((telegraph shall be regarded as completed when deposited with a telegraph company properly addressed and with charges prepaid. Service by electronic telefacsimile transmission))~~ fax shall be regarded as completed upon production by the ~~((telefacsimile device))~~ fax machine of confirmation of transmission. Service by commercial parcel delivery shall be regarded as completed upon delivery to the parcel delivery company, properly addressed with charges prepaid.

~~((4))~~ Papers required to be filed with the agency shall be deemed filed upon actual receipt during office hours at any office of the agency. Papers required to be filed with the presiding officer shall be deemed filed upon actual receipt during office hours at the office of the presiding officer.

~~((5))~~ (3) **Proof of service.** Where proof of service is required by statute or rule, filing the papers with the presiding officer, together with one of the following, shall constitute proof of service:

(a) An acknowledgement of service.

(b) A certificate that the person signing the certificate ~~((did on the date of the certificate serve))~~ served the papers upon all parties of record in the proceeding by delivering a copy thereof in person to ~~((names((-)))~~.

(c) A certificate that the person signing the certificate ~~((did on the date of the certificate serve))~~ served the papers upon all parties of record in the proceeding by:

(i) Mailing a copy thereof, properly addressed with postage prepaid, to each party to the proceeding or his or her attorney or authorized agent; or

(ii) ~~((Telegraphing a copy thereof, properly addressed with charges prepaid, to each party to the proceeding or his or her attorney or authorized agent; or~~

~~((iii))~~ Transmitting a copy thereof by ~~((electronic telefacsimile device))~~ fax, and on the same day mailing a copy, to

each party to the proceeding or his or her attorney or authorized agent; or

~~((i+))~~ (iii) Depositing a copy thereof, properly addressed with charges prepaid, with a commercial parcel delivery company.

AMENDATORY SECTION (Amending Order 6, filed 6/15/89)

WAC 10-08-120 Adjudicative proceedings—Subpoenas. (1) Subpoenas shall be issued and enforced, and witness fees paid, as provided in RCW 34.05.446 and 5.56.010.

(2) Every subpoena shall identify the party causing issuance of the subpoena and shall state the name of the agency and the title of the proceeding and shall command the person to whom it is directed to attend and give testimony or produce designated books, documents, or things under his or her control ~~((at the time and place set for the hearing))~~.

(a) A subpoena to a person to provide testimony at a hearing shall specify the time and place set for hearing.

(b) A subpoena duces tecum requesting a person to produce designated books, documents, or things under his or her control shall specify a time and place for producing the books, documents, or things. That time and place may be the time and place set for hearing, or another reasonably convenient time and place in advance of the hearing.

(3) A subpoena may be served by any suitable person over 18 years of age, by exhibiting and reading it to the witness, or by giving him or her a copy thereof, or by leaving such copy at the place of his or her abode. When service is made by any other person than an officer authorized to serve process, proof of service shall be made by affidavit or declaration under penalty of perjury.

(4) The presiding officer, upon motion made promptly and in any event at or 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.

AMENDATORY SECTION (Amending Order 6, filed 6/15/89)

WAC 10-08-130 Adjudicative proceedings—Prehearing conference. (1) The presiding officer upon his or her own motion or upon request of a party may direct the parties or their representatives to engage in a prehearing conference or conferences to consider:

(a) Simplification of issues;

(b) The necessity or desirability of amendments to the pleadings;

(c) The possibility of obtaining stipulations, admissions of fact and admissions of the genuineness of documents which will avoid unnecessary proof;

(d) Limitations on the number and consolidation of the examination of witnesses;

(e) Procedural matters;

(f) Distribution of written testimony and exhibits to the parties prior to the hearing;

(g) Such other matters as may aid in the disposition or settlement of the proceeding.

(2) Prehearing conferences may be held by telephone conference call or at a time and place specified by the presiding officer.

(3) Following the prehearing conference, the presiding officer shall issue an order reciting the action taken at the conference, the amendments allowed to the pleadings, and the agreements made by the parties concerning all of the matters considered. If no objection to such notice is filed within ten days after the date such notice is mailed, it shall control the subsequent course of the proceeding unless modified for good cause by subsequent order.

(4) In any proceeding the presiding officer may, in his or her discretion, conduct a conference prior to the taking of testimony, or may recess the hearing for such conference, for the purpose of carrying out the purpose of this rule. The presiding officer shall state on the record the results of such conference.

(5) Nothing in this rule shall be construed to limit the right of ~~((an))~~ ~~((any))~~ an agency to attempt informal settlement of an adjudicative proceeding at any time.

NEW SECTION

WAC 10-08-135 Summary judgment. A motion for summary judgment may be granted and an order issued if the written record shows that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law.

AMENDATORY SECTION (Amending Order 6, filed 6/15/89)

WAC 10-08-140 Adjudicative proceedings—Evidence. (1) All rulings upon objections to the admissibility of evidence shall be made in accordance with the provisions of RCW 34.05.452.

(2) Where practicable, the presiding officer may order:

(a) That all documentary evidence which is to be offered during the hearing or portions of the hearing be submitted to the presiding officer and to the other parties sufficiently in advance to permit study and preparation of cross-examination and rebuttal evidence;

(b) That documentary evidence not submitted in advance as required in (a) of this subsection be not received in evidence in the absence of a clear showing that the offering party had good cause for his or her failure to produce the evidence sooner, unless it is submitted for impeachment purposes;

(c) That the authenticity of all documents submitted in advance in a proceeding in which such submission is required be deemed admitted unless written objection thereto is filed prior to the hearing, except that a party will be permitted to challenge such authenticity at a later time upon a clear showing of good cause for failure to have filed such written objection.

(3) When portions only of a document are to be relied upon, the offering party shall identify the pertinent excerpts and state the purpose for which such materials will be offered. Only the excerpts, in the form of copies, shall be

received in the record. However, the whole of the original documents, except any portions containing confidential material protected by law, shall be made available for examination and for use by all parties.

(4) No former employee of the agency shall appear, except with the permission of the agency, as an expert witness on behalf of other parties in a proceeding in which he or she previously took an active part in the investigation as a representative of the agency.

(5) The refusal of a witness to answer any question which has been ruled to be proper shall, in the discretion of the presiding officer, be ground for striking all testimony previously given by such witness on related matter.

(6) Any party bound by ~~((f&t))~~ a stipulation or admission of record may, at any time prior to closure of the hearing, be permitted to withdraw the same in whole or in part by showing to the satisfaction of the presiding officer that such stipulation or admission was made inadvertently or under a bona fide mistake of fact contrary to the true fact and that its withdrawal at the time proposed will not unjustly prejudice the rights of other parties to the proceeding.

AMENDATORY SECTION (Amending WSR 93-10-097, filed 5/5/93, effective 6/5/93)

WAC 10-08-150 Adjudicative proceedings—Interpreters. (1) When an impaired person as defined in ~~((RCW))~~ chapter 2.42 RCW or a non-English-speaking person as defined in ~~((RCW))~~ chapter 2.43 RCW is a party or witness in an adjudicative proceeding, the presiding officer shall appoint an interpreter to assist the party or witness throughout the proceeding. Appointment, qualifications, waiver, compensation, visual recording, and ethical standards of interpreters in adjudicative proceedings are governed by the provisions of ~~((RCW))~~ chapters 2.42 and 2.43 RCW.

(2) Relatives of any participant in a proceeding and employees of the agency involved in a proceeding shall not be appointed as interpreters in the proceeding. This subsection shall not prohibit the office of administrative hearings from hiring an employee whose sole function is to interpret at administrative hearings.

(3) The presiding officer shall make a preliminary determination that an interpreter is able in the particular proceeding to interpret accurately all communication to and from the impaired or non-English-speaking person. This determination shall be based upon the testimony or stated needs of the impaired or non-English-speaking person, the interpreter's education, certifications, and experience in interpreting for contested cases or adjudicative proceedings, the interpreter's understanding of the basic vocabulary and procedure involved in the proceeding, and the interpreter's impartiality. The parties or their representatives may question the interpreter as to his or her qualifications and impartiality.

(4) If at any time during the proceeding, in the opinion of the impaired or non-English-speaking person, the presiding officer or a qualified observer, the interpreter does not provide accurate and effective communication with the impaired or non-English-speaking person, the presiding officer shall appoint another interpreter.

(5) Mode of interpretation.

(a) Interpreters for non-English-speaking persons shall use the simultaneous mode of interpretation where the presiding officer and interpreter agree that simultaneous interpretation will advance fairness and efficiency; otherwise, the consecutive mode of foreign language interpretation shall be used.

(b) Interpreters for hearing impaired persons shall use the simultaneous mode of interpretation unless an intermediary interpreter is needed. If an intermediary interpreter is needed, interpreters shall use the mode that the interpreter considers to provide the most accurate and effective communication with the hearing impaired person.

(c) When an impaired or non-English-speaking person is a party to a proceeding, the interpreter shall translate all statements made by other hearing participants. The presiding officer shall ensure that sufficient extra time is provided to permit translation and the presiding officer shall ensure that the interpreter translates the entire proceeding to the party to the extent that the party has the same opportunity to understand all statements made during the proceeding ~~((fas}{ant}))~~ as a nonimpaired or English-speaking party listening to uninterpreted statements would have.

(6) An interpreter shall not, without the written consent of the parties to the communication, be examined as to any communication the interpreter interprets under circumstances where the communication is privileged by law. An interpreter shall not, without the written consent of the parties to the communication, be examined as to any information the interpreter obtains while interpreting pertaining to any proceeding then pending.

(7) The presiding officer shall explain to the non-English-speaking party that a written decision or order will be issued in English, and that the party may contact the interpreter for an oral translation of the decision and that the translation itself is at no cost to the party. The interpreter shall provide to the presiding officer and the party the interpreter's telephone number. The telephone number shall be attached to the decision or order mailed to the party. A copy of the decision or order shall also be mailed to the interpreter for use in translation.

(8) If the party has a right to review of the order or decision, the presiding officer shall orally inform the party during the hearing of the right and of the time limits to request review.

(9) The agency involved in the hearing shall pay interpreter fees and expenses.

AMENDATORY SECTION (Amending Order 6, filed 6/15/89)

WAC 10-08-160 Adjudicative proceedings—Testimony under oath or affirmation. (1) Every person called as a witness in a hearing shall swear or affirm that the testimony he or she is about to give in the hearing shall be the truth according to the provisions of RCW 5.28.020 through 5.28.060. If the witness is testifying from outside the jurisdiction, the presiding officer may require the witness to agree to be bound by the laws of the state of Washington for purposes of the oath or affirmation.

(2) Every interpreter shall, before beginning to interpret, take an oath that a true interpretation will be made to the person being examined of all the proceedings in a language or in a manner which the person understands, and that the interpreter will repeat the statements of the person being examined to the agency conducting the proceedings, in the English language, to the best of the interpreter's skill and judgment.

AMENDATORY SECTION (Amending Order 6, filed 6/15/89)

WAC 10-08-180 Adjudicative proceedings—Teleconference hearings. (1) The presiding officer(~~(, with the concurrence of the agency,)~~) may conduct all or part of the hearing by telephone, television, or other electronic means, if the rights of the parties will not be prejudiced and if each participant in the hearing has an opportunity to participate in, to hear, and, if technically and economically feasible, in the judgment of the presiding officer, to see the entire proceeding while it is taking place(~~(, provided)~~). However, the presiding officer shall grant the motion of any party showing good cause for having the hearing conducted in person at a rescheduled time.

(2) Documentary evidence shall be submitted in advance as provided in WAC 10-08-140(2).

AMENDATORY SECTION (Amending Order 6, filed 6/15/89)

WAC 10-08-200 Adjudicative proceedings—Presiding officer. The presiding officer shall have authority to:

- (1) Determine the order of presentation of evidence;
- (2) Administer oaths and affirmations;
- (3) Issue subpoenas pursuant to RCW 34.05.446;
- (4) Rule on procedural matters, objections, and motions;
- (5) Rule on motions for summary judgment;
- (6) Rule on offers of proof and receive relevant evidence;

~~((6))~~ (7) Pursuant to RCW 34.05.449(5), close parts of a hearing to public observation or order the exclusion of witnesses upon a showing of good cause;

(8) Interrogate witnesses called by the parties in an impartial manner to develop any facts deemed necessary to fairly and adequately decide the matter;

~~((7))~~ (9) Call additional witnesses and request additional exhibits deemed necessary to complete the record and receive such evidence subject to full opportunity for cross-examination and rebuttal by all parties;

~~((8))~~ (10) Take official notice of facts pursuant to RCW 34.05.452(5);

(11) Regulate the course of the hearing and take any appropriate action necessary to maintain order during the hearing;

~~((9))~~ (12) Permit or require oral argument or briefs and determine the time limits for submission thereof;

~~((10))~~ (13) Issue an order of default pursuant to RCW 34.05.440;

(14) Hold prehearing conferences;

(15) Appoint a mediator or serve as mediator, provided that after serving as mediator, the presiding officer shall not

conduct the hearing or issue a decision on the matter unless the parties specifically waive any objections to doing so;

(16) Take any other action necessary and authorized by any applicable statute or rule; and

~~((11))~~ (17) Waive any requirement of these rules unless a party shows that it would be prejudiced by such a waiver.

AMENDATORY SECTION (Amending Order 6, filed 6/15/89)

WAC 10-08-210 Adjudicative proceedings—Initial or final order. Every decision and order, whether initial or final, shall:

(1) Be correctly captioned as to the name of the agency and name of the proceeding;

(2) Designate all parties and representatives participating in the proceeding;

~~((3))~~ (3) ~~(Include a concise statement of the nature and background of the proceeding;~~

~~((4))~~ (4) Contain appropriate numbered findings of fact meeting the requirements in RCW 34.05.461;

~~((5))~~ (5) Contain appropriate numbered conclusions of law, including citations of statutes and rules relied upon;

~~((6))~~ (6) Contain an initial or final order disposing of all contested issues;

~~((7))~~ (7) Contain a statement describing the available post-hearing remedies.

NEW SECTION

WAC 10-08-217 Shortened record on petition for review or appeal. If a petition for review or appeal is made of an initial order, by stipulation the parties may agree to shorten the record to be filed with the entity considering the petition for review or appeal. Either party unreasonably refusing to stipulate to such a limitation, including shortening or selecting only portions of a transcript, may be ordered to pay the additional costs involved. For petitions for judicial review of a final order, see RCW 34.05.566.

NEW SECTION

WAC 10-08-219 Correction of transcript. Corrections in the official transcript may be made only to make it conform to the evidence presented at the hearing. If the parties agree and the presiding officer approves, transcript corrections may be incorporated into the record at any time during the hearing or after the close of evidence. All corrections must be made within ten calendar days after receipt of the transcript unless the presiding officer allows a different period.

AMENDATORY SECTION (Amending Order 6, filed 6/15/89)

WAC 10-08-251 Declaratory orders—Procedural rights of persons in relation to petition. If a petition for a declaratory order is set for specified proceedings under RCW 34.05.240 (5)(b), the agency shall give not less than seven days advance written notice of the proceedings to the peti-

tioner and all persons described in RCW 34.05.240(3). The notice shall contain the time, date, place, and nature of the proceedings and shall describe how interested persons may participate in the proceeding. Pursuant to RCW 34.05.240(7), the agency may not enter a declaratory order that would substantially prejudice the rights of a person who would be a necessary party if the person does not consent in writing to the determination of the matter by a declaratory ruling proceeding.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 10-08-260	Petition for rulemaking— Form, content and filing.
WAC 10-08-261	Petition for rulemaking— Consideration and disposition.

Chapter 10-12 WAC

COMPLIANCE WITH STATE ENVIRONMENTAL (~~(PROTECTION)~~) POLICY ACT

AMENDATORY SECTION (Amending Order 3, filed 11/1/82)

WAC 10-12-010 Purpose. The purpose of this chapter is to comply with and implement RCW 43.21C.120 directing every state agency to adopt rules pertaining to the integration of the policies and procedures of the State Environmental (~~(Protection)~~) Policy Act into the various programs under (~~(their)~~) its jurisdiction for implementation.

AMENDATORY SECTION (Amending Order 3, filed 11/1/82)

WAC 10-12-020 Application. Pursuant to WAC (~~(197-10-800)~~) 197-11-800, the office of administrative hearings has reviewed its authorized activities and found them to be exempt under the provisions of chapter (~~(197-10)~~) 197-11 WAC.

Chapter 10-16 WAC

COMPLAINT PROCEDURES

NEW SECTION

WAC 10-16-010 Procedure for complaints regarding improper conduct of an administrative law judge. (1) Administrative law judges must at all times adhere to the fundamental principles of law, fairly and equitably. Administrative law judges should be fair in their rulings and should conduct the proceedings in a judicious manner.

(2) Any interested party to an administrative proceeding may file a complaint alleging improper conduct of an admin-

istrative law judge. For purposes of this section, an interested party is a person who has a right to receive notice of the administrative hearing.

(3) A complaint concerning a decision or order shall be handled through the appeal or petition for review process. This includes initial or final orders and interim orders or discretionary rulings from which further appeal may be taken.

(4) A complaint concerning the conduct of an administrative law judge, apart from a decision from which further appeal may be filed, shall be in writing and sent to the supervising administrative law judge.

(5) The written complaint must set forth in detail all pertinent facts and information. It shall include, among other things, the name of the administrative law judge, the date of the incident, the individuals present, and any other information which would assist in investigation of the complaint. The complaint should be no more than five pages.

(6) Within ten days of receipt of a written complaint, the supervising administrative law judge shall send a letter acknowledging receipt of the complaint. The supervising administrative law judge shall conduct an investigation of the complaint. For matters no longer pending before the office of administrative hearings at the time the complaint is filed, the supervising administrative law judge shall issue a written response to the complaining party within thirty days of receipt of the complaint. However, for matters pending before the office of administrative hearings at the time the complaint is filed, the supervising administrative law judge shall issue a written response within thirty days after issuance of the administrative law judge's decision. If additional time is needed, the supervising administrative law judge shall notify the complaining party in writing and indicate an expected response date.

(7) If, after investigation, the complaint is found to have merit, the supervising administrative law judge shall take appropriate corrective action. If disciplinary action is warranted, it shall be handled internally subject to the individual's privacy rights as in other personnel matters.

(8) Should the complaining party not be satisfied with the result of the investigation, he or she may request review of the complaint by the chief administrative law judge. The chief administrative law judge shall review all facts and information pertinent to the complaint and issue a written response. The response of the chief administrative law judge shall be final.

(9) Any inquiries concerning the grievance procedure may be made through the administrative office or any field office of the office of administrative hearings. A directory listing the names and mailing addresses of supervising administrative law judges, deputy chief administrative law judges and the chief administrative law judge will be available through these offices.

PERMANENT

WSR 99-20-118
PERMANENT RULES
EMPLOYMENT SECURITY DEPARTMENT

[Filed October 6, 1999, 9:35 a.m.]

Date of Adoption: September 1, 1999.

Purpose: To repeal WAC 192-12-035 Registration of political subdivisions and instrumentalities thereof, subsections (1), (2), (3), and (4).

Citation of Existing Rules Affected by this Order: Repealing WAC 192-12-035.

Adopted under preproposal statement of inquiry filed as WSR 99-10-005 on April 22, 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 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 4.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

August 30, 1999

Carver Gayton
 Commissioner

WSR 99-20-119
PERMANENT RULES
EMPLOYMENT SECURITY DEPARTMENT

[Filed October 6, 1999, 9:36 a.m.]

Date of Adoption: September 1, 1999.

Purpose: To repeal WAC 192-12-080 Workers to procure Social Security account numbers, subsections (1), (2), (3), and (4).

Citation of Existing Rules Affected by this Order: Repealing WAC 192-12-080.

Adopted under preproposal statement of inquiry filed as WSR 99-10-006 on April 22, 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 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 5.

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.

August 30, 1999

Carver Gayton
 Commissioner

WSR 99-20-120
PERMANENT RULES
EMPLOYMENT SECURITY DEPARTMENT

[Filed October 6, 1999, 9:37 a.m.]

Date of Adoption: September 1, 1999.

Purpose: To repeal WAC 192-12-110 Employing unit's liability for contribution due from contractors or subcontractors, subsections (1), (2), (3), and (4).

Citation of Existing Rules Affected by this Order: Repealing WAC 192-12-110.

Adopted under preproposal statement of inquiry filed as WSR 99-10-007 on April 22, 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 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 4.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

Carver Gayton
 Commissioner

WSR 99-20-121
PERMANENT RULES
EMPLOYMENT SECURITY DEPARTMENT

[Filed October 6, 1999, 9:37 a.m.]

Date of Adoption: September 1, 1999.

Purpose: To repeal WAC 192-12-115 Bonding and deposit requirements, nonprofit organizations, subsections (1), (2), (3), (4), (5), and (6).

Citation of Existing Rules Affected by this Order: Repealing WAC 192-12-115.

Adopted under preproposal statement of inquiry filed as WSR 99-10-008 on April 22, 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 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 6.

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.
 August 30, 1999
 Carver Gayton
 Commissioner

**WSR 99-20-122
 PERMANENT RULES**

EMPLOYMENT SECURITY DEPARTMENT

[Filed October 6, 1999, 9:39 a.m.]

Date of Adoption: September 1, 1999.

Purpose: To repeal WAC 192-12-350 Interpretive regulation—Inclusion of farm labor contractor, in accordance with Governor Locke's Executive Order 97-02. The existing rule is not necessary after careful examination of chapter 50.12 RCW.

Citation of Existing Rules Affected by this Order: Repealing WAC 192-12-350.

Statutory Authority for Adoption: Chapters 34.05 and 50.12 RCW.

Adopted under preproposal statement of inquiry filed as WSR 99-13-107 on June 15, 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 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 1.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.
 August 30, 1999
 Carver Gayton
 Commissioner

WSR 99-20-123

PERMANENT RULES

EMPLOYMENT SECURITY DEPARTMENT

[Filed October 6, 1999, 9:39 a.m.]

Date of Adoption: September 1, 1999.

Purpose: To repeal WAC 192-12-355 Interpretive regulation—Clarification of agricultural liability, in accordance with Governor Locke's Executive Order 97-02. The existing rule is not necessary after careful examination of chapter 50.12 RCW.

Citation of Existing Rules Affected by this Order: Repealing WAC 192-12-355.

Statutory Authority for Adoption: Chapters 34.05 and 50.12 RCW.

Adopted under preproposal statement of inquiry filed as WSR 99-13-108 on June 15, 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 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 1.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.
 August 30, 1999
 Carver Gayton
 Commissioner

WSR 99-20-124

PERMANENT RULES

EMPLOYMENT SECURITY DEPARTMENT

[Filed October 6, 1999, 9:40 a.m.]

Date of Adoption: September 1, 1999.

Purpose: To repeal WAC 192-12-380 Definitions, relating to RCW 50.04.140, in accordance with Governor Locke's Executive Order 97-02. The existing rule is not necessary after careful examination of chapter 50.12 RCW.

Citation of Existing Rules Affected by this Order: Repealing WAC 192-12-380.

PERMANENT

Statutory Authority for Adoption: Chapters 34.05 and 50.12 RCW.

Adopted under preproposal statement of inquiry filed as WSR 99-13-109 on June 15, 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 0, Amended 0, Repealed 0.

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 0.

Effective Date of Rule: Thirty-one days after filing.
August 30, 1999
Carver Gayton
Commissioner

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 4, 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 0.

Effective Date of Rule: Thirty-one days after filing.
August 30, 1999
Carver Gayton
Commissioner

Chapter 192-100-WAC

NEW SECTION

WAC 192-100-500 General definitions—Relating to wages. For purposes of unemployment insurance taxes only:

(1) **Wages.** Includes all payments for personal services performed by an employee for an employer including the cash value of all remuneration paid in any medium other than cash including salaries, commissions, vacation pay, dismissal wages, bonuses and reasonable value of board, rent, housing, lodging, payments in kind, tips, and any other similar advantage received from the individual's employer or directly with respect to work for the employer.

(2) **Wages paid.** Includes wages that are actually received by an individual and wages that are contractually due but are not paid because the employer refuses or is unable to make such payment. (See RCW 50.24.015).

(3) **Wages constructively paid.** Those wages set aside, by mutual agreement of both parties (employer and employee) to be paid at a later date. They are reported for tax purposes when actually paid to the employee. The wages set aside can have no substantial limitation or restriction as to the time or manner or condition upon which payment is to be made. In addition the ability to draw on the wages must be within the control and disposition of the employee.

(4) **Deductions.** The amount(s) any federal or state law requires an employer to deduct from the wages of an individual in its employ; and to pay the amount deducted to the federal or state government, or any of their political subdivisions. The amount deducted will be considered wages and to have been paid to the individual at the time of the deduction. Other amounts deducted from the wages of an individual by an employer also constitute wages paid to the individual at the time of the deduction.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 192-12-010 General definitions.

WSR 99-20-125

PERMANENT RULES

EMPLOYMENT SECURITY DEPARTMENT

[Filed October 6, 1999, 9:42 a.m.]

Date of Adoption: September 1, 1999.

Purpose: To repeal WAC 192-12-010 General definitions, and use of terms and replace it with WAC 192-100-500 General definitions—Relating to wages, in accordance with Executive Order 97-02. The language is clearer for the general public, archaic language of the old rule has been removed; and the organization of the rule revised to promote clarity of intent and understanding.

Citation of Existing Rules Affected by this Order: Repealing WAC 192-12-010.

Statutory Authority for Adoption: Chapters 34.05 and 50.12 RCW.

Other Authority: RCW 50.12.010.

Adopted under notice filed as WSR 99-13-110 on June 15, 1999.

Changes Other than Editing from Proposed to Adopted Version: In the new subsection (4) on Deductions, line 3 should have the word "of" inserted after the word "any." In the repealer, the word "sections" should read "section" and the word "are" should read "is."

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.

PERMANENT

WSR 99-20-126

PERMANENT RULES

EMPLOYMENT SECURITY DEPARTMENT

[Filed October 6, 1999, 9:42 a.m.]

Date of Adoption: September 1, 1999.

Purpose: To replace WAC 192-12-015 Definitions relating to RCW 50.04.145 and 50.24.130, with a new rule WAC 192-100-510 of the same title in accordance with Governor Locke's Executive Order 97-02. The new rule is organized for easier readability and has clearer language for the general public.

Citation of Existing Rules Affected by this Order: Repealing WAC 192-12-015.

Statutory Authority for Adoption: Chapters 34.05 and 50.12 RCW.

Other Authority: RCW 50.04.145 and 50.24.130.

Adopted under notice filed as WSR 99-13-113 on June 15, 1999.

Changes Other than Editing from Proposed to Adopted Version: In the repealer, "sections" plural is replaced with "section" singular and the verb "are" is replaced with the singular verb "is."

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 4, Amended 0, Repealed 4.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.
August 30, 1999
Carver Gayton
Commissioner

Chapter 192-100-WAC

NEW SECTION

WAC 192-100-510 Definitions relating to RCW 50.04.145 and 50.24.130. For the purposes of RCW 50.04.145 and 50.24.130.

Definitions:

(1) **Same work.** Means work performed in the same trade or craft (i.e. carpenters, electricians, etc.).

(2) **At the same time.** Means occurring concurrently as opposed to the case of one contractor replacing another in the same trade.

(3) **Project.** Means any work performed under a contract within the scope of a building permit; or, if a building permit is not required, work performed under a contract.

(4) **Separate set of books or records.** Means records other than those maintained by the contractor for which services are performed.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 192-12-015 Definitions relating to RCW 50.04.145 and 50.24.130.

WSR 99-20-127

PERMANENT RULES

EMPLOYMENT SECURITY DEPARTMENT

[Filed October 6, 1999, 9:43 a.m.]

Date of Adoption: September 1, 1999.

Purpose: To repeal WAC 192-12-360 Interpretive regulation—Inclusion of immediate family members as partners, and replace it with WAC 192-300-100 Immediate family members of partners or corporate officers for RCW 50.04.150 in accordance with Executive Order 97-02. The language is clearer for the general public and archaic portions of the old rule have been removed.

Citation of Existing Rules Affected by this Order: Repealing WAC 192-12-360.

Statutory Authority for Adoption: Chapters 34.05 and 50.12 RCW.

Other Authority: RCW 50.04.150.

Adopted under notice filed as WSR 99-13-111 on June 15, 1999.

Changes Other than Editing from Proposed to Adopted Version: In the repealer, the word "sections" plural is replaced by "section" singular; and the verb "are" is replaced by the verb "is."

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 0, Repealed 1.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.
August 30, 1999
Carver Gayton
Commissioner

PERMANENT

Chapter 192-300-WAC

Effective Date of Rule: Thirty-one days after filing.
August 30, 1999
Carver Gayton
Commissioner

NEW SECTION

WAC 192-300-100 Immediate family member of partners or corporate officers for RCW 50.04.150. The exemption in RCW 50.04.150 for family members employed on "corporate farms" includes family membership of all legal entities operating the farm.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 192-12-360 Interpretive regulation—
Inclusion of immediate family members as partners.

Chapter 192-300-WAC

NEW SECTION

WAC 192-300-180 Joint accounts. Relates to RCW 50.24.170.

(1) Any two or more employers may form joint accounts (consolidate) for the purposes of reporting and dealing with the unemployment insurance division of the department.

(2) Joint accounts must be acceptable to the department and cannot:

(i) impair any obligation by these employers to the unemployment insurance division;

(ii) interfere with the payment of benefits to workers;

(iii) result in any administrative inconvenience to the division; or

(iv) allow an employer to receive an experience rate to which it was not entitled.

(3) Joint accounts must provide for the maintenance of all records necessary under the Employment Security Act.

(4) Joint accounts may not be formed until the department has approved the plan of consolidation, in writing.

(5) A joint account should never be confused with a common paymaster. A common paymaster is an independent third party who contracts with, and represents, two or more employers; and who files a combined tax report for those employers. Common paymaster does not meet the department's definition of a joint account. We do not allow this type of reporting.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 192-12-060 Joint accounts.

WSR 99-20-129

PERMANENT RULES

EMPLOYMENT SECURITY DEPARTMENT

[Filed October 6, 1999, 9:45 a.m.]

Date of Adoption: September 1, 1999.

Purpose: To replace WAC 192-12-066 Tips as wages, with a new rule WAC 192-310-060 with the same title in accordance with Governor Locke's Executive Order 97-02. The rule has been rewritten and reorganized for clarity and understanding for the general public. Any archaic language has been removed.

Citation of Existing Rules Affected by this Order: Repealing WAC 192-12-066.

Statutory Authority for Adoption: Chapters 34.05 and 50.12 RCW.

WSR 99-20-128
PERMANENT RULES
EMPLOYMENT SECURITY DEPARTMENT

[Filed October 6, 1999, 9:44 a.m.]

Date of Adoption: September 1, 1999.

Purpose: To repeal WAC 192-12-060 Joint accounts, and replace it with new rule WAC 192-300-180 with the same title in accordance with Executive Order 97-02 from Governor Locke. The new rule was written for clarity and understanding and is organized to help promote this for the general public.

Citation of Existing Rules Affected by this Order: Repealing WAC 192-12-060.

Statutory Authority for Adoption: Chapters 34.05 and 50.12 RCW.

Other Authority: RCW 50.24.170.

Adopted under notice filed as WSR 99-13-112 on June 15, 1999.

Changes Other than Editing from Proposed to Adopted Version: In the repealer, the word "sections" plural is replaced by "section" singular; and the verb "are" is replaced by the verb "is."

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 5, Amended 0, Repealed 1.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

PERMANENT

WSR 99-20-130
PERMANENT RULES
EMPLOYMENT SECURITY DEPARTMENT

[Filed October 6, 1999, 9:45 a.m.]

Date of Adoption: September 1, 1999.

Purpose: To replace WAC 192-12-070 Value of meals, lodging and in-kind compensation, with a new rule WAC 192-310-070 with the same title in accordance with Governor Locke's Executive Order 97-02. The new rule is written for clarity and reorganized for better readability for the general public.

Citation of Existing Rules Affected by this Order: Repealing WAC 192-12-070.

Statutory Authority for Adoption: Chapters 34.05 and 50.12 RCW.

Other Authority: RCW 50.04.320.

Adopted under notice filed as WSR 99-13-115 on June 15, 1999.

Changes Other than Editing from Proposed to Adopted Version: In the repealer, "sections" plural is replaced with "section" singular and the verb "are" is replaced with the singular verb "is."

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 2, 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 0.

Effective Date of Rule: Thirty-one days after filing.

August 30, 1999

Carver Gayton

Commissioner

Chapter 192-310 WAC

NEW SECTION

WAC 192-310-070 Value of meals, lodging and in-kind compensation. Relates to compensation paid for personal services including commissions and bonuses and the cash value of all remuneration paid in any form other than cash.

(1) The value of meals and/or lodging for the convenience of the employer (i.e. provided by the employer, on the employer's premises, or as a condition of employment) is not considered reportable compensation, unless it comprises twenty-five (25) percent, or more, of the employee's total pay per pay period.

Other Authority: RCW 50.04.320.

Adopted under notice filed as WSR 99-13-114 on June 15, 1999.

Changes Other than Editing from Proposed to Adopted Version: In the repealer, "sections" plural is replaced with "section" singular and the verb "are" is replaced with the singular verb "is."

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 2, 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 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

August 30, 1999

Carver Gayton

Commissioner

Chapter 192-310-WAC

NEW SECTION

WAC 192-310-060 Tips as wages. For the department to make timely and accurate employer liability determinations and unemployment insurance payments, tips as wages, are those tips that an employee is required to report to the employer by federal law.

(1) The employer must report tips each quarter on an "as paid" basis. Tips are considered "paid" when the employee reports them to the employer for federal income tax purposes; or when they are distributed by the employer to the employee.

(2) Tips are not considered wages for benefit calculation purposes when the value has not been reported to the employer.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 192-12-066

Tips as wages.

PERMANENT

Chapter 192-320-WAC

(2) Compensation for personal services paid in-kind, or in any medium other than cash will be given its current prevailing market value. This value will be considered as wages in computing taxes due under unemployment insurance laws. If any hiring contract fixes the value of such items, the value will be considered the actual value.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 192-12-070 Value of meals, lodging and in-kind compensation.

WSR 99-20-131**PERMANENT RULES****EMPLOYMENT SECURITY DEPARTMENT**

[Filed October 6, 1999, 9:46 a.m.]

Date of Adoption: September 1, 1999.

Purpose: To repeal WAC 192-12-074 Predecessor-successor transfer through intermediaries, and replace it under the guidelines of Executive Order 97-02 with WAC 192-320-055 with the same title. This change promotes clarity for the general public and deletes any archaic language in the original rule.

Citation of Existing Rules Affected by this Order: Repealing WAC 192-12-074.

Statutory Authority for Adoption: Chapters 34.05 and 50.12 RCW.

Other Authority: RCW 50.04.320 and 50.29.062.

Adopted under notice filed as WSR 99-11-091 on May 19, 1999.

Changes Other than Editing from Proposed to Adopted Version: Changed repealer, corrected "sections" plural to "section" and the plural form of the verb "are" to the singular form "is."

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 0, Repealed 1.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

August 30, 1999

Carver Gayton
Commissioner

NEW SECTION

WAC 192-320-055 Predecessor-successor transfers through intermediaries. When operating assets are transferred from one employer to another by the use of an intermediary, whose function is to arrange, or facilitate, the transfer process (RCW 50.04.320 and 50.29.062) – the existence of a predecessor-successor relationship will be determined on a case-by-case basis by the department. The fact that an intermediary was used does not preclude the existence of a predecessor-successor relationship.

In determining if a predecessor-successor relationship exists, the department will consider the:

a. intent of the parties involved; and

b. economic reality of the transactions, as opposed to the strict legal format of the multiple transfers.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 192-12-074 Predecessor-successor transfer through intermediaries.

WSR 99-20-132**PERMANENT RULES****EMPLOYMENT SECURITY DEPARTMENT**

[Filed October 6, 1999, 9:47 a.m.]

Date of Adoption: September 1, 1999.

Purpose: To repeal WAC 192-12-090 Employer elections to cover individuals performing personal services in more than one state and replace it in accordance with Executive Order 97-02 with WAC 192-300-150 Employer election to cover individuals—Interstate reciprocal coverage agreement. This revision promotes clarity for the general public and removes archaic language from the original rule.

Citation of Existing Rules Affected by this Order: Repealing WAC 192-12-090.

Statutory Authority for Adoption: Chapters 34.05 and 50.12 RCW.

Other Authority: RCW 50.12.060.

Adopted under notice filed as WSR 99-11-094 on May 19, 1999.

Changes Other than Editing from Proposed to Adopted Version: Changed repealer, corrected "sections" plural to "section" singular and the verb "are" to the verb "is."

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 3, Amended 0, Repealed 5.

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.
August 30, 1999
Carver Gayton
Commissioner

Chapter 192-300-WAC

NEW SECTION

WAC 192-300-150 Employer election to cover individuals—Interstate reciprocal coverage agreement. The commissioner may enter into interstate reciprocal coverage agreements with other states for the purpose of covering services performed by a person for a single employer where the services were performed in more than one state (RCW 50.12.060). These services are to be considered performed entirely in one state where:

- a. any part of the person's service is performed;
- b. the person has a residence; or
- c. the employer keeps a place of business.

(1) Election Process

(a) **Filing.** An employer for whom personal services are performed, may file an election for coverage under the laws of a single state, for individuals who normally perform services in more than one state (or other jurisdiction) using a Form RC-1 "Employer's Election to Cover Multi-State Workers". Our department also requires that any employee to be covered sign the Form RC-2A "Notice to and Acquiescence of Employee as to Unemployment Compensation Coverage" which must accompany the Form RC-1.

(b) **Approval.** The agency of the elected state approves or disapproves the election.

If the agency approves the election, it forwards a copy of the election to any other participating states where the individual(s) might be covered by unemployment compensation law. Each participating state approves/disapproves the election as quickly as possible and notifies the appropriate agency of the elected state. If disapproved, the disapproving state notifies the elected state of its action and reason(s) for disapproval.

(c) **Withdrawal of Election.** If an election is not approved, the employer may withdraw its election within ten (10) days of notification.

(d) **Effective Date of Election.** An approved election is effective at the beginning of the calendar quarter when the election was submitted.

(e) **Termination of Election.** A request for election will be automatically terminated if an employee ceases to perform work in more than one state. This termination would take

place at the end of the calendar quarter when the change was discovered.

2. Reports/notices to employees by employer or electing unit.

(a) The employer notifies each person affected of any approved election and sends the elected agency a copy of such notice.

(b) If a person covered by this election becomes unemployed, the employer, or electing unit will notify him/her as to which state covers any unemployment insurance claim.

(c) If an election ceases to apply to an individual, the employer will notify the affected individual in writing.

3. Other Jurisdictions.

The commissioner may also enter into such reciprocal coverage agreements with the federal government, or foreign governments.

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.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 192-12-090	Employer election to cover individuals—Interstate reciprocal coverage agreement.
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WSR 99-20-133

PERMANENT RULES

EMPLOYMENT SECURITY DEPARTMENT

[Filed October 6, 1999, 9:48 a.m.]

Date of Adoption: September 1, 1999.

Purpose: To replace WAC 192-12-100 Posting of notices by employers with a new rule WAC 192-310-100 with the same title in accordance with Governor Locke's Executive Order 97-02. The new rules is written for clarity and reorganized for better readability for the general public.

Citation of Existing Rules Affected by this Order: Repealing WAC 192-12-100.

Statutory Authority for Adoption: Chapters 34.05 and 50.12 RCW.

Other Authority: RCW 50.20.140.

Adopted under notice filed as WSR 99-13-116 on June 15, 1999.

Changes Other than Editing from Proposed to Adopted Version: In the repealer, "sections" plural is replaced with "section" singular and the verb "are" is replaced with the singular verb "is."

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.

PERMANENT

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 0, Repealed 1.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

August 30, 1999

Carver Gayton

Commissioner

Chapter 192-310-WAC

NEW SECTION

WAC 192-310-100 Posting of notices by employers. (Relating to RCW 50.20.140). Employers who are responsible for unemployment insurance coverage of their employees must post and maintain printed notices to individuals who are employed by the employer. These notices inform the individual that this employer is liable for taxes under the Employment Security Act.

(1) The notices provide information to individuals who may be unemployed about how to register for work, file claims for benefits, and rights to benefits. The notices are to be posted in conspicuous places close to the actual location where the personal services are performed.

(2) The department will provide notices to employers.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 192-12-100 Posting of notices by employers.

WSR 99-20-134

PERMANENT RULES

EMPLOYMENT SECURITY DEPARTMENT

[Filed October 6, 1999, 9:49 a.m.]

Date of Adoption: September 1, 1999.

Purpose: To repeal WAC 192-16-001 Interpretive regulations—Employer reports—Effect of omitting information—Limitation, and replace it in accordance with Executive Order 97-02 with WAC 192-310-035 Employer reports—Failure to report hours. This change promotes clarity of the rule for the general public and removes any archaic language from the original rule.

Citation of Existing Rules Affected by this Order: Repealing WAC 192-12-090.

Statutory Authority for Adoption: Chapters 34.05 and 50.12 RCW.

Other Authority: RCW 49.46.020.

Adopted under notice filed as WSR 99-11-092 on May 19, 1999.

Changes Other than Editing from Proposed to Adopted Version: Changed repealer, corrected "sections" plural to "section" singular and the verb "are" to the verb "is."

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 3, Amended 0, Repealed 1.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

August 30, 1999

Carver Gayton

Commissioner

Chapter 192-310-WAC

NEW SECTION

WAC 192-310-035 Employer reports—Failure to report hours. (1) If an employer fails to report hours worked and a former employee files for benefits, the benefits will be based on the amount of hours calculated by using the state's minimum wage (RCW 49.46.020) in effect at the time.

(2) If the employer subsequently produces the actual hours worked, the employee's claim will be recalculated.

(3) In the event the claim is voided, or reduced, the original claim amount will not be considered as an overpayment against the claimant.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 192-16-001 Employer reports—Failure to report hours.

WSR 99-20-141

PERMANENT RULES

EMPLOYMENT SECURITY DEPARTMENT

[Filed October 6, 1999, 10:45 a.m.]

Date of Adoption: September 1, 1999.

Purpose: Employer reports—Further defining hours worked - RCW 50.12.070 and replace it with WAC 192-310-040 with the same title. The revised rule is in accordance

PERMANENT

with Executive Order 97-02. The new rule has clearer language for the general public, is organized for easier readability and has removed the archaic language of the past.

Statutory Authority for Adoption: Chapters 34.05 and 50.12 RCW.

Other Authority: RCW 50.12.070, 50.04.330(1).

Adopted under notice filed as WSR 99-11-093 on May 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 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 11, 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.

August 30, 1999

Carver Gayton

Commissioner

Chapter 192-310-WAC

NEW SECTION

WAC 192-310-040 Employer reports—Further defining hours worked—RCW 50.12.070. This section defines the hours that should be included on the employer's quarterly tax and wage report.

(1) **Vacation pay.** The employer will report the number of hours and employee is on leave with pay. Cash payments made in place of vacation time will not be counted as hours worked.

(2) **Sick leave pay.** In accordance with RCW 50.04.330(1), any amount of payments made to the employee covered under a qualified plan regarding sickness or accident disability, insurance or annuities, medical or hospitalization expenses in connection with sickness or accident disability, death or retirement are not considered to be wages or compensation. Neither hours nor wages are reportable. Under a nonqualified plan, the wages and hours are reportable.

(3) **Overtime.** The employer will report the number of hours actually worked for which overtime pay or compensatory time is provided, without regard to the amount of wages or compensation paid.

(4) **Commissioned employees.** An employer will report the actual number of hours worked by employees paid by commission. In the absence of reliable time keeping records, the employer will report a full-time commissioned employee for 40 hours worked for each week in which any of their duties were performed.

(5) **Wages in lieu of notice.** When an employee is paid wages in lieu of notice, the employer will report the actual number of hours that would have been for which they were compensated. Wages in lieu of notice compensates the employee upon termination of service for the amount of wages they would have earned during the specified period.

(6) **Employees on salary.** If a salaried employee works other than the regular 40-hour week, the employer will report the actual number of hours worked. In the absence of a reliable time keeping record, the employer will report a full-time salaried employee for 40 hours each week they worked.

(7) **Faculty employees.** Faculty members of community and technical colleges must teach at least 15 classroom or laboratory hours to be considered full-time. A teaching load of less than 15 hours of instruction is considered part-time.

(i) In the absence of reliable hourly information, an employer will report the hours of instruction as part-time using 35 hours as the base per week using the following computation. For example, an instructor teaches 12 hours per week. 12 hours divided by 15 hours equals 80%. 35 hours times 80% equals 28 hours. The employer will report the 28 hours to the department on the employer's quarterly tax and wage report.

(ii) Any part-time salaried instructor who does not establish a valid claim because of this formula, may provide the department with documentation of hours worked which exceeds the reported hours by the employer.

(8) **Severance pay.** Employers will not report additional hours worked for severance pay. Severance pay is reportable and taxable because it is based on past service and compensates the employee upon job separation.

(9) **Payment in kind.** The employer will report the actual hours worked for performing services, which are compensated only by payment in kind.

(10) **Bonuses, tips and other gratuities.** An employer will not report additional hours for bonuses, tips or other gratuities if they are received performing regular hours if bonuses, tips and gratuities are the only sources of their compensation.

(11) **Fractions of hours.** If the employee's total number of hours for the quarter results in a fraction amount, the total figure will be rounded to the next higher number.

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



WSR 99-19-006

EMERGENCY RULES

TRANSPORTATION IMPROVEMENT BOARD

[Filed September 3, 1999, 4:06 p.m.]

Date of Adoption: September 3, 1999.

Purpose: The emergency rules shown below are being revised to update current language and provide needed language to reflect the current procedures of the TIB programs. Changes were also made due to the passage of SHB 1588, which consolidated several TIB accounts.

Citation of Existing Rules Affected by this Order: Repealing WAC 479-02-020, 479-02-030, 479-12-020, 479-13-010, 479-13-011, 479-13-025, 479-13-070, 479-16-010, 479-16-015, 479-16-016, 479-16-020, 479-16-030, 479-16-035, 479-16-040, 479-16-045, 479-16-050, 479-16-060, 479-16-080, 479-16-085, 479-16-098, 479-20-007, 479-20-010, 479-20-011, 479-20-013, 479-20-016, 479-20-025, 479-20-027, 479-20-031, 479-20-037, 479-20-086, 479-20-089, 479-20-095, 479-112-001, 479-112-003, 479-112-0055, 479-112-007, 479-112-008, 479-112-009, 479-112-010, 479-112-017, 479-112-018, 479-112-020, 479-310-010, 479-310-050, 479-310-100, 479-310-150, 479-310-200, 479-312-010, 479-312-050, 479-312-100, 479-312-150, 479-312-200, 479-312-250, 479-312-300, 479-316-010, 479-316-050, 479-316-100, 479-316-200, 479-316-250, 479-316-300, 479-320-050, 479-320-100, 479-320-150, 479-320-200, 479-410-010, 479-410-020, 479-410-100, 479-410-150, 479-410-160, 479-410-170, 479-410-180, 479-410-200, 479-412-020, 479-412-100, 479-412-150, 479-412-200, 479-412-250, 479-412-300, 479-412-310, 479-416-010, 479-416-015, 479-416-016, 479-416-018, 479-416-020, 479-416-030, 479-416-035, 479-416-040, 479-416-045, and 479-416-050; and amending WAC 479-01-010, 479-01-040, 479-02-010, 479-02-050, 479-02-060, 479-02-110, 479-12-005, 479-12-008, and 479-12-010.

Statutory Authority for Adoption: Chapters 47.26 and 47.66 RCW.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: These emergency rules are necessary in order to allow agencies to submit project applications for fiscal year 2000, which are due September 30, 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 78, Amended 9, Repealed 112.

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 78, Amended 9, Repealed 112.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 78, Amended 9, Repealed 112.

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.

September 3, 1999

Jerry M. Fay

Executive Director

Chapter 479-01 WAC

DESCRIPTION OF ORGANIZATION

AMENDATORY SECTION (Amending WSR 95-22-056, filed 10/30/95, effective 11/30/95)

WAC 479-01-010 Organization of transportation improvement board. The transportation improvement board is a twenty-one member board, organized under the provisions of chapter 269, Laws of 1995. The board administers the urban arterial trust account (~~((program))~~), the transportation improvement account (~~((program, small city account program, city hardship assistance program, central Puget Sound public transportation account))~~), and public transportation systems account(~~(;)~~). (~~(Intermodal Surface Transportation and Efficiency Act of 1991, surface transportation program state-wide competitive;)~~). (~~(and)~~) The board evaluates petitions requesting any additions or deletions from the state highway system (~~(created and financed under the provisions contained herein;)~~) and forwards recommendations to the legislature (~~(created and financed under the provisions contained therein)~~). (~~(Nineteen members of the board are appointed by the secretary of transportation, with six being city officials, six being county officials, two representatives of public transit systems, a private sector member, a member representing the ports, a member representing nonmotorized transportation, a member representing special needs transportation and two representatives from the department of transportation. One member shall be appointed by the governor. The county road administration engineer, created by RCW 36.78.060 is an ex officio member of the board.)~~) The board selects projects for the STP Statewide Competitive program and the Enhancement program and forwards the recommended list to the legislature. Board membership is defined in RCW 47.26.121.

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

AMENDATORY SECTION (Amending WSR 95-04-072, filed 1/30/95, effective 3/2/95)

WAC 479-01-040 Definitions. For purposes of implementing the requirements of RCW 47.26.160 relative to the transportation improvement board, the following definitions shall apply:

(1) Board - the transportation improvement board.

(2) TIB - the transportation improvement board.

((2)) (3) Director - the executive director of the transportation improvement board.

(4) Agency - all cities, towns, counties, and public transit agencies eligible to receive board funding.

(5) Urban area - the term "urban area" as used for the arterial improvement program and the transportation partnership program refers to the portion of a county within the federal urea boundary as designated by FHWA and/or Washington state's Growth Management Act.

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

AMENDATORY SECTION (Amending WSR 95-22-056, filed 10/30/95, effective 11/30/95)

WAC 479-01-050 Administration costs. The board costs for necessary staff services and facilities that are attributable to the urban arterial trust account, (~~small city account, city hardship assistance account,~~) transportation improvement account, (~~central Puget Sound public transportation account~~) and public transportation systems account shall be paid in proportion to the anticipated expenditures of the (~~programs~~) accounts as determined by the biennial appropriation.

Chapter 479-02 WAC PUBLIC ACCESS TO INFORMATION AND RECORDS

AMENDATORY SECTION (Amending WSR 91-13-056, filed 6/17/91, effective 7/18/91)

WAC 479-02-010 Purpose. The purpose of this chapter shall be to ensure compliance by the Washington transportation improvement board with the provisions of RCW 42.17.250 through (~~42.17.340~~) 42.17.348 dealing with public records.

AMENDATORY SECTION (Amending WSR 91-13-056, filed 6/17/91, effective 7/18/81 [7/18/91])

WAC 479-02-050 Public records officer. The transportation improvement board public records shall be in the charge of the (~~confidential secretary~~) executive director who shall be the public records officer for the board. The person so designated shall be located in the transportation improvement boards office in Olympia, Washington. The public records officer shall be responsible for implementation of the board's rules and regulations regarding release of public records, coordinating staff efforts of the board in this regard and generally ensuring compliance of the staff with the public records disclosure requirements of chapter 1, Laws of 1973.

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

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

AMENDATORY SECTION (Amending WSR 91-13-056, filed 6/17/91, effective 7/18/91)

WAC 479-02-060 Public records available. All public records of the board as defined in (~~WAC 479-02-020~~) chapter 42.17 RCW are deemed available for public inspection and copying pursuant to these rules, (~~except as provided in WAC 479-02-030~~) unless the record falls within the specific exemptions of RCW 42.17.310 or other statute that exempts or prohibits disclosure of specific information or records.

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

AMENDATORY SECTION (Amending WSR 95-04-072, filed 1/30/95, effective 3/2/95)

WAC 479-02-110 Denial of request. (1) The executive director shall determine which public records requested in accordance with these rules are exempt under the provisions of RCW 42.17.310 or other statute.

2) Each denial of a request for a public record shall be accompanied by a written statement to the person requesting the record clearly specifying the reasons for denial, including a statement of the specific exemption authorizing the withholding of the record and a brief explanation of how the exemption applies to the record withheld.

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.

REPEALER

The following sections of the Washington State Administrative Code are repealed:

WAC 479-02-020	Definitions.
WAC 479-02-030	Exempted records.

Chapter 479-05 WAC PROGRAM REQUIREMENTS

NEW SECTION

WAC 479-05-010 Time and place for submission of proposed transportation improvement board projects. Prospectuses for predesign or design phase shall be requested by the board after:

- (1) Submitted project applications have been evaluated as to priority;
- (2) The obligation status of the urban arterial trust account and. The legislative appropriation authority have been reviewed and capacity to authorize additional projects determined.

Prospectuses for predesign phase or design phase shall be received by the board by the first day of the month preceding the month in which project authorization is proposed unless a later receipt is approved by the director.

Prospectuses for the construction phase shall be received by the twentieth day of the month preceding the month in

which construction project authorization is proposed unless a later receipt date is approved by the director.

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

NEW SECTION

WAC 479-05-020 Six-year transportation programs for urban areas. The six-year transportation programs of urban area cities and counties required, respectively, by RCW 35.77.010, 36.81.121 and 35.588.2795 must have proposed transportation improvement board projects included prior to board approval projects of funds.

A copy of the six-year transportation program including the proposed projects to be approved shall be submitted to the board along with a copy of the resolution of the city or county adopting such program.

NEW SECTION

WAC 479-05-030 Six-year financial plan. At the beginning of each fiscal year the board shall update its six-year financial plan to determine the amount of estimated revenue to be available for new project starts in the ensuing biennium. The estimate of funds for new project starts shall take into consideration projects approved by the board for the design phase where construction funding approval is pending.

NEW SECTION

WAC 479-05-040 Value engineering study requirements. Value engineering studies shall be required in accordance with the policy adopted by the board.

NEW SECTION

WAC 479-05-050 Procedures for project approval. Predesign, design proposals and related construction projects authorized by the board for financial assistance shall be selected for authorization based upon the following factors:

The proposed project scope shall include improvements that will address or mitigate the items for which the project was selected.

The board shall evaluate the project scope and may reduce the project scope if the scope exceeds that which is necessary to address or mitigate the item in the selection process.

The following factors relative to each project, in addition to other factors required by law, shall be evaluated:

(1) Each project shall be evaluated on the availability and source of matching funds.

(2) Construction prospectuses for projects previously approved for design and right of way funding by the board shall be required to be accompanied by the following information demonstrating the readiness of the project to be placed under contract for construction.

(a) A certification from the legislative body or other designated responsible official, of the administering agency, that

an environmental impact analysis has been conducted and an environmental impact statement including the conformity with the state and Federal Clean Air Acts or negative declaration of environmental impact, as appropriate, has been circulated pursuant to chapter 43.21C RCW, and that the results have been utilized in arriving at the decisions reflected in the prospectus for the construction project.

(b) A certification that all right of way required for the project is available or if right of way remains to be acquired that the agency has obtained a possession and use agreement on the parcels in question.

(c) A certification from the legislative body that the project is completely designed and ready to be advertised for bids.

(d) The date the project will be advertised for bids.

(e) Each construction project prospectus shall identify changes between the scope of work of the proposed construction project and the construction work contemplated in the current six-year transportation program or the project design prospectus. An explanation and justification for such changes shall also be included.

(f) The board shall consider adjustments to the amount previously requested in accordance with the board's rule on increases in transportation improvement board funds.

NEW SECTION

WAC 479-05-060 Methods of construction. All construction by agencies using transportation improvement board funds shall be advertised, competitively bid and contracted, except:

(1) Utility and railroad relocations and adjustments, and

(2) Installation of traffic control devices, if accomplished by the personnel of the agency.

A competitive bid is not required for projects which meet the requirements of RCW 36.77, 35.22, 35.23, and 35.27.

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

NEW SECTION

WAC 479-05-070 Registered engineer in charge. All projects using transportation improvement board funds shall be planned, designed, and constructed under the supervision of a professional engineer registered in the state of Washington.

NEW SECTION

WAC 479-05-080 Standard specifications. The current edition of the *Standard Specifications for Road, Bridge, and Municipal Construction* or equivalent, shall be included in any contract entered into by an agency using board funds.

NEW SECTION

WAC 479-05-090 Design standards for transportation improvement board projects. All transportation

improvement board funded projects shall be prepared using currently applicable design standards.

NEW SECTION

WAC 479-05-100 Utility and railroad adjustments and relocations. Utility and railroad adjustments and relocations may be performed by negotiated contract with the owner of those facilities. The administering agency shall review and approve a written statement that includes the items of work and an estimate of cost prepared by the utility or railroad for the work required as a result of the arterial improvement. Updated statements of items of work and estimates of cost may be reviewed and approved by the administering agency. All costs of utility and railroad adjustments, as finally approved by the administering agency, shall be subject to audit. If federal aid highway funds are included in the project, the negotiated contract shall include the applicable provisions of federal highway administration policies and procedures prescribed in 23 CFR 140, 23 CFR 645 and 23 CFR 646, Federal Aid Policy Guide.

NEW SECTION

WAC 479-05-110 Undergrounding utilities. Board funds may be used in the actual, necessary costs of relocating utility or other service facilities resulting from an approved urban arterial project when:

- (1) The local agency administering the project directly incurs such costs; or
- (2) The local agency administering the project is obligated by law or by previously established and documented policies and practices for such costs.

Board funds may be used in the costs costs to underground service connections for street illumination and traffic signal services within the prescribed limits of the approved project.

The board funds used in the costs of relocating utility or other service facilities, other than service connections for street illumination and traffic signal services within the prescribed limits of the approved project, shall be further limited as follows:

(a) Where a local agency requires that existing overhead facilities be placed underground, board funds shall be limited to the agency's actual cost thereof. The board considers this type of improvements to be aesthetic in nature as is landscaping, therefore, the cost involved in undergrounding the utility facilities, in excess of the estimated cost to relocate them overhead, will be included within the three percent allowance for landscaping costs.

(b) If utility lines or other service facilities are already underground, board funds may be used in the costs of replacing such facilities on an underground basis.

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

NEW SECTION

WAC 479-05-120 Traffic control devices. Traffic control devices included in a participating project may be installed by the employees and with the equipment and materials of the local governmental units subject to the limits of RCW 35.22.620 (3), 35.23.352 (1), and 36.77.065 (3): *Provided*, That the basis for payment of board funds is reimbursement of the appropriate portion of actual cost of such work, subject to audit.

NEW SECTION

WAC 479-05-130 Project landscaping. Board funds may be used at the appropriate matching ratio in the cost of landscaping and the use of other plantings and supporting materials within the project right of way to a maximum of three percent of the total authorized project costs: *Provided*, That requests for increases in the authorized amount of board funds to cover landscaping and related costs shall be considered jointly with other cost increases and approval of all such requests shall be limited to the amount authorized by WAC 479-05-250 to be approved by the director. Erosion control treatment shall not be considered a part of landscaping costs.

The three percent limitation for landscaping and related costs shall not affect the agency's authority to include landscaping and the use of other plantings or supporting materials in the project in amounts that exceed the three percent limit provided they are paid for solely with funds other than board supplied funds.

NEW SECTION

WAC 479-05-140 Acquisition of rights of way. Right of way for board funded projects shall be acquired in accordance with chapter 468-100 WAC.

NEW SECTION

WAC 479-05-150 Inclusion of bicycle facilities in transportation improvement board projects. If an eligible agency has a project funded by transportation improvement board funds that includes the construction of bicycle facilities, the agency shall submit their bikeway plan to the board in map form along with the agency's verification that the plan has been reviewed with, and approved by, the agency's legislative body.

The proposed bicycle facility shall be in accordance with definitions, criteria, and design standards shown in Chapter 1020 of the Washington Department of Transportation Design Manual.

NEW SECTION

WAC 479-05-160 Reimbursable costs. Project costs eligible for reimbursement from the account shall be those proper and allowable costs incurred on a project after the project is authorized by the board except as provided by the following:

Reimbursement of right of way acquisition costs are eligible within the design phase of the project. In the event the project is not built, those funds expended for right of way shall be refunded to the board.

NEW SECTION

WAC 479-05-170 Reimbursable costs for engineering. Design and construction engineering costs eligible for reimbursement shall be limited to twenty-five percent of the approved contract bid amount including adjustments for change orders and actual quantity amounts during construction and agency force construction. Exceptions to the twenty-five percent engineering limit may be considered by the board. Agency costs for value engineering and other special studies and right of way appraisals and acquisition costs will not be used to determine the amount subject to the limit.

NEW SECTION

WAC 479-05-180 Direct costs. Direct costs eligible for board participation are those costs which are directly attributable to a specific project and shall include:

(1) Direct labor (engineering and/or construction) including related employee benefits:

(a) Salaries and wages (at actual or average rates) covering productive labor hours of city and county employees (excluding the administrative organization of the operating unit involved) for periods of time, actively or incidentally engaged in (i) predesign engineering, (ii) design engineering, (iii) construction engineering, (iv) acquisition of rights of way, and (v) actual construction activities are considered a direct cost of construction projects. The cost of services rendered by employees generally classified as administrative are considered a direct cost only when such employees are assigned for short periods of time to perform on a full time basis the types of services described above and when similar procedures are followed for nonboard projects.

(b) Employee benefits relating to direct labor are considered a direct cost of construction projects. The following items may be included as employee benefits:

- (i) F.I.C.A. (Social Security) - employer's share
- (ii) Retirement benefits
- (iii) Hospital, health, dental and other welfare insurance
- (iv) Life insurance
- (v) Industrial and medical insurance
- (vi) Vacation
- (vii) Holiday
- (viii) Sick leave
- (ix) Military leave and jury duty

Employee benefits shall be calculated as a percentage of direct labor dollars. The computation of predetermined percentage rates to be applied to current labor costs shall be based upon the average of total employee benefits and total labor costs for the prior fiscal year and adjusted by known current year variations.

- (2) Contract engineering services
- (3) Right of way acquisition costs including:
 - (a) Purchase of land and easements acquired for and devoted to the project;

- (b) Purchase of improvements;
 - (c) Adjustment or reestablishment of improvements;
 - (d) Salaries, expenses or fees of appraisers, negotiators or attorneys;
 - (e) Removal or demolition of improvement;
 - (f) Other direct costs in connection with the acquisition.
- Amounts received from the sale of excess real property or improvements and from any rentals shall be a reduction of the direct cost.

(4) Contract construction work, and/or capital equipment acquisition approved by the board.

(5) Direct vehicle and equipment charges at the actual rental cost paid for the equipment or, in the case of city or county owned equipment, at the rental rates established by the city's or county's "equipment rental and revolving fund" following the methods prescribed by the division of audit: *Provided*, That such costs shall be charged on a uniform basis to equipment used for all projects regardless of the source of funding. Cities which may not use this type of fund shall be allowed the same rates as used by the department of transportation.

(6) Direct materials and supplies. The cost of materials used in projects shall be based upon methods prescribed for the "equipment rental and revolving fund" by the division of audit.

(a) An overhead rate or "loading factor" shall not be considered an appropriate additive to the actual cost of materials and supplies used on construction projects unless the factor is readily and properly supportable by the governmental unit's accounting records.

(b) The cost, or reasonable estimate thereof, of materials paid for as contract estimate items, but not used, shall be considered a reduction of direct costs.

(7) Interdepartmental charges for work performed by county or city departments, other than the road or street department, for the benefit of specific construction projects shall be limited to direct costs plus an allocation of indirect costs based upon 10% of direct labor dollars, excluding employee benefits. Such indirect costs shall be determined by a rate which is readily and properly supportable by the governmental unit's accounting records and shall be the same rate as applied to nonboard projects; however, this rate shall not exceed the indirect cost allocation rate established by the board. If individual units of government do not have such an internal indirect cost allocation rate, the rate predetermined by the board shall be used in determining the amount of indirect costs includable in the total interdepartmental charges.

(8) Other direct costs incurred for materials or services acquired for a specific project shall be eligible for participation by board funds and may include, but shall not be limited to, such items as:

- (a) Telephone charges
- (b) Reproduction and photogrammetry costs
- (c) Computer usage
- (d) Printing and advertising.

NEW SECTION

WAC 479-05-190 Indirect costs. Indirect costs incurred by a local government for common or joint objec-

tives which include an authorized board funded project, and which are not included in those direct costs set forth and defined in WAC 479-05-190, shall be eligible for board fund participation on a particular project at a rate not to exceed ten percent of direct labor costs.

NEW SECTION

WAC 479-05-200 Partial or progress payments for project costs. Participation and payment of board funds to counties and cities shall be governed by the following:

(1) Board participation. Board funds shall not participate in any cost which is not incurred in conformity with all applicable federal and state law and the rules, regulations and procedures as may be prescribed by the board promulgated in conformity with the statutes.

(2) Project acceptance. Projects for which board funds are requested by the eligible agencies and for which the board has allocated funds will be the subject of a project approval process. The agencies participation in this process demonstrates acceptance of the conditions to payment of funds, as prescribed by laws and regulations, and the amount of funds to be obligated.

(3) Changes in project work and cost. No material change in the termini, character, or scope of the work on an approved project shall be made without prior concurrence in such changes by the board.

(4) Payments. Eligible agencies are to submit requests for payment of funds claimed to be due on approved projects. Such requests are to be on forms prescribed by the board. Requests for payment may be submitted from time to time as the work progresses and final requests shall be signed and submitted within six months of contract completion. Payment of TIB funds shall at no time exceed the approved amount of the project costs incurred to the date of the payment request.

(5) Compliance with laws and regulations. If an eligible agency has failed to comply with laws and regulations with respect to a project, payment of funds may be withheld on such projects, or approval of additional projects may be withheld until compliance or remedial action has been accomplished by the eligible agency to the satisfaction of the board.

(6) Costs incurred prior to phase approval shall be considered ineligible.

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

NEW SECTION

WAC 479-05-210 Record requirements. All eligible agencies requesting payment of board funds on authorized projects shall have procedures in effect that will provide adequate assurance that payments requested are proper and accurate:

(1) Quantities of complete construction contract work shall be supported by all related source documents upon which payment to the contractor is based. These source documents shall include, but shall not be limited to, tickets for items measured on a weight or volume basis, cross section

notes, inspector's diaries, engineering calculations for items measured in place, material tests, shipping invoices for steel, and all other field records normally developed by field engineers to support final quantities paid to contractors. The quantity field record should be summarized so that final pay estimates would lend themselves to comparison with supporting records.

(2) All appraisal reports, record of negotiations with grantors including a negotiator's diary indicating dates of contracts, offers made, and final acceptance by grantor, title insurance documents, transfer documents such as warranty deeds, quit claim deeds, easements, contract and sale documents, shall be maintained.

(3) Daily labor time records, equipment use records, requisitions for materials used, invoices for goods and services, and other invoices shall be maintained. Records shall also be maintained which support employee benefit percentages which are used in calculating amounts charged to construction projects.

(4) All records shall be retained until notification from the board that a project audit is complete or is not required.

NEW SECTION

WAC 479-05-220 Audits of project records. Projects shall be audited in accordance with the policy adopted by the board. Project records for each project developed through the use of board funds may be audited to determine that funds paid can be attributed to the project and supported by project records. The audit will determine if there has been compliance with the rules of the board. Projects may be audited by the board at the time of the project completion or at such additional times as may be directed by the director.

The director may, where the cumulative amount of audit exceptions is less than five hundred dollars in board funds, advise the agency that no recovery of funds is requested. Audit exceptions which the director considers to be significant in relation to board rules or significant in amount to warrant potential recovery of funds, shall be furnished to the administering agency to allow an opportunity to respond in writing to the audit report.

After reviewing the written response, the director, shall advise the agency whether any recovery of funds is indicated.

If recovery of board funds is indicated, as determined by the director, or by the board, the agency shall be provided ninety days from the date of the notice from the board to make repayment.

If repayment of funds by the agency is not made within ninety days from the date of the notice from the board, the subject shall be placed before the board for review and action.

NEW SECTION

WAC 479-05-230 Expenditure schedule of board funds. Each eligible agency having an approved project shall, when requested by the director, submit an updated schedule of its estimated demand for board funds to the board. This schedule shall be on forms provided by the board

and shall include the estimated demand for board funds at least biannually until project completion.

Such estimates shall be differentiated between the design engineering, right of way and construction stages of project development.

Additional information pertaining to estimated demands for board funds by eligible agencies may be requested by the director as required to permit adequate funding of the programs.

NEW SECTION

WAC 479-05-240 Procedure to request increase in board funds. The amount of funds approved will be based upon the amount requested in the design prospectus. This amount may be adjusted from the amount shown in the project application with adequate justification. Board fund increases are not approved at predesign phase.

Local agencies may request an increase in funds over the amount set forth in the design phase, at the construction phase, bid opening or contract completion of a project in accordance with the following procedures:

(1) At the construction phase all requests shall be reviewed by the director. The director shall report the findings to the board for its review, consideration and final action. The board shall not grant a request for increase at this phase if:

(a) The requested increase is to pay for an expansion of the scope of the work that is beyond the work required to accomplish the intent of the project as approved at the design phase.

(b) The granting of the request will obligate funding beyond the level acceptable to the board or will in any way adversely affect authorized funds previously approved by the board.

(2) Request for increases at bid opening shall not exceed ten percent of the engineers estimate submitted to the board at the time the construction phase was approved multiplied by the account matching ratio. Requests for increases at this phase will take priority over design and construction phase approvals. Such requests shall be reviewed by the director and will not be approved if:

(a) The requested increase is to pay for an expansion of the authorized scope of the work; or

(b) If the request is not substantiated and the director determines that the increased funds should have been anticipated by the local agency at the construction phase of the project.

(3) Requests for increases in funds submitted to the board at contract completion shall not exceed the account matching ratio multiplied by the sum of ten percent of the original contract amount up to one million dollars and five percent of the amount in excess of one million dollars. Requests for increases at this phase will take priority over design and construction phase approvals. Such requests shall be reviewed by the director and will not be approved if:

(a) The requested increase is to pay for an expansion of the authorized scope of the work; or

(b) If the request is not substantiated and the director determines that the increased funds should have been anticipated

by the local agency at the construction approval phase of the project.

(4) If the director or the board, as the case may be, does not approve the request of a local agency for an increase, the administering agency may:

(a) Proceed with the project, paying for any additional costs with local or other funds; or

(b) Withdraw the request for participation; or, if applicable

(c) Within the authorized amount, and subject to approval by the director, reduce the scope of the project while retaining a usable and functional improvement.

NEW SECTION

WAC 479-05-250 Review of delayed projects. The director may contact, in writing, each local agency administering a transportation improvement board-funded project that appears to be delayed when evaluated in relation to the proposed schedule for project development. If the agency does not respond to the inquiry of the director within twenty days explaining whether the project is delayed it shall be placed before the board as a candidate for cancellation as a delayed project.

The written response from the administering agency shall be reviewed to determine if the reason or reasons for the project delay is acceptable. The administrative agency will be advised by certified mail by the director if the delay is for an unacceptable reason. The letter from the director shall advise the local agency that:

(1) The project is delayed for an unacceptable reason;

(2) The local agency has a period of three months from the date of the director's letter to resolve the reason or reasons for delay and to provide evidence to the board that the problems have been resolved. Such evidence shall, if requested by the director, include a time schedule for project development which sets forth project development dates in sufficient detail to permit monthly monitoring of project progress.

(3) If the reason or reasons for delay are not resolved within the specified time period, the project may be placed before the board as a candidate for cancellation.

The administering agency for any project placed before the board as a candidate for cancellation shall be requested to appear before the board to explain the status of the project.

NEW SECTION

WAC 479-05-260 Recovery of board funds on canceled projects. Project development costs incurred by an agency on behalf of an authorized project that is subsequently canceled at the request of the agency, or by the board, shall be eligible for participation by board funds if, in the opinion of the board, the agency has pursued the project's development in good faith with a reasonable expectation of completing the project: *Provided*, That in all projects where the total project cost exceeds the amount of authorized board funds plus local matching funds, board funds shall be recovered in sufficient amount that the percentage of nonrecovered payments in relation to total project costs to the date of cancellation or withdrawal shall not exceed the percentage determined by

dividing the total authorized amount of board funds by the most recently determined total project cost.

All board funds previously paid to an agency on behalf of an authorized project as a result of falsification, negligence, chicanery or deliberate misrepresentation on the part of the agency, in the opinion of the board, shall be repaid to the appropriate account, or a repayment agreement that is acceptable to the board shall be executed between the local agency and the board, within 90 days following cancellation of the specified project by request of the agency or by the board.

NEW SECTION

WAC 479-05-270 Identification and consideration of surplus funds on authorized board projects. When requested by the director, by certified mail, each project authorized for financial assistance from the local agency shall review their project to identify probable reductions in project cost in relation to the previously authorized amount of funds. The agency shall review the project to:

(1) Close the project by submitting a final request for payment and summary cost documents if all work has been completed; or

(2) Advise the board of total costs to date, remaining costs necessary to complete the project, and the amount of estimated surplus funds, if any, on the project.

Each response shall be reviewed by the director to determine whether the explanations appear reasonable and whether the agency appears to be pursuing the completion of the project at a reasonable rate. Any project where the administering agency does not appear to be pursuing the project to completion at a reasonable rate, or fails to submit a final request for payment within six months from the date that all work appears to be complete, shall be referred by the director to the board for appropriate action.

Each agency administering a project that is not considered to be developing to completion at a reasonable rate, or fails to submit a final request for payment within six months when all physical work appears to be completed, shall be notified by the director by certified mail that the project is being scheduled for a hearing before the board at a specified time and place. The agency shall be requested to provide suitable representation to such board meeting to explain the status of the authorized project, the reasons why the project has not been completed and finalized out, the amount of board funds estimated to be required to complete the project, and the resulting surplus in relation to previously authorized board funds.

NEW SECTION

WAC 479-05-280 Funding shortfall. If it is determined by the transportation improvement board that the funding in any of the accounts will be insufficient to meet the obligations identified for the selected projects, the transportation improvement board shall have discretion as to the remedial action it will take.

NEW SECTION

WAC 479-05-290 Over-programming of funds. The transportation improvement board shall select projects based on its estimate of revenues and expenditures. The transportation improvement board may utilize the principle of over-programming when selecting projects, the degree of such over-programming to be at the discretion of the transportation improvement board for each account and application period.

Chapter 479-12 WAC

SUBMISSION OF PROPOSED URBAN ARTERIAL TRUST ACCOUNT PROJECTS TO TRANSPORTATION IMPROVEMENT BOARD

AMENDATORY SECTION (Amending WSR 95-04-005 [95-04-072], filed 1/30/95, effective 3/2/95)

WAC 479-12-005 Purpose and authority. RCW 47.26.160 provides that the transportation improvement board shall adopt reasonable rules necessary to implement the urban arterial trust account. ~~((program. The intent of the urban arterial trust account program is to improve mobility and safety while supporting an environment essential to the quality of life of the citizens of Washington state))~~.

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

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

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 96-04-015, filed 1/29/96, effective 2/29/96)

WAC 479-12-008 Definitions. For purposes of implementing the requirements of RCW 47.26.185 relative to the urban arterial trust account, the following definitions shall apply:

- (1) UATA - this is the abbreviation for the urban arterial trust account.
- (2) AIP - Arterial improvement program.
- (3) SCP - Small city program.
- (4) CHAP - City hardship assistance program.
- (5) PSMP - Pedestrian safety and mobility program.

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

AMENDATORY SECTION (Amending WSR 95-04-072, filed 1/30/95, effective 3/2/95)

WAC 479-12-010 ~~((Data to be submitted on proposed projects))~~. **Programs funded from the urban arterial trust account.** ~~((When requested by the board, applications for proposed projects shall be submitted to the board by eligi-~~

~~ble cities and counties seeking allocation of funds. The application form will be provided by the board)) Funds from the urban arterial trust account shall fund the arterial improvement program, the small city program, the city hardship assistance programs, and the pedestrian safety and mobility program.~~

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

NEW SECTION

WAC 479-12-100 Intent of the arterial improvement program. The intent of the arterial improvement program is to improve mobility and safety while supporting an environment essential to the quality of life of the citizens of Washington state. Eligible agencies are counties with urban areas, cities and towns within an urban area, and cities with a population of five thousand or greater.

NEW SECTION

WAC 479-12-110 Priority criteria for arterial improvement program projects. The agencies transportation improvement board shall evaluate their the proposed urban arterial trust account arterial improvement projects by utilizing the following criteria to prioritize projects.

- (1) Safety, improvements to reduce accidents;
- (2) Mobility, improvements to increase mobility;
- (3) Structural condition of the roadway, improvements to the roadway surface;
- (4) Roadway widths, improvements to widen standard lanes and shoulders and adding sidewalks;
- (5) Multimodal, improvements for a variety of transportation modes such as transit, bicycle, trucks, etc;
- (6) Project cost, improvements with lower cost in relationship to traffic and length;
- (7) Other, consideration given to agencies that show initiative to improve their local transportation system in various ways.

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

NEW SECTION

WAC 479-12-120 Establishing regions for arterial improvement program. For the purpose of apportioning arterial improvement program funds, the counties of the state are grouped within five regions of the state as follows:

- (1) Northeast region shall include eligible agencies within the counties of Adams, Chelan, Douglas, Ferry, Grant, Lincoln, Okanogan, Pend Oreille, Spokane, Stevens, and Whitman.
- (2) Southeast region shall include eligible agencies within the counties of Asotin, Benton, Columbia, Franklin, Garfield, Kittitas, Klickitat, Walla Walla, and Yakima.
- (3) Puget Sound region shall include eligible agencies within the counties of King, Pierce, and Snohomish.

(4) Northwest region shall include eligible agencies within the counties of Clallam, Island, Jefferson, Kitsap, San Juan, Skagit, and Whatcom.

(5) Southwest shall include eligible agencies within the counties of Clark, Cowlitz, Grays Harbor, Lewis, Mason, Pacific, Skamania, Thurston, and Wahkiakum.

NEW SECTION

WAC 479-12-130 Apportionment of funds to arterial improvement program regions. Beginning 1995, every four years, the board shall determine the distribution formula to apportion unobligated arterial trust account funds to each urban region. The distribution formula shall be defined in the following manner:

- (1) One-third of the ratio shall be the population the urban areas of each region bears to the total population of all urban areas of the state as last determined by the office of financial management;
- (2) One-third of the ratio shall be the vehicle to mile ratio traveled on the classified arterial system within the urban areas of each region, compared to the total vehicle to mile ratio traveled on all classified urban arterial systems;
- (3) One-third of the ratio shall be an actual or historical indicator of needs within the region as determined by the Board.

The distribution of funds within each region shall be administered so as to permit complete arterial improvement program projects in each arterial classification to be authorized and funded.

NEW SECTION

WAC 479-12-140 Eligible arterial improvement program projects. Eligible projects are:

- (1) Improvements on federally classified arterials,
 - (a) Improvement involving state highway and transit when they are part of a joint project with eligible agencies,
 - (b) Within the Urban Growth Area in counties which are in full compliance with Washington State's Growth Management Act,
 - (c) Within the Federal Aid Urban Boundary for those counties that are in the process, but have not formally adopted Urban Growth Areas, or
 - (d) Projects which have definite urban characteristics as defined by local comprehensive plans.

NEW SECTION

WAC 479-12-150 Matching ratios for arterial improvement program projects. Urban arterial trust account funds for local agency arterial projects shall be matched in accordance with the following scheduled percentage of the total project cost.

City with a population less than 10,000 or a county with a population less than 70,000 - 10% match

City with a population from 10,000 to 14,999 or county with a population from 70,000 to 210,000 - 15% match

City with a population from 15,000 and up or a county with a population over 210,000 - 20% match.

NEW SECTION**WAC 479-12-200 Intent of the small city program.**

The intent of the small city program is to preserve and improve the roadway system in a manner that is consistent with local needs. An eligible agency is a city or town that has a population less than 5,000.

NEW SECTION

WAC 479-12-210 Priority criteria for small city program projects. The board will use the following criteria to prioritize proposed small city account projects:

- (1) Structural ability to carry loads (pavement condition);
- (2) Roadway width;
- (3) Safety; and
- (4) Other factors: Criteria deemed appropriate by the board on a case-by-case basis.

NEW SECTION

WAC 479-12-220 Establishing regions for small city program. For the purpose of apportioning urban arterial trust account funds to the small city program, the counties of the state are grouped within three regions as follows:

- (1) East region shall include eligible agencies within the counties of Adams, Asotin, Benton, Chelan, Columbia, Douglas, Ferry, Franklin, Garfield, Grant, Kittitas, Klickitat, Lincoln, Okanogan, Pend Oreille, Spokane, Stevens, Walla Walla, Whitman, and Yakima.
- (2) Puget Sound region shall include eligible agencies within the counties of King, Pierce, and Snohomish.
- (3) West region shall include eligible agencies within the counties of Clallam, Clark, Cowlitz, Grays Harbor, Island, Jefferson, Kitsap, Lewis, Mason, Pacific, San Juan, Skagit, Skamania, Thurston, Wahkiakum, and Whatcom.

NEW SECTION

WAC 479-12-230 Apportionment of funds to small city program regions. Of the funds obligated to the small city program, the amount apportioned to projects in a region will be within plus or minus five percent of the ratio which the population of cities under five thousand in a region bears to the state-wide population for cities under five thousand as last determined by the office of financial management.

NEW SECTION

WAC 479-12-240 Eligible small city program projects. Incorporated areas outside federal designated urban areas shall be required to identify their streets as either arterials or local access. An arterial shall be defined by at least one of the following standards:

- (1) Serves as the logical extension of a county arterial into the corporate boundary; or
- (2) Serves as a route connecting local (traffic) generators such as schools, medical facilities, social centers, recreational

areas, commercial centers, or industrial sites within the corporate boundary; or

(3) Acts as a bypass or truck route to relieve the central core area.

Streets failing to qualify under these standards for arterials are not eligible for small city account funds.

NEW SECTION

WAC 479-12-250 Matching requirements for small city program projects. There will be no local agency matching requirements for cities with a population of five hundred or less. Those agencies with a population over five hundred must provide a minimum local match of five percent.

NEW SECTION

WAC 479-12-260 Increases in small city program projects. An increase in the amount of small city program funds for a project may be requested in accordance with the provisions of WAC 479-05-250, except, where in the board's judgment at project completion, ten percent of unexpected project costs would create an undue financial burden on the agency, the board may elect to fund all or a portion of the unexpected cost.

NEW SECTION

WAC 479-12-300 Intent of the city hardship assistance program. RCW 47.26.164, provides that the transportation improvement board shall adopt reasonable rules necessary to implement the city hardship assistance program as recommended by the road jurisdiction study. An eligible project is an improvement on a section of roadway that meets the requirements of RCW 47.26.164 and the requirements specified in this chapter. A listing of the roadways eligible for city hardship assistance program funding is included in WAC 479-12-440.

NEW SECTION

WAC 479-12-310 Priority criteria for city hardship assistance program projects. The board will use the following criteria to prioritize proposed city hardship assistance program projects:

- (1) Structural ability to carry loads (pavement condition),
- (2) Deterioration rate for the roadway,
- (3) Safety, and
- (4) Other factors:
 - (a) Relationship to other local agency projects,
 - (b) Extent of previous participation in the program, and
 - (c) Other criteria deemed appropriate by the board on a case-by-case basis.

NEW SECTION

WAC 479-12-340 Eligible city hardship assistance program agencies or streets. Agencies eligible for city hardship assistance program funds are::

(1) Only those cities with a net gain in cost responsibility due to jurisdictional transfers in RCW 47.26.164, which have a population of fifteen thousand or less may participate;

(2) The board is authorized to allocate funds from the city hardship assistance program to cities with a population under twenty thousand to offset extraordinary costs associated with the transfer of roadways other than pursuant to RCW 47.26.164, that occur after January 1, 1991.

The following cities or towns are eligible for city hardship assistance program funding: Clarkston, Old SR 128, 0.13 Miles, SR 12 to Poplar Street; Kelso, Old SR 431, 0.90 Miles, SR 5 to Cowlitz Way; Kelso, Old I-5, 1.20 Miles, north end of Coweeman River Bridge to 2,480 feet south of Haussler Road and those sections of Kelso Drive, Minor Road, Grade Street and Kelso Avenue referred to in the memorandum of understanding for this turnback, approximately 2.7 miles; Leavenworth, Old SR 209, 0.11 Miles, SR 2 to 260 feet north of Fir Street; Milton, Old SR 514, 2.46 Miles, Junction SR 99 to 50 feet west of SR 161; Napavine, Old SR 603, 0.79 Miles, 810 feet southwest of Lincoln Street to 8th Avenue West; Pomeroy, Old SR 128, 0.72 Miles, SR 12 to 2,690 feet south of Arlington Avenue; Skykomish, Old SR 2 Spur, 0.16 Miles, SR 2 to Railroad Avenue; Stanwood, Old SR 530, 1.59 Miles, 790 feet north of 86th Drive NW to 740 feet northwest of 72nd Avenue NW; Toledo, Old SR 505, 0.12 Miles, Fifth Street to 210 feet northwest of Sixth Street; Toppenish, Old SR 220, 0.27 Miles, Junction SR 22 to 630 feet east of Linden Road; Vader, Old SR 411, 0.25 Miles, 520 feet south of SR 506 to 1,840 feet south of SR 506; Washougal, Old SR 140, 0.70 Miles, SR 14 to west end of Washougal River Bridge; Winlock, Old SR 603, 0.61 Miles, Walnut Street to 160 feet south of Olequa Creek Bridge; and other cities under 20,000 population could become eligible for turnbacks approved after January 1, 1991.

NEW SECTION

WAC 479-12-350 Matching ratios for city hardship assistance program projects. There will be no local agency matching requirements for city hardship assistance program funded projects.

NEW SECTION

WAC 479-12-360 Allowable city hardship assistance program activities. Unless otherwise approved by the board, city hardship assistance program funding shall be limited to the direct and attributable indirect costs associated with rehabilitation activities on the eligible project. City hardship assistance program funds can not be used for landscaping. City hardship assistance program funds will not participate in the cost involved with adding lanes or turn lanes.

NEW SECTION

WAC 479-12-370 City hardship assistance program participation with other funds. City hardship assistance program funds may be used to fund rehabilitation work associated with the widening of the section of roadway but participation will be limited to the minimum standard or existing

lane and shoulder widths. City hardship assistance program funds will be considered local agency funds if they are used in other board funded projects.

NEW SECTION

WAC 479-12-400 Intent of Pedestrian Safety and Mobility program. The intent of this program is to enhance and promote pedestrian safety and mobility as a viable transportation choice by providing funding for pedestrian projects that provide access and address system continuity and connectivity of pedestrian facilities.

NEW SECTION

WAC 479-12-410 Priority criteria for pedestrian safety and mobility projects. The board will use the following criteria to prioritize proposed urban pedestrian safety and mobility projects:

- (1) Pedestrian safety,
- (2) Pedestrian movements,
- (3) Pedestrian convenience,
- (4) Neighborhood impact, and
- (5) Project cost.

The board will use the following criteria to prioritize proposed small city pedestrian safety and mobility projects:

- (1) Pedestrian safety,
- (2) Pedestrian movements,
- (3) Economic development, and
- (4) Funding partners.

NEW SECTION

WAC 479-12-420 Establishing regions for the pedestrian safety and mobility program. For the purpose of apportioning urban arterial trust account funds to the pedestrian safety and mobility program, the counties of the state are grouped within three regions as follows:

(1) East region shall include eligible agencies within the counties of Adams, Asotin, Benton, Chelan, Columbia, Douglas, Ferry, Franklin, Garfield, Grant, Kittitas, Klickitat, Lincoln, Okanogan, Pend Oreille, Spokane, Stevens, Walla Walla, Whitman, and Yakima.

(2) Puget Sound region shall include eligible agencies within the counties of King, Pierce, and Snohomish.

(3) West region shall include eligible agencies within the counties of Clallam, Clark, Cowlitz, Grays Harbor, Island, Jefferson, Kitsap, Lewis, Mason, Pacific, San Juan, Skagit, Skamania, Thurston, Wahkiakum, and Whatcom.

NEW SECTION

WAC 479-12-430 Apportionment of funds to pedestrian safety and mobility program regions. Of the funds obligated to pedestrian safety and mobility projects within urban areas, forty percent will be allocated to projects on a state-wide basis and then, at least fifteen percent will be allocated to projects in the East region, at least fifteen percent to projects in the West region, and approximately thirty percent to projects in the Puget Sound region.

Of the funds obligated to pedestrian safety and mobility projects within small cities, the amount apportioned to projects in a region will be within plus or minus five percent of the ratio which the population of cities under five thousand in a region bears to the state-wide population for cities under five thousand as last determined by the office of financial management.

NEW SECTION

WAC 479-12-440 Eligible pedestrian safety and mobility projects. Minimum project requirements are:

(1) An urban pedestrian safety and mobility project must be on a pedestrian route with linkages to a functionally classified route. Small city pedestrian safety and mobility projects must be on or related to a street on the board approved arterial system.

(2) Primary purpose of the project is transportation.

(3) Urban agency matching funds cannot be less than twenty-percent.

(4) For small city pedestrian safety and mobility project there will be no local agency matching requirements for cities with a population of five hundred or less. For those agencies with a population over five hundred, but less than five thousand, there will be a minimum local match requirement of five-percent.

(5) This program will not participate in the cost of right-of-way acquisition.

(6) Maximum board participation for a project is specified by the board.

(7) No increases are given on urban projects, and

(8) All projects must be completed within two years of board selection.

REPEALER

The following section of the Washington Administrative Code have been repealed:

479-12-020	Time and place for submission of proposed urban arterial trust account projects.
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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.

Chapter 479-13 WAC

SUBMISSION OF SIX-YEAR PLANS TO TRANSPORTATION IMPROVEMENT BOARD

REPEALER

The following sections of the Washington State Administrative Code are repealed:

479-13-010	Six-year transportation programs for urban areas.
479-13-011	Priority criteria for urban arterial trust account projects.

479-13-025	Six-year financial plan.
479-13-035	Value engineering study requirements.
479-13-070	Procedures for project approval.

Chapter 479-14 WAC

SUBMISSION OF PROPOSED TRANSPORTATION IMPROVEMENT ACCOUNT PROJECTS TO TRANSPORTATION IMPROVEMENT BOARD

NEW SECTION

WAC 479-14-005 Purpose and authority. RCW 47.26.084 and 47.26.086 provides that the transportation improvement board shall adopt reasonable rules necessary to implement the transportation improvement account.

NEW SECTION

WAC 479-14-008 Definitions. For purposes of implementing the requirements of RCW 47.26.185 relative to the transportation improvement account, the following definitions shall apply:

- (1) TIA - Transportation Improvement Account.
- (2) TPP - Transportation Partnership Program

NEW SECTION

WAC 479-14-010 Programs funded from the transportation improvement account. Funds from the transportation improvement account shall fund the transportation partnership program.

NEW SECTION

WAC 479-14-100 Intent of the transportation partnership program. The intent of the program is to improve mobility of people and goods in Washington state by supporting economic development and environmentally responsive solutions to our state-wide transportation system needs. Eligible agencies are counties that have an urban area, all cities with a population of five thousand or more, and transportation benefit districts.

NEW SECTION

WAC 479-14-110 Priority criteria for the transportation partnership program. The following criteria shall be utilized by the transportation improvement board to prioritize projects:

- (1) The percentage of agency(ies) and private matching funds.
- (2) Multimodal solutions for projects including but not limited to transit, high occupancy vehicle (HOV) lanes, ferry, high capacity transit/rail, or intermodal facility.
- (3) Economic development is encouraged.
- (4) Multiagency involvement in projects.

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(5) Mobility enhancement by betterment of service level.

(6) Improvements necessitated by existing or foreseeable congestion or safety problems due to economic development or growth.

(7) Other considerations demonstrating improvement of the local transportation system such as traffic demand management or local transportation funding.

NEW SECTION

WAC 479-14-120 Establishing regions for transportation partnership program. For the purpose of apportioning TIA funds to the transportation partnership program, the counties of the state are grouped within three regions of the state as follows:

(1) East region shall include eligible agencies within the counties of Adams, Asotin, Benton, Chelan, Columbia, Douglas, Ferry, Franklin, Garfield, Grant, Kittitas, Klickitat, Lincoln, Okanogan, Pend Oreille, Spokane, Stevens, Walla Walla, Whitman, and Yakima.

(2) Puget Sound region shall include eligible agencies within the counties of King, Pierce, and Snohomish.

(3) West region shall include eligible agencies within the counties of Clallam, Clark, Cowlitz, Grays Harbor, Island, Jefferson, Kitsap, Lewis, Mason, Pacific, San Juan, Skagit, Skamania, Thurston, Wahkiakum, and Whatcom.

NEW SECTION

WAC 479-14-130 Apportionment of funds to transportation partnership program regions. Of the funds in the program, forty percent will be allocated to projects on a state-wide basis and then, at least fifteen percent will be allocated to projects in the East region, at least fifteen percent to projects in the West region, and approximately thirty percent to projects in the Puget Sound region.

NEW SECTION

WAC 479-14-140 Eligible transportation partnership program projects. Eligible projects are:

(1) Improvements on federally classified arterials,

(a) Improvement involving state highway and transit when they are part of a joint project with eligible agencies,

(b) Within the Urban Growth Area in counties which are in full compliance with Washington State's Growth Management Act,

(c) Within the Federal Aid Urban Boundary for those counties that are in the process, but have not formally adopted Urban Growth Areas, or

(d) Projects which have definite urban characteristics as defined by local comprehensive plans.

NEW SECTION

WAC 479-14-150 Designation of lead agency for transportation partnership program projects. The agencies involved in a multi-agency transportation partnership program project shall designate one agency as the lead

agency. The lead agency must be a city, county, or transportation benefit district.

NEW SECTION

WAC 479-14-160 Verification of coordination with planning authority for transportation partnership program projects. All applications for transportation partnership program funding shall be consistent with the regional transportation plan. In areas of the state where there is no regional transportation planning authority, a letter of verification shall be signed by the chair of the lead agency legislative authority.

NEW SECTION

WAC 479-14-170 Planning requirements for multi-agency transportation partnership program projects. The board requires joint planning for all transportation partnership program funded multi-agency projects. The lead agency shall submit documentation to the board stating that the approving authority of each agency involved in the project has indicated support for the project. In the case of projects that stop at or near a corporate boundary or could affect other transportation agencies facilities or programs, a copy of a letter requesting review by other affected agencies shall accompany the project application.

NEW SECTION

WAC 479-14-180 Local/private matching funds on transportation partnership program projects. Transportation partnership program funds for urban program projects authorized by the board shall be matched by an amount not less than twenty percent of the total cost of the transportation project. Matching funds will be considered to be all contributions other than those provided by the board.

NEW SECTION

WAC 479-14-190 Certification of local/private matching funds for transportation partnership program projects. Within one year after board approval of a prospectus for funding and before any transportation partnership program funds are committed to the project, each agency with an interest in the transportation partnership program project shall provide written certification to the board of the pledged percentage of local and/or private funding. Funds allocated to an applicant that does not certify funding within one year after approval may be reallocated by the board.

Chapter 479-15 WAC

SUBMISSION OF PROPOSED PUBLIC TRANSPORTATION SYSTEMS ACCOUNT PROJECTS TO TRANSPORTATION IMPROVEMENT BOARD

NEW SECTION

WAC 479-15-005 Purpose and authority. RCW 47.66.010 provides that the transportation improvement board shall adopt reasonable rules necessary to implement the public transportation systems account.

NEW SECTION

WAC 479-15-008 Definitions. For purposes of implementing the requirements of RCW 47.66.010 relative to the public transportation systems account, the following definitions shall apply:

- (1) PTSA - Public Transportation Systems Account.
- (2) PTSP - Public Transportation Systems Program.

NEW SECTION

WAC 479-15-010 Programs funded from the public transportation systems account. Funds from the public transportation systems account shall fund the public transportation systems program.

NEW SECTION

WAC 479-15-100 Intent of the public transportation systems program. The intent of the program is to ensure that viable multimodal programs are available throughout Washington State. All public transit agencies are eligible to apply for public transportation systems program funds.

NEW SECTION

WAC 479-15-110 Priority criteria for public transportation systems program. The following criteria shall be utilized by the transportation improvement board to prioritize projects:

- (1) Multimodal solutions,
- (2) Mobility enhancements,
- (3) Customer satisfaction/safety/security,
- (4) Financial,
- (5) Economic development,
- (6) Environmental responsive solutions, and
- (7) Innovative solutions.

NEW SECTION

WAC 479-15-120 Establishing regions for public transportation systems program. For the purpose of apportioning Public Transportation Systems funds to the public transportation systems program, the counties of the state are grouped within two regions of the state as follows:

The Central Puget Sound region shall include eligible agencies within the counties of King, Kitsap, Pierce, and Snohomish.

The remaining region shall include eligible agencies within the counties of Adams, Asotin, Benton, Chelan, Clallam, Clark, Columbia, Cowlitz, Douglas, Ferry, Franklin, Garfield, Grant, Grays Harbor, Island, Jefferson, Kittitas, Klickitat, Lewis, Lincoln, Mason, Okanogan, Pacific, Pend Oreille, San Juan, Skagit, Skamania, Spokane, Stevens, Thurston, Walla Walla, Wahkiakum, Whatcom, Whitman, and Yakima,

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

NEW SECTION

WAC 479-15-130 Apportionment of funds to public transportation systems program regions. Of the funds obligated to the Public Transportation Systems program, the amount apportioned to projects in a region will be based on the revenue provided by RCW 82.44.150.

NEW SECTION

WAC 479-15-140 Eligible public transportation systems program projects. Projects eligible for funding from the public transportation systems program shall be limited to public transportation projects for:

- (1) Planning,
- (2) Development of capital projects,
- (3) Development of high capacity transportation systems as defined in RCW 81.104.015,
- (4) Development of high occupancy vehicle lanes and related facilities as defined in RCW 81.100.020,
- (5) Public transportation system contributions required to fund projects under federal programs and those approved by the transportation improvement board, and
- (6) Commute Trip Reduction tax credits.

Chapter 479-16 WAC

REQUIREMENTS FOR URBAN ARTERIAL PROJECT DEVELOPMENT

REPEALER

The following sections of the Washington Administrative Code are repealed:

- 479-16-010 Methods of construction.
- 479-16-015 Registered engineer in charge.
- 479-16-016 Certification of completed work.
- 479-16-020 Standard specifications.
- 479-16-030 Utility and railroad adjustment and relocations.

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- 479-16-035 Undergrounding utilities.
- 479-16-040 Traffic control devices.
- 479-16-045 Project plantings.
- 479-16-050 Acquisition of rights of way.
- 479-16-060 Design standards for transportation improvement board projects.
- 479-16-080 Apportionment of urban arterial trust account fund to regions.
- 479-16-085 Funding for pedestrian facilities.
- 479-16-098 Inclusion of bicycle facilities in transportation improvement board projects.

**Chapter 479-17 WAC
STATEWIDE COMPETITIVE AND ENHANCEMENT
PROGRAMS**

NEW SECTION

WAC 479-17-100 Transportation Equity Act for the 21st Century or its successor acts, surface transportation program, state-wide competitive program account—Eligibility. (1) Eligibility to apply shall be limited to public agencies.

(2) Programs and projects eligible for funding shall be limited to the following purposes:

- (a) Planning;
- (b) Preliminary engineering;
- (c) Right of way acquisition;
- (d) Construction; and
- (e) Capital equipment acquisition.

(3) Projects eligible for funding under the account shall be limited to applications that directly benefit Washington state.

(4) All Projects must be regionally significant.

NEW SECTION

WAC 479-17-200 Transportation Equity Act for the 21st Century or its successor acts, state-wide competitive program account—Criteria. (1) Projects selected for funding from the state-wide competitive program account shall be consistent with the following criteria without regard to geographic distribution:

- (a) Local, regional, and state transportation plans;
- (b) Local transit development plans; and
- (c) Local comprehensive land use plans.

(2) The following criteria shall be considered:

(a) Objectives of the Growth Management Act, the High Capacity Transportation Act, the Commute Trip Reduction Act, transportation demand management programs, federal and state air quality requirements, and federal Americans

with Disabilities Act and related state accessibility requirements; and

(b) Energy efficiency issues, freight and goods movement, economic development, rural isolation, fish passage, flood mitigation, the leveraging of other funds including funds administered by the transportation improvement board, and safety and security issues.

(3) In addition to the criteria identified in subsections (1) and (2) of this section, the transportation improvement board may choose to identify additional criteria for program and project selection for the state-wide competitive program. Such criteria shall be subject to public meetings as required by federal law, and shall be identified in the application guidelines.

(4) The transportation improvement board shall prepare application forms and guidelines to assist eligible applicants and ensure their distribution to all eligible applicants no later than thirty days prior to the date on which the applications must be submitted.

(5) The Transportation Improvement Board shall select projects for the statewide competitive program and forward the recommended list to the legislature, Governor's Office, and Washington state department of transportation by February 1st of each year.

NEW SECTION

WAC 479-17-300 Transportation Equity Act for the 21st Century or its successor acts, enhancement program account - Eligibility. (1) Eligibility to apply shall be limited to public agencies.

(2) Programs and projects eligible for funding shall be limited to the following purposes:

- (a) Provision of bicycle and pedestrian facilities;
- (b) Acquisition of scenic easement;
- (c) Scenic or historic highway programs (including tourist and welcome center facilities);
- (d) Landscaping and other scenic beautification;
- (e) Historic preservation;
- (f) Rehabilitation and operation of historic transportation buildings, structures or facilities;
- (g) Preservation of abandoned railway corridors;
- (h) Control and removal of outdoor advertising;
- (i) Archaeological planning and research;
- (j) Mitigation of water pollution due to highway runoff or reduce vehicle-caused wildlife mortality while maintaining habitat connectivity;
- (k) Establishment of transportation museums.

(3) Projects eligible for funding under the account shall be limited to applications that directly benefit Washington State.

NEW SECTION

WAC 479-17-400 Transportation Equity Act for the 21st Century or its successor acts, enhancement program account - Criteria. (1) Projects selected for funding from the enhancement program account shall be consistent with the following criteria:

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- (a) Local, regional and state transportation plans;
- (b) Local comprehensive land use plans.

(2) The following procedure shall be considered:

(a) Project applications shall be reviewed and regionally prioritized by the regional transportation planning organizations or metropolitan planning organizations and shall be forwarded to the transportation improvement board for selection.

(b) The Washington state department of transportation shall prepare application forms and guidelines to assist eligible applicants and ensure their distribution to all eligible applicants no later than thirty days prior to the date on which the applications must be submitted.

(c) The transportation improvement board shall establish priorities to fund regionally significant projects by allocating 25% of the funds to projects on a statewide basis and the remaining funds based on population distribution to the regional transportation planning organizations or metropolitan planning organizations.

(d) The transportation improvement board shall select projects for the enhancement program and forward the recommended list to the legislature, governor's office and Washington state department of transportation by February 1st of each year.

Chapter 479-20 WAC

FINANCIAL AND PAYMENT REQUIREMENTS

REPEALER

The following sections of the Washington Administrative Code are repealed:

- 479-20-007 Matching ratios for urban arterial trust account funds.
- 479-20-010 Reimbursable costs.
- 479-20-011 Reimbursable costs for engineering.
- 479-20-013 Direct costs.
- 479-20-016 Indirect costs.
- 479-20-020 Partial or progress payments for project costs.
- 479-20-025 Record requirements.
- 479-20-027 Audits of urban arterial project records.
- 479-20-031 Expenditure schedule of urban arterial trust account funds.
- 479-20-037 Procedure to request increase in board funds.
- 479-20-086 Review of delayed projects.
- 479-20-089 Recovery of urban arterial trust funds on canceled projects.

479-20-095

Identification and consideration of surplus funds on authorized urban arterial trust account projects.

Chapter 479-112 WAC

SUBMISSION OF PROPOSED TRANSPORTATION IMPROVEMENT ACCOUNT (TIA) PROJECTS TO TRANSPORTATION IMPROVEMENT BOARD

REPEALER

The following sections of the Washington Administrative Code are repealed:

- 479-112-001 Purpose and authority.
- 479-112-003 Transportation improvement account program intent.
- 479-112-0055 Definitions.
- 479-112-007 Designation of lead agency for transportation improvement account projects.
- 479-112-008 Verification of coordination with planning authority for transportation improvement account projects.
- 479-112-009 Planning requirements for multiagency transportation improvement account projects.
- 479-112-010 Application for transportation improvement account projects.
- 479-112-017 Local/private matching funds on transportation improvement account projects.
- 479-112-018 Certification of local/private matching funds for transportation improvement account projects.
- 479-112-020 Time and place for submission of proposed TIA projects.

Chapter 479-310 WAC

CITY HARDSHIP ASSISTANCE PROGRAM RULES AND REGULATIONS

REPEALER

The following sections of the Washington Administrative Code are repealed:

- 479-310-010 Purpose and authority.

EMERGENCY

- 479-310-050 Adoption of rules.
- 479-310-100 Funds for the city hardship assistance program.
- 479-310-150 Definitions.
- 479-310-200 Administration costs.

**Chapter 479-312 WAC
SUBMISSION OF CITY HARDSHIP ASSISTANCE
PROGRAM PROJECTS**

REPEALER

The following sections of the Washington Administrative Code are repealed:

- 479-312-010 Eligible agencies and streets.
- 479-312-050 Population requirement for eligible agencies.
- 479-312-100 Data to be submitted for CHAP project application.
- 479-312-150 Six-year transportation plan requirements.
- 479-312-200 Other applicable federal, state and local regulations.
- 479-312-250 Process and selection criteria for priority array.
- 479-312-300 Matching requirements for city hardship assistance program projects.

**Chapter 479-316 WAC
ALLOWABLE ACTIVITIES FOR CHAP PROJECTS**

REPEALER

The following sections of the Washington Administrative Code are repealed:

- 479-316-010 Allowable activities.
- 479-316-050 Minimum roadway widths.
- 479-316-100 Participation with other funds.
- 479-316-200 Record requirements.
- 479-316-250 Audits of CHAP projects.
- 479-316-300 Project plantings on CHAP projects.

**Chapter 479-320 WAC
FINANCIAL AND PAYMENT REQUIREMENTS FOR
CITY HARDSHIP ASSISTANCE PROGRAM
PROJECTS**

REPEALER

The following sections of the Washington Administrative Code are repealed:

- 479-320-050 Eligible project costs.
- 479-320-100 Eligible costs for engineering.
- 479-320-150 Procedure for requesting an increase in authorized amount of city hardship assistance program funds.
- 479-320-200 Partial or progress payments for city hardship assistance program costs.

**Chapter 479-410 WAC
SMALL CITY ACCOUNT PROGRAM RULES AND
REGULATIONS**

REPEALER

The following sections of the Washington Administrative Code are repealed:

- 479-410-010 Purpose and authority.
- 479-410-020 Small city account program intent.
- 479-410-100 Funds for the small city account program.
- 479-410-150 Definitions.
- 479-410-160 Classification standards for arterials in small cities.
- 479-410-170 Establishing regions for small city account program.
- 479-410-180 Allocation of small city account funds to regions.
- 479-410-200 Administration costs.

EMERGENCY

**Chapter 479-412 WAC
SUBMISSION OF SMALL CITY ACCOUNT
PROJECTS**

REPEALER

The following sections of the Washington Administrative Code are repealed:

- 479-412-020 Time and place for submission of proposed small city account projects.
- 479-412-100 Application for small city account projects.
- 479-412-150 Six-year transportation plan requirements for small city account projects.
- 479-412-200 Other applicable federal, state and local regulations.
- 479-412-250 Priority criteria for small city account projects.
- 479-412-300 Matching requirements for small city account projects.
- 479-412-310 Order of construction funding of small city account projects.

**Chapter 479-416
WAC REQUIREMENTS FOR SMALL CITY
PROJECT DEVELOPMENT**

REPEALER

The following sections of the Washington Administrative Code are repealed:

- 479-416-010 Methods of construction for small city account projects.
- 479-416-015 Registered engineer in charge for small city account projects.
- 479-416-016 Certification of completed work for small city account projects.
- 479-416-018 Design standards for small city account program projects.
- 479-416-020 Standard specifications for small city account projects.
- 479-416-030 Utility and railroad adjustments and relocations for small city account projects.

- 479-416-035 Undergrounding utilities on small city account projects.
- 479-416-040 Traffic control devices on small city account projects.
- 479-416-045 Project plantings on small city account projects.
- 479-416-050 Acquisition of right of way for small city account program projects.

**Chapter 479-420 WAC
FINANCIAL AND PAYMENT REQUIREMENTS FOR
SMALL CITY ACCOUNT PROJECTS**

REPEALER

The following sections of the Washington Administrative Code are repealed:

- 479-420-010 Eligible project costs for small city account projects.
- 479-420-011 Eligible costs for engineering for small city account projects.
- 479-420-013 Direct costs for small city account projects.
- 479-420-016 Indirect costs for small city account projects.
- 479-420-020 Partial or progress payments for small city account project costs.
- 479-420-025 Record requirements for small city account projects.
- 479-420-027 Audits of small city account project records.
- 479-420-031 Expenditure schedule of small city account funds.
- 479-420-037 Procedure for requesting an increase in authorized amount of transportation improvement account funds.
- 479-420-086 Review of delayed projects for the small city account program.
- 479-420-089 Recovery of small city account funds on canceled projects.
- 479-420-095 Identification and consideration of surplus funds on authorized small city account projects.

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Chapter 479-510 WAC

CENTRAL PUGET SOUND PUBLIC TRANSPORTATION ACCOUNT, PUBLIC TRANSPORTATION SYSTEMS ACCOUNT, AND SURFACE TRANSPORTATION PROGRAMS

REPEALER

The following sections of the Washington Administrative Code are repealed:

- 479-510-060 Application guidelines.
- 479-510-076 Funding shortfall.
- 479-510-080 Over-programming of funds.
- 479-510-110 Central Puget Sound public transportation account—Eligibility.
- 479-510-120 Central Puget Sound public transportation account—Criteria.
- 479-510-210 Public transportation systems account—Eligibility.
- 479-510-220 Public transportation systems account—Criteria.
- 479-510-410 Intermodal Surface Transportation Efficiency Act, surface transportation program, state-wide competitive program account—Eligibility.
- 479-510-420 Intermodal Surface Transportation Efficiency Act, surface transportation program, state-wide competitive program account—Criteria.
- 479-510-500 Financial and payment requirements.

**WSR 99-20-003
EMERGENCY RULES
DEPARTMENT OF REVENUE**
[Filed September 23, 1999, 3:30 p.m.]

Date of Adoption: September 23, 1999.

Purpose: WAC 458-20-135 explains the tax-reporting responsibilities of extractors. WAC 458-20-136 explains the tax reporting responsibilities of manufacturers and processors for hire. WAC 458-20-13601 explains the application of the retail sales and use tax exemptions provided by RCW 82.08.02565 and 82.12.02565 for certain machinery and equipment used by manufacturers and processors for hire.

Citation of Existing Rules Affected by this Order: Amending WAC 458-20-135 Extracting natural products and 458-20-136 Manufacturing, processing for hire, fabricating.

Statutory Authority for Adoption: RCW 82.32.300.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: These rules were previously adopted on an emergency basis on May 28, 1999 (WSR 99-12-077). There have been no substantive changes to the rules being adopted with this filing. This second adoption of these same rules is necessary to the implementation of the manufacturing machinery and equipment sales and use tax exemption, as amended by chapter 211, Laws of 1999. Some of the legislative changes, which provided clarification of the exemption, were retroactive to 1995. Taxpayers have a limited time to file refund claims and will suffer financial hardships if not provided sufficient information to determine if they are eligible for refunds as well as the exemption itself. The department is engaged in the rule-making process for adopting revised Rules 135 and 136, as well as a new Rule 13601. A CR-101 public meeting was held on July 14th. Permanent rules cannot be adopted soon enough to provide taxpayers with sufficient time to claim refunds for 1995 because the statute of limitation runs out at the end of 1999. Adoption of these rule will continue to provide immediate information to taxpayers, tax practitioners, and department staff to use in determining the taxability of specific machinery and equipment.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 1, Amended 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 1, Amended 2, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Immediately.

September 23, 1999

Claire Hesselholt

Rules Manager

Legislation and Policy Division

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 99-21 issue of the Register.

EMERGENCY

WSR 99-20-008
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 99-164—Filed September 24, 1999, 9:29 a.m., effective September 25, 1999, 12:01 a.m.]

Date of Adoption: September 23, 1999.

Purpose: Personal use rules.

Citation of Existing Rules Affected by this Order:
 Repealing WAC 220-57-25500F and 220-57-48000C; and
 amending WAC 220-57-255 and 220-57-480.

Statutory Authority for Adoption: RCW 75.08.080.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The Toutle River Hatchery currently has coho in excess of escapement needs in its holding ponds. Based on run timing, hatchery escapement may exceed 10,000 coho. This action will provide a greater opportunity for the sport fishery to utilize the surplus coho. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 2, Amended 0, Repealed 2.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: September 25, 1999, 12:01 a.m.
 September 23, 1999

Evan Jacoby

for Jeff P. Koenings

Director

NEW SECTION

WAC 220-57-25500F Green River (Cowlitz County)

Notwithstanding the provisions of WAC 220-57-255:

(1) Effective 12:01 a.m. September 25, 1999 through November 30, 1999, the daily bag limit shall be six fish of which four may be adult salmon, except release all chum and wild coho and no more than one adult chinook may be retained.

(2) Effective 12:01 a.m. October 1 through November 30, 1999 release all chinook greater than 28 inches in length.

(3) Closed waters: All tributaries, mainstem source downstream to 2800 Bridge, all waters within 100 feet above

and 400 feet below the hatchery rack when installed and immediately through November 30, 1999 all waters within 400 feet of water intake at the upper end of the hatchery.

NEW SECTION

WAC 220-57-48000C Toutle River—North Fork.

Notwithstanding the provisions of WAC 220-57-480, in those waters of the North Fork Toutle River downstream from the posted deadline at the fish collection facility to the confluence with the South Fork Toutle River:

(1) Effective 12:01 a.m. September 25, 1999 through November 30, 1999, the daily bag limit shall be four adult salmon, except no more than one can be an adult chinook and release chum and wild coho through November 30, 1999.

(2) Effective 12:01 a.m. October 1 through November 30, 1999 release all chinook greater than 28 inches in length.

REPEALER

The following sections of the Washington Administrative Code are repealed effective 11:59 p.m. November 30, 1999:

WAC 220-57-25500F Green River (Cowlitz County)

WAC 220-57-48000C Toutle River (North Fork)

WSR 99-20-009
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 99-165—Filed September 24, 1999, 9:32 a.m., effective September 25, 1999, 12:01 a.m.]

Date of Adoption: September 23, 1999.

Purpose: Commercial fishing rules.

Citation of Existing Rules Affected by this Order:
 Repealing WAC 220-47-603, 220-47-30700C, 220-47-31100B, 220-47-32500A, 220-47-40100B, 220-47-41000A, 220-47-41100A, 220-47-41200A, and 220-47-43000A; and
 amending WAC 220-47-401.

Statutory Authority for Adoption: RCW 75.08.080.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The reef net fishery in Puget Sound for 1999 is being closed at the request of the industry. A poor return in the pink and sockeye fishery canceled all fishing opportunity for the year, and the expected coho return is insufficient to offset licensing and gear costs for the majority of reef net fishers. The lack of harvest opportunity invokes RCW 75.30.021, which waives license requirements for 1999. This rule is being adopted for the economic well-being of the industry. A gill net maximum mesh size is being

restored in Area 7B because all chinook in excess of hatchery brood stock needs have already been harvested. All other open periods and restrictions are consistent with fishing plans developed and agreed to during the PFM/C/North of Falcon processes. An emergency exists in that there is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 2, Amended 0, Repealed 9.

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: September 25, 1999, 12:01 a.m.
September 23, 1999

Evan Jacoby
for Jeff P. Koenings
Director

Area 7B Open to gill nets using 5 inch minimum and 5 1/2 inch maximum mesh and to purse seines using the 5 inch strip through 4:00 pm Saturday, October 23.

Area 8A Open to purse seines using the 5 inch strip from 7:00 am to 7:00 pm Monday, October 11, and open to gill nets using 5 inch minimum mesh from 7:00 am to 8:00 pm Tuesday, October 12.

Area 8D Open for gill nets using 5 inch minimum mesh from 6:00 pm to 8:00 am nightly on the following dates: 9/27, 9/28, 9/29, 10/4, 10/5, 10/6, 10/7, and from 7:00 am to 8:00 pm daily: 10/12, 10/18, 10/19, 10/27, 10/28, 11/1, 11/2; and open for purse seines using the 5 inch strip from 7:00 am to 7:00 pm daily 9/28, 9/29, 9/30, 10/4, 10/5, 10/6, 10/7, 10/11, and from 7:00 am to 6:00 pm daily: 10/20, 10/21, 10/25, 10/26, and from 7:00 am to 5:00 pm 11/3, 11/4.

Area 9A Open to gill nets using 5 inch minimum mesh through 4:00 pm Saturday, October 30.

It is unlawful to retain chinook salmon taken with purse seine gear.

Nightly gill net openings refer to the start date.

Areas 4B, 5, 6, 6A, 6B, 6C, 7, 7A, 7C, 7D, 7E, 8, 9, 10, 10A, 10C, 10D, 10E, 10F, 10G, 11, 11A, 12, 12B, 12C, 12D, 13, 13A, 13C, 13D, 13E, 13F, 13G, 13H, 13I, 13J, and 13K, all freshwater areas, and exclusion zones provided for in WAC 220-47-307 are closed.

REPEALER

The following sections of the Washington Administrative Code are repealed effective 11:59 p.m. September 24, 1999:

- WAC 220-47-603 Puget Sound all-citizen commercial fishery (99-158)
- WAC 220-47-30700C Closed areas—Puget Sound salmon (99-103)
- WAC 220-47-31100B Purse seine—Open periods (99-103)
- WAC 220-47-32500A Purse seine—Release of incidentally caught fish (99-103)
- WAC 220-47-40100B Reef net open periods (99-103)
- WAC 220-47-41000A Gill net—Daily hours (99-103)
- WAC 220-47-41100A Gill net—Open periods (99-103)
- WAC 220-47-41200A Drift gill net and skiff gill net—Mesh sizes (99-103)
- WAC 220-47-43000A Puget Sound commercial salmon—Log book required. (99-103)

NEW SECTION

WAC 220-47-40100C Reef net open periods. Notwithstanding the provisions of WAC 220-47-401, effective immediately until further notice it is unlawful to fish for salmon with reef net gear in all state waters.

NEW SECTION

WAC 220-47-604 Puget Sound all-citizen commercial salmon fishery. Notwithstanding the provisions of Chapter 220-47 WAC, 12:01 a.m. September 25, 1999 further notice, it is unlawful to take, fish for, or possess salmon for commercial purposes taken from the following Puget Sound Salmon Management and Catch Reporting Areas except in accordance with the following open periods, mesh, area, and species restrictions:

Area 6D Open to skiff gill nets only using 5 inch minimum and 5 1/2 inch maximum mesh from 7:00 am to 7:00 pm on the following dates: 9/27, 9/28, 9/29, 9/30, 10/1, 10/4, 10/5, 10/6, 10/7, 10/8, 10/11, 10/12, 10/13, 10/14, 10/15, 10/18, 10/19, 10/20, 10/21, 10/22.

It is unlawful to retain chinook, or pink salmon taken in Area 6D at any time, or any chum salmon taken in Area 6D prior to October 16. In Area 6D, any chinook or pink salmon captured at any time, or any chum salmon captured prior to October 16, must be removed from the net by cutting the meshes ensnaring the fish. Area 6D is closed to commercial salmon fishing within 1/4 mile of each mouth of the Dungeness River.

EMERGENCY

WSR 99-20-014
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 99-166—Filed September 24, 1999, 3:37 p.m., effective October 2, 1999, 12:01 a.m.]

Date of Adoption: September 24, 1999.

Purpose: Personal use rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-56-35000D; and amending WAC 220-55-350.

Statutory Authority for Adoption: RCW 75.08.080.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This regulation is necessary to ensure conservation and/or court ordered sharing of the allowable harvest. The state's share of the allowable harvest at Freeland County Park (Island County) is projected to be taken by October 1, 1999. 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: October 2, 1999, 12:01 a.m.

September 24, 1999

Evan Jacoby

for Jeff P. Koenings

Director

NEW SECTION

WAC 220-56-35000E Clams other than razor clams—Areas and seasons. Notwithstanding the provisions of WAC 220-56-350, effective immediately until further notice, it is unlawful to harvest or possess clams, cockles, or mussels taken for personal use from the following public tidelands except as provided below:

- (1) Potlatch State Park - **Open** until further notice
- (2) Wolfe Property State Park - **Open** until further notice.
- (3) South Indian Island County Park - **Closed** until further notice.

(4) Freeland County Park (Island County) - **Closed** October 2, 1999 until further notice.

REPEALER

The following section of the Washington Administrative Code is repealed effective 11:59 p.m. October 1, 1999:

WAC 220-56-35000D	Clams other than razor clams—Areas and seasons. (99-156)
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WSR 99-20-025
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 99-172—Filed September 28, 1999, 4:41 p.m., effective September 29, 1999, 6:00 a.m.]

Date of Adoption: September 28, 1999.

Purpose: Commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-32-05100Q; and amending WAC 220-32-051.

Statutory Authority for Adoption: RCW 75.08.080.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Sets one week of tribal commercial fishing. The tribal fishery is projected to remain within the constraints of the 1999 management agreement and ESA requirements. Rule is consistent with action of the Columbia River Compact on September 27, 1999. Conforms state rules with tribal rules. There is insufficient time to promulgate permanent regulations.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

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: September 29, 1999, 6:00 a.m.
September 28, 1999
Evan Jacoby
for Jeff P. Koenings
Director

NEW SECTION

WAC 220-32-05100Q Columbia River salmon seasons above Bonneville Dam Notwithstanding the provisions of WAC 220-32-050, WAC 220-32-051, WAC 220-32-052, WAC 220-32-058, effective immediately until further notice, it is unlawful for a person to take or possess salmon, shad, carp, or sturgeon taken for commercial purposes in Columbia River Salmon Management Catch Reporting Areas 1F, 1G, and 1H, except those individuals possessing treaty fishing rights under the Yakima, Warm Springs, Umatilla, and Nez Perce treaties may fish for salmon, shad, carp, or sturgeon under the following provisions:

1) Open Periods: 6:00 a.m. September 29, 1999 to 6:00 p.m. October 2, 1999

2) Open Areas: SMCRA 1F, 1G, 1H

3) Gear: 8-inch minimum mesh restriction

4) Allowable sale includes: salmon and shad

5) Spring Creek Hatchery Sanctuary: the area within a 150 foot radius of the Spring Creek Hatchery fish ladder is closed to fishing.

6) Notwithstanding the provisions of WAC 220-32-058, the closed area at the mouth of:

a) Hood River are those waters along the Oregon side of the Columbia River and extends to mid-stream at right angles to the thread of the Columbia River between markers located approximately 0.85 miles down river from the west bank at the end of the break wall at the west end of the port of Hood River and 1/2 mile upriver from the east bank.

b) Herman Creek are those waters upstream from a line between deadline markers near the mouth. One marker is located on the east bank piling and the other is located on the west bank to the north of the boat ramp.

c) Deschutes River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between points 1/2 mile upstream from the eastern shoreline to one mile downstream from the western shoreline.

d) Umatilla River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between points 1/2 mile upstream from the eastern shoreline to one mile downstream from the western shoreline.

e) Big White Salmon River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between a marker located 1/2 mile downstream from the west bank upstream to Light "35".

f) Wind River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between markers located 1 1/4 miles downstream from the west bank and 1/2 mile upstream from the east bank.

g) Klickitat River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between the downstream margin of Lyle Landing downstream to a marker located near the railroad tunnel approximately 1/8 miles downstream from the west bank.

h) Little White Salmon River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between Light "27" upstream to a marker located approximately 1/2 mile upstream from the eastern shoreline.

3) Notwithstanding the provisions of WAC 220-22-010, during the open periods described above:

a) Area 1F (Bonneville Pool) includes those waters of the Columbia River upstream from the Bridge of the Gods, and downstream from the west end of the 3 Mile Rapids located approximately 1.8 miles below the Dalles Dam.

b) Area 1G includes those waters of the Columbia River upstream from a line drawn between a deadline marker on the Oregon shore located approximately 3/4 miles above The Dalles Dam fishway exit, thence at a right angle to the thread of the river to a point in mid-river, then downstream to Light "1" on the Washington shore, and downstream from Preacher's Eddy Light below John Day Dam.

c) Area 1H includes those waters of the Columbia River upstream from a fishing boundary marker approximately 1/2 mile above the John Day River, Oregon, extending at a right angle across the thread of the river to a point in mid-river, then downstream to a fishing boundary marker on the Washington shore approximately opposite the mouth of the John Day River, and downstream from a line at a right angle across the thread of the river one mile downstream from McNary Dam.

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.

REPEALER

The following section of the Washington Administrative Code is repealed effective 6:01 p.m. October 2, 1999:

WAC 220-32-05100Q Columbia River salmon seasons above Bonneville Dam.

**WSR 99-20-026
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 99-171—Filed September 28, 1999, 4:43 p.m., effective September 29, 1999, 12:01 a.m.]

Date of Adoption: September 28, 1999.

Purpose: Personal use rules.

Citation of Existing Rules Affected by this Order:
Repealing WAC 220-57-16000U.

Statutory Authority for Adoption: RCW 75.08.080.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is

necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The restriction on chinook retention in the lower Columbia River is no longer needed. The Upriver Bright fall chinook run size has increased and impacts to listed Snake River wild fall chinook are projected to be within the guidelines set by the National Marine Fisheries Service, with a sport fishery open and planned commercial fisheries. Rule is consistent with actions of the state of Washington and Oregon during a compact hearing of September 27, 1999. Conforms with the intention of having concurrent regulations with the state of Oregon. Consistent with the 1999 management agreement and ESA guidelines. There is insufficient time to promulgate permanent regulations.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 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: September 29, 1999, 12:01 a.m.
September 28, 1999

Evan Jacoby
for Jeff P. Koenings
Director

REPEALER

The following section of the Washington Administrative Code is repealed effective 11:59 p.m. September 28, 1999:

WAC 220-57-16000U Columbia River. (99-152)

WSR 99-20-027
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 99-170—Filed September 28, 1999, 4:43 p.m.]

Date of Adoption: September 28, 1999.

Purpose: Commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-33-01000U and 220-33-01000V; 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: Harvestable numbers of salmon and sturgeon are available. Season is consistent with the 1999 management agreement, ESA requirements and actions of the Columbia River Compact of September 28, 1999. 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.

September 28, 1999
Evan Jacoby
for Jeff P. Koenings
Director

NEW SECTION

WAC 220-33-01000V Columbia River season below Bonneville Notwithstanding the provision 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.

1) **OPEN AREA:** 1A, 1B, and 1C upstream to the Longview Bridge.

a) **SEASON:** 7:00 a.m. September 28 to 7:00 p.m. September 28, 1999; 7:00 a.m. September 29 to 7:00 p.m. September 29, 1999; 7:00 a.m. September 30 to 7:00 p.m. September 30, 1999.

b) **GEAR:** 6 inch maximum unslackend gillnet

c) **ALLOWABLE SALE:** Salmon and sturgeon.

d) **OTHER:** White sturgeon less than 48 inches or greater than 60 inches, or green sturgeon less than 48 inches or greater than 66 inches may not be retained for commercial purposes and shall be immediately returned to the water.

It is unlawful to gaff sturgeon.

It is unlawful to sell unprocessed eggs from lower Columbia River sturgeon.

e) Standard River Mouth Sanctuaries are in effect.

2) OPEN AREA: Tongue Point/South Channel

Tongue Point Basin is open to fishing in all waters bounded by a line from the red light at Tongue Point to the flashing green light at the rock jetty on the northwesterly tip of Mott Island, a line from a marker at the south end of Mott Island easterly to a marker on the northwest bank on Lois Island, and a line from a marker on the southwest end of Lois Island due westerly to a marker on the opposite bank. In addition, South Channel is open to fishing in all waters bounded by a line from a marker on John Day Point through the green buoy "7" thence to a marker on the southwest end of Lois Island upstream to an upper boundary line from a marker on Settler Point northwesterly to flashing red marker "10" thence northwesterly to a marker on the sand bar defining the terminus of South Channel. All open waters are under concurrent jurisdiction.

a) SEASON:

Nightly 7:00 p.m. to 7:00 a.m.

Dates: September 28

Tongue Point/South Channel.

Nightly 6:00 p.m. to 8:00 a.m.

Starting Dates: October 4, October 5, October 6, October 11, October 12, October 13, October 18, October 19, October 20, October 25, October 26 and October 27

Tongue Point/South Channel.

b) GEAR:

8-inch maximum mesh restriction. Legal gear restricted to a maximum length of 250 fathoms and weight on leadline not to exceed 2 pounds on any one fathom within Tongue Point Basin. In South Channel, nets are restricted to 100 fathoms in length with no weight restrictions on the leadline. Fishers participating in the Tongue Point Basin fishery may have stored on board their boats, gill nets with leadline in excess of 2 pounds per fathom.

c) ALLOWABLE SALE: Salmon and sturgeon.**3) OPEN AREA: Blind Slough/Knappa Slough**

Blind Slough is open from markers at the mouth of Gnat Creek located approximately 1/2 mile upstream of the county road bridge downstream to markers at the mouth of Blind Slough. Concurrent waters extend downstream of the railroad bridge. State waters extend upstream of the railroad bridge and require an Oregon license. In addition, Knappa Slough is open to fishing in all waters bounded by a line from the northerly most marker at the mouth of Blind Slough westerly to a marker on Karlson Island downstream to a north-south line defined by a marker on the eastern end of Minaker Island to markers on Karlson Island and the Oregon shore. An area closure at the mouth of Big Creek defined by markers of about a 100' radius.

a) SEASON:

Nightly 7:00 p.m. to 7:00 a.m.

Starting Dates: September 29, September 30

Blind Slough/Knappa Slough

Nightly 6:00 p.m. to 8:00 a.m.

Starting Dates: October 4, October 5, October 6, October 11, October 12, October 13, October 18, October 19, October 20, October 25, October 26, October 27

Blind Slough/Knappa Slough

b) **GEAR:** Nets restricted to 100 fathoms in length with no weight restriction on leadline. 8-inch maximum mesh.

c) ALLOWABLE SALE: Salmon and sturgeon.**4) OPEN AREA: Deep River**

Deep River is open to fishing down river from the town of Deep River to the mouth (a marker at Miller Point to a marker on the opposite bank). Concurrent waters extend downstream of the Highway 4 bridge. State waters extend upstream of the Highway 4 bridge.

a) SEASON:

Nightly 7:00 p.m. to 7:00 a.m.

Starting Dates: September 29, September 30

Nightly 6:00 p.m. to 8:00 a.m.

Starting Dates: October 4, October 5, October 6, October 11, October 12, October 13, October 18, October 19, October 20, October 25, October 26, October 27

b) **GEAR:** Nets restricted to 100 fathoms in length with no weight restriction on leadline. 8-inch maximum mesh size restriction.

c) ALLOWABLE SALE: Salmon and sturgeon.**5) OTHER RULES FOR TONGUE POINT/SOUTH CHANNEL, BLIND SLOUGH/KNAPPA SLOUGH, DEEP RIVER:**

Transportation or possession of fish outside of the fishing area when the main stem is closed is unlawful unless by licensed buyer. An exception to the rule would allow fishers to transport their catch out of the fishing area with a permit issued by an authorized agency employee after examining the catch or by a self-issued permit in the absence of an authorized employee. One copy of the self-issued permit is to be retained by the fisher while the original must be deposited in a locked box located in or adjacent to the fishing area.

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

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

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-33-01000U Columbia River season
below Bonneville. (99-157)

The following section of the Washington Administrative Code is repealed effective 8:01 a.m. October 28, 1999:

WAC 220-33-01000V Columbia River season
below Bonneville.

WSR 99-20-028
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 99-169—Filed September 28, 1999, 4:44 p.m., effective October 1, 1999, 12:01 a.m.]

Date of Adoption: September 28, 1999.

Purpose: Personal use rules.

Citation of Existing Rules Affected by this Order:
 Repealing WAC 220-57-42500E; and amending WAC 220-57-425.

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: Too few pink salmon returned to the Skagit River this fall to meet the spawning escapement goal. For conservation of this run, it is necessary to protect them from harvest. Other provisions in this order have been agreed to by state and treaty tribal fish managers in the Pacific Fisheries Management Council/North of Falcon meetings held in the spring of this year. 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: October 1, 1999, 12:01 a.m.

September 28, 1999

Evan Jacoby

for Jeff P. Koenings

Director

NEW SECTION

WAC 220-57-42500E Skagit River. Notwithstanding the provisions of WAC 220-57-425, effective immediately until further notice it is unlawful to fish for or possess salmon taken from the Skagit River except:

(1) From the mouth to the pipeline crossing at Sedro Woolley - open October 1 through December 31, 1999. Special daily limit of two salmon measuring not less than 12 inches in length. Chinook and pink salmon must be released immediately.

(2) From the pipeline crossing at Sedro Woolley to the Dalles Bridge at Concrete - open October 1 through November 30, 1999. Special daily limit of two salmon measuring not less than 12 inches in length. Chinook and pink salmon must be released immediately.

(3) From the Dalles Bridge at Concrete to the mouth of the Cascade River - open November 1 through December 31, 1999. Special daily limit of two chum salmon.

REPEALER

The following section of the Washington Administrative Code is repealed effective 11:59 p.m. December 31, 1999:

WAC 220-57-42500E Skagit River.

WSR 99-20-029
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 99-168—Filed September 28, 1999, 4:44 p.m., effective October 1, 1999, 8:00 a.m.]

Date of Adoption: September 28, 1999.

Purpose: Commercial fishing rules.

Citation of Existing Rules Affected by this Order:
 Amending WAC 220-52-047.

Statutory Authority for Adoption: RCW 75.08.080.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The initial setting of crab gear is a fishing activity associate with the effort to fish for crab. Once gear is set, whether baited or unbaited, it is capable of taking crab, and any operation of such gear is fishing. Historically, many crab fishers on the coast have set gear using vessels other than the vessels that will harvest and land the crab (designated vessels), and this practice has been intermittently permitted in Puget Sound. A recent interpretation of the initial setting of crab gear as fishing for crab has implied that use of nondesignated vessels for the initial setting of crab gear is illegal. This has generated substantial uncertainty in the Puget Sound fishery and has created a disorderly fishery. Additionally, there are safety concerns if smaller vessels overload to set the gear at the opening of the crab season. Lastly, not allowing initial setting of gear by nondesignated vessels eliminates equity of initial opportunity between large vessel fishers and small vessel fishers. This rule allows nondesignated vessels to initially set gear during the first forty-eight hours of the Puget Sound crab fishery. This rule is intended to eliminate a disorderly fishery and to reduce safety concerns and inequity between fishers, thus providing for the economic well-being of the industry. The department finds that the above orderly fishery, safety, and equity concerns should be addressed, and are the basis for adopting this emer-

gency rule. 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 1, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: October 1, 1999, 8:00 a.m.

September 28, 1999

Evan Jacoby

for Jeff P. Koenings

Director

NEW SECTION

WAC 220-52-04700B Crab pot setting. Dungeness crab pots may be deployed between 8:00 a.m. October 1, 1999 and 7:59 a.m. October 3, 1999 in Puget Sound waters on behalf of a licensed crab fisher from a vessel not designated on his or her Puget Sound crab license provided deployment of the pots is under the supervision, permission, or control of the licensed fisher.

WSR 99-20-040

EMERGENCY RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

(Division of Assistance Programs)

[Filed September 29, 1999, 1:32 p.m., effective October 1, 1999]

Date of Adoption: September 29, 1999.

Purpose: Update the income standards, maximum allotment and shelter deductions provided by the federal government. These are used to determine benefit amounts for recipients of food assistance.

Citation of Existing Rules Affected by this Order: Amending WAC 388-478-0060 Income eligibility standards for food assistance.

Statutory Authority for Adoption: RCW 74.04.510, 74.04.055, 74.04.057, 74.08.090.

Under RCW 34.05.350 the agency for good cause finds that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: Food nutrition services updates and files these standards and deductions once a year in the Federal Register effective October 1. Washington state is required to update ours accordingly, but did not receive the figures in time to file for regular adoption.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 1, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Effective Date of Rule: October 1, 1999.

September 29, 1999

Marie Myerchin-Redifer

Manager

AMENDATORY SECTION (Amending WSR 99-16-024, filed 7/26/99, effective 9/1/99)

WAC 388-478-0060 Income eligibility standards for food assistance. (1) When all household members receive cash benefits (TANF, GA-U, GA-S, etc.) or Supplemental Security Income (SSI), they do not have to meet the income standard.

(2) All households, based on their size, must have income at or below the limits shown in column B to be eligible for food assistance, except as follows:

(a) Column C is to be used when a household includes a person sixty years or older, or with disabilities;

(b) Column E is to be used when determining separate household status for an elderly person and a person with permanent disability, as described in WAC 388-408-0035 (1)(d).

EFFECTIVE ((10-1-98)) 10-1-99

Column A Household Size	Column B Maximum Gross Monthly Income	Column C Maximum Net Monthly Income	Column D Maximum Allotment	Column E 165% of Poverty Level
1	\$ ((873)) <u>893</u>	\$ ((674)) <u>687</u>	\$ ((425)) <u>127</u>	\$ ((1,107)) <u>1,133</u>

2	((1,176)) <u>1,199</u>	((905)) <u>922</u>	((230)) <u>234</u>	((1,492)) <u>1,521</u>
3	((1,479)) <u>1,504</u>	((1,138)) <u>1,157</u>	((329)) <u>335</u>	((1,877)) <u>1,909</u>
4	((1,783)) <u>1,810</u>	((1,374)) <u>1,392</u>	((419)) <u>426</u>	((2,262)) <u>2,297</u>
5	((2,086)) <u>2,115</u>	((1,605)) <u>1,627</u>	((497)) <u>506</u>	((2,647)) <u>2,684</u>
6	((2,389)) <u>2,421</u>	((1,838)) <u>1,862</u>	((597)) <u>607</u>	((3,032)) <u>3,072</u>
7	((2,693)) <u>2,726</u>	((2,074)) <u>2,097</u>	((659)) <u>671</u>	((3,417)) <u>3,460</u>
8	((2,996)) <u>3,032</u>	((2,305)) <u>2,332</u>	((754)) <u>767</u>	((3,802)) <u>3,848</u>
9	((3,300)) <u>3,338</u>	((2,539)) <u>2,567</u>	((848)) <u>863</u>	((4,187)) <u>4,236</u>
10	((3,604)) <u>3,644</u>	((2,773)) <u>2,802</u>	((942)) <u>959</u>	((4,572)) <u>4,624</u>
Each Additional Member	+(304) 306	+(234) <u>235</u>	+(94) <u>96</u>	+(385) <u>388</u>

**WSR 99-20-043
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 99-174—Filed September 29, 1999, 3:58 p.m., effective November 1, 1999]

Date of Adoption: September 30 [29], 1999.

Purpose: To adopt WAC 232-16-70000B Swinomish Spit Game Reserve hunting.

Citation of Existing Rules Affected by this Order: Repealing WAC 232-16-70000A and 232-16-70000B; and amending WAC 232-16-700.

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 allows additional recreational opportunity and is needed to reduce hunter confusion regarding hunting season dates. 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 1, Amended 0, Repealed 2.

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: November 1, 1999.

September 30 [29], 1999

Evan Jacoby

for Jeff P. Koenings

Director

NEW SECTION

WAC 232-16-70000B Swinomish Spit Game Reserve hunting Notwithstanding the provisions of WAC 232-16-700, effective November 1, 1999 through November 15, 1999 it is lawful to hunt waterfowl, except for brant, within the following described boundary:

Beginning at the Burlington Northern railroad tracks on the west shoreline of the Swinomish Channel; thence in a northwesterly direction along the west side of the Swinomish Channel to the red channel mark buoy N "20" (as indicated on Navigation Map #18427, 13th Ed., July 16, 1983); thence 6,000 feet ENE (east-northeast); thence 3,300 feet SSE (south-southeast); thence 4,200 feet SW (southwest) to the dike at the south end of Padilla Bay; thence continue westerly along said dike to the intersection of the Burlington Northern railroad tracks and the east shoreline of the Swinomish Channel; thence continue along said railroad tracks (across swing

EMERGENCY

bridge) to the west shoreline of the Swinomish Channel and the point of beginning.

Effective Date of Rule: September 30, 1999, 12:01 a.m.

September 29, 1999

Evan Jacoby

for Jeff P. Koenings

Director

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 232-16-70000A Swinomish Spit Game Reserve hunting

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. November 16, 1999:

WAC 232-16-70000B Swinomish Spit Game Reserve hunting (99-161)

NEW SECTION

WAC 220-57-12000A Bear River. Notwithstanding the provisions of WAC 220-57-120, effective 12:01 a.m. September 30, 1999 until further notice it is unlawful to retain adult chinook salmon in those waters of Bear River from the mouth (Highway 101 Bridge) to Lime Quarry Road.

NEW SECTION

WAC 220-57-33500B Naselle River. Notwithstanding the provisions of WAC 220-57-335:

(1) Effective 12:01 a.m. September 30, 1999 until further notice it is unlawful to retain adult chinook salmon in those waters of the Naselle River from the Highway 101 Bridge to the Highway 4 Bridge.

(2) Effective 12:01 a.m. October 16, 1999 until further notice it is unlawful to retain adult chinook salmon in those waters of the Naselle River from the Highway 4 Bridge to the Crown Mainline (Salme) Bridge.

NEW SECTION

WAC 220-57-34000J Nemah River. Notwithstanding the provisions of WAC 220-57-340:

(1) Effective 12:01 a.m. September 30, 1999 until further notice it is unlawful to retain adult chinook salmon in those waters of the Middle Nemah River from the mouth upstream to the Department of Natural Resources Bridge on Middle Nemah A-Line Road.

(2) Effective 12:01 a.m. September 30, 1999 until further notice it is unlawful to retain adult chinook salmon in those waters of the South Nemah River from the mouth to the confluence with the Middle Nemah.

(3) Effective 12:01 a.m. October 1, 1999 until further notice it is unlawful to retain adult chinook salmon in those waters of the North Nemah River from the Highway 101 Bridge upstream to the lower bridge on the dead end lower Nemah Road.

NEW SECTION

WAC 220-57-34200B Niawiakum River. Notwithstanding the provisions of WAC 220-57-342, effective 12:01 a.m. September 30, 1999 until further notice it is unlawful to retain adult chinook salmon in those waters of the Niawiakum River from Highway 101 Bridge to the Couth Bend/Palix Road Bridge.

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

WSR 99-20-044

EMERGENCY RULES

DEPARTMENT OF FISH AND WILDLIFE

[Order 99-173—Filed September 29, 1999, 4:02 p.m., effective September 30, 1999, 12:01 a.m.]

Date of Adoption: September 29, 1999.

Purpose: Personal use rules.

Citation of Existing Rules Affected by this Order:

Amending WAC 220-57-120, 220-57-335, 220-57-340, 220-57-342, 220-57-355, 220-57-365, 220-57-440, and 220-57-510.

Statutory Authority for Adoption: RCW 75.08.080.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This regulation is needed because of lower than anticipated return of chinook salmon to Willapa Bay and its tributaries. 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 8, 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.

EMERGENCY

NEW SECTION

WAC 220-57-35500B North River. Notwithstanding the provisions of WAC 220-57-355, effective 12:01 a.m. September 30, 1999 until further notice it is unlawful to retain adult chinook salmon in those waters of the North River from Highway 105 Bridge to Salmon Creek.

NEW SECTION

WAC 220-57-36500B Palix River. Notwithstanding the provisions of WAC 220-57-365, effective 12:01 a.m. September 30, 1999 until further notice it is unlawful to retain adult chinook salmon in those waters of the Palix River from Highway 101 Bridge to the confluence of the South and Middle Forks.

NEW SECTION

WAC 220-57-44000B Smith Creek. Notwithstanding the provisions of WAC 220-57-440, effective 12:01 a.m. September 30, 1999 until further notice it is unlawful to retain adult chinook salmon in those waters of Smith Creek from the mouth to the Highway 101 Bridge.

NEW SECTION

WAC 220-57-51000B Willapa River. Notwithstanding the provisions of WAC 220-57-510:

(1) Effective 12:01 a.m. September 30, 1999 until further notice it is unlawful to retain adult chinook salmon in those waters of the Willapa River from the mouth (Department of Fish and Wildlife boat launch in South Bend) to the Highway 6 Bridge (approximately two miles below the mouth of Trap Creek.

(2) Effective 12:01 a.m. October 16, 1999 until further notice it is unlawful to retain adult chinook salmon in those waters of the Willapa River from Highway 6 Bridge to Fork Creek.

**WSR 99-20-046
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 99-167—Filed September 30, 1999, 1:51 p.m., effective October 1, 1999, 12:01 a.m.]

Date of Adoption: September 29, 1999.

Purpose: Commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-44-04000Y; and amending WAC 220-44-040.

Statutory Authority for Adoption: RCW 75.08.080.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: These regulations are necessary to achieve conservation goals and to maintain consistency between state and federal 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 1, Amended 0, Repealed 1.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 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: October 1, 1999, 12:01 a.m.

September 29, 1999

Jeff P. Koenings

Director

by Larry Peck

NEW SECTION

WAC 220-44-05000Z Coastal bottomfish catch limits. Notwithstanding the provisions of WAC 220-44-050, effective 12:01 a.m. October 1, 1999 until further notice, it is unlawful to possess, transport through the waters of the state or land in any Washington State port bottomfish taken from Marine Fish-Shellfish Management and Catch Reporting Areas 58B, 59A-1, 59A-2, 59B, 60A-1, 60A-2, 61, 62, or 63 in excess of the amounts or less than the minimum sizes shown below for the following species:

1. The following definitions apply to this section:

a. Cumulative limit - A cumulative limit is the maximum amount of fish that may be taken and retained, possessed or landed per vessel per calendar month or cumulative period, without a limit on the number of landings or trips. The cumulative limit includes all fish harvested by a vessel during the cumulative period, whether taken in limited entry or open access fisheries. Once a cumulative limit has been achieved, an operator may begin fishing on the next cumulative limit so long as the fish are not landed until after the beginning of the next cumulative period. For B-platoon vessels a calendar month shall be the 16th of the month through the 15th of the following month.

b. Daily trip limit - The maximum amount of fish that may be taken and retained, possessed or landed per vessel from a single fishing trip in 24 consecutive hours, starting at 0001 hours.

c. Groundfish limited entry fishery - Fishing activity by a trawl, setline or bottomfish pot equipped vessel that has received a federal limited entry permit issued by the National Marine Fisheries Service endorsed for the qualifying gear type.

d. **Groundfish open access fishery** - Fishing activity by a vessel equipped with setline or bottomfish pot gear that has not received a federal limited entry permit, or a vessel using gear other than trawl, setline or bottomfish pot gear.

e. **Shrimp trawl fishery** - Fishing activity by a vessel equipped with shrimp trawl gear when ocean pink shrimp comprise more than one half the volume of shrimp aboard.

f. **Spot prawn trawl fishery** - Fishing activity by a vessel equipped with shrimp trawl gear when ocean spot prawns comprise more than half the volume of shrimp aboard.

g. **Vessel trip** - A vessel trip is defined as having occurred upon the initiation of transfer of catch from a fishing vessel.

h. **Vessel trip limit** - The amount of fish that may not be exceeded per vessel trip. All fish aboard a fishing vessel upon the initiation of transfer of catch are to be counted towards the vessel trip limit.

i. **Dressed length** - The dressed length of a fish is the distance from the anterior insertion of the first dorsal fin to the tip of the tail.

j. - Month means calendar month.

2. **Groundfish limited entry fishery limits.** The following limits apply to the groundfish limited entry fishery in Coastal Marine Fish-Shellfish Management and Catch Reporting Areas 58B, 59A-1, 59A-2, 59B, 60A-1, 60A-2, 61, 62, and 63 (notwithstanding the provisions of WAC 220-44-030):

a. **Pacific ocean perch** - One-month cumulative limit of 4,000 pounds. No minimum size.

b. **Widow rockfish** - One-month cumulative limit of 500 pounds. No minimum size. Except that there is a monthly cumulative limit of 30,000 pounds if taken with pelagic trawl as defined in WAC 220-16-015(c) and WAC 220-44-030(d). Illegal to possess or land more than 500 pounds of widow rockfish unless pelagic trawl gear is on the net reel and rigged for fishing. The sum of widow rockfish taken with any combination of gear during a monthly cumulative period may not exceed 30,000 pounds.

c. **Shortbelly rockfish** - No minimum size. No maximum poundage.

d. **Black rockfish** - The vessel trip limit for black rockfish for commercial fishing vessels using hook-and-line gear between the U.S. Canada border and Cape Alava (48°09'30" N. latitude) and between Destruction Island (47°40'00" N. latitude) and Leadbetter Point (46°38'10" N. latitude), is 100 pounds (round weight) or 30 percent by weight of all fish on board including salmon, whichever is greater, per vessel trip.

e. **Sebastes complex** - All species of rockfish except Pacific ocean perch, widow, shortbelly, and thornyhead (*Sebastes* spp.) Monthly cumulative limit of 500 pounds of which no more than 300 pounds may be yellowtail rockfish.

f. **DTS Complex - (Dover sole, Thornyhead rockfish, and Sablefish)** -

(1) **Dover sole**, - Monthly cumulative limit of 22,000 pounds.

(2) **Longspine thornyheads**, Monthly cumulative limit of 4,000 pounds.

(3) **Shortspine thornyheads**, Monthly cumulative limit of 1,000 pounds.

(4) **Sablefish** -

(a) **Trawl vessels** - Monthly cumulative limit of 7,000 pounds. Not more than 500 pounds (round weight) of sablefish per trip may be smaller than 22 inches. Sablefish total length of 22 inches is equivalent to dressed length of 15.5 inches. To convert sablefish from dressed weight to round weight, multiply the dressed weight by 1.6.

(b) **Non-trawl vessels** - Daily trip limit of 300 pounds (round weight). Monthly cumulative limit of 3,600 pounds.

g. **Pacific Whiting** - Trip limit of 10,000 pounds. No limit on frequency of trips. No minimum size.

h. **Lingcod** - Monthly cumulative limit of 500 pounds. Total length minimum size limit of 24 inches. Lingcod total length of 24 inches is equivalent to dressed length of 19.5 inches. To convert lingcod from dressed weight to round weight, multiply the dressed weight by 1.5. To convert lingcod from dressed, head on (gutted only), weight, multiply the dressed weight by 1.1.

(1) It shall be lawful to land up to 100 pounds of lingcod under 24 inches taken in the trawl fishery only.

3. **Groundfish open access fishery limits.** The following limits apply to the groundfish open access fishery in Coastal Marine Fish-Shellfish Management and Catch Reporting Areas 58B, 59A-1, 59A-2, 59B, 60A-1, 60A-2, 61, 62, and 63 (notwithstanding the provisions of WAC 220-44-030). Notwithstanding the provisions of this subsection, no groundfish open access fishery limit may exceed a groundfish limited entry fishery daily, vessel or cumulative limit or more than 50% of any period 2 or 3 cumulative limit.

(a) **Sablefish** - Daily trip limit of 300 pounds (round weight) not to exceed one-month cumulative limit of 2,700 pounds.

(b) **Pacific ocean perch** - Cumulative limit of 100 pounds per calendar month.

(c) **Widow rockfish** - Cumulative limit of 8,000 pounds per calendar month.

(d) **Sebastes complex** - All species of rockfish except Pacific ocean perch, widow, shortbelly, and thornyhead (*Sebastes* spp.) Cumulative limit of 12,000 pounds per calendar month of which no more than 6,500 pounds may be yellowtail rockfish, 3,500 pounds may be black and blue rockfish combined, and 2,000 pounds may be canary rockfish. Cumulative limit of 2,000 pounds per calendar month on *Sebastes* complex other than black, blue, canary and yellowtail rockfish.

(e) **Lingcod** - Illegal to take, possess, transport or land lingcod.

(f) **Pacific whiting** - Cumulative limit of 100 pounds per calendar month.

(g) **Dover sole** - Cumulative limit of 100 pounds per calendar month.

(h) **Shortspine thornyheads** - Illegal to take, possess, transport or land shortspine thornyheads.

(i) **Longspine thornyheads** - Illegal to take, possess, transport or land longspine thornyheads.

4. Shrimp trawl fishery limits: Limit of 500 pounds of groundfish per day fished not to exceed trip limit of 2,000 pounds of groundfish. Groundfish landings may not exceed 50% of the total weight of species landed from any shrimp trawl trip. Landings may not exceed any single open access species limit with the following exceptions:

(a) **Dover sole** - Trip limit of 2,000 pounds.

(b) **Pacific whiting** - Trip limit of 2,000 pounds.

(c) **Sablefish** - Two-month cumulative limit of 1,800 pounds. The two month period is October 1 through November 1. No daily or trip limit.

(d) **Lingcod** - Illegal to take, possess, transport or land lingcod.

5. Spot prawn trawl fishery limits: Trip limit of 300 pounds of groundfish, not to exceed any single open access species limit. Groundfish landings (excluding spiny dogfish) may not exceed 50% of the total weight of species landed from any spot prawn trawl trip.

6. Vessels engaged in chartered research for National Marine Fisheries Service (NMFS) may land and sell bottomfish caught during that research without the catch being counted toward any trip or cumulative limit for the participating vessel. Vessels that have been compensated for research work by NMFS with an Exempted Fishing Permit (EFP) to land fish as payment for such research may land and sell fish authorized under the EFP without the catch being counted toward any trip or cumulative limit for the participating vessel. Any bottomfish landed during authorized NMFS research or under the authority of a compensating EFP for past chartered research work must be reported on a separate fish receiving ticket and not included on any fish receiving ticket reporting bottomfish landed as part of any trip or cumulative limit. Bottomfish landed under the authority of NMFS research work or an EFP compensating research with fish must be clearly marked "NMFS Compensation Trip" on the fish receiving ticket in the space reserved for dealer's use. The NMFS scientist in charge must sign the fish receiving ticket in the area reserved for dealer's use if any bottomfish are landed during authorized NMFS research. If the fish are landed under the authority of an EFP as payment for research work, the EFP number must be listed in the dealer's use space.

7. It is unlawful during the unloading of the catch and prior to its being weighed or leaving the unloading facility to intermix with any other species or category of bottomfish having a cumulative limit, vessel trip limit or daily trip limit.

8. The fisher's copy of all fish receiving tickets showing landings of species provided for in this section shall be retained aboard the landing vessel for 90 days after landing.

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

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

REPEALER

The following section of the Washington Administrative Code is repealed effective 11:59 p.m. September 30, 1999:

WAC 220-44-05000Y Coastal bottomfish catch limits. (99-150)

WSR 99-20-047 EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE

[Order 99-175—Filed September 30, 1999, 1:51 p.m., effective October 2, 1999, 12:01 a.m.]

Date of Adoption: September 30, 1999.

Purpose: Personal use rules.

Citation of Existing Rules Affected by this Order: Amending WAC 220-57-175 and 220-57-319.

Statutory Authority for Adoption: RCW 75.08.080.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The Cowlitz River Salmon Hatchery is expected to have coho in excess of escapement needs. The Lewis River Hatchery currently has coho in excess of escapement needs in its holding ponds. This action will provide a greater opportunity for the sport fishery to utilize the surplus coho. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 2, Amended 0, Repealed 2.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: October 2, 1999, 12:01 a.m.

September 30, 1999

Jeff P. Koenigs

Director

by Larry Peck

NEW SECTION

WAC 220-57-17500S Cowlitz River. Notwithstanding the provisions of WAC 220-57-175, effective 12:01 a.m. October 2, 1999 through December 31, 1999, downstream from fishing boundary markers approximately 400 feet below the barrier dam structures at the Cowlitz Salmon Hatchery Barrier Dam, the daily bag limit is six fish of which four may be adult salmon, except release all chum and wild coho and no more than one adult chinook may be retained. Release chinook over 28 inches in length from Mill Creek to Blue Creek. Salmon angling from boats is prohibited the entire year in designated open waters between the barrier dam and a line from the mouth of Mill Creek to a boundary marker on the opposite bank.

NEW SECTION

WAC 220-57-31900X Lewis River. Notwithstanding the provisions of WAC 220-57-319, effective 12:01 a.m. October 2, 1999 through December 31, 1999, North Fork mouth to Colvin Creek and those waters of the mainstem downstream from the east fork to the mouth, the daily bag limit is six fish of which four may be adult salmon, except release all chum, chinook, and wild coho. At all times it is unlawful to take, fish for or possess salmon taken for personal use from waters shoreward of the cable, buoy, and corkline located at the mouth of the Lewis River Salmon Hatchery Fishway. Fishing from boats is prohibited from Johnson Creek to Colvin Creek through October 15.

WSR 99-20-076
EMERGENCY RULES
HIGHER EDUCATION
COORDINATING BOARD
 [Filed October 4, 1999, 2:02 p.m.]

Date of Adoption: September 15, 1999.

Purpose: Implement the new "Washington promise scholarship program" created by the 1999 legislature.

Statutory Authority for Adoption: Chapter 28.80 [28B.80] RCW.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: So that eligibility determinations may be finalized and scholarships paid for students attending Washington colleges and universities during the fall 1999 term.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 10, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 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.

October 4, 1999

John Klacik

Associate Director

Chapter 250-80 WAC**WASHINGTON PROMISE SCHOLARSHIP RULES**NEW SECTION

WAC 250-80-010 Purpose. The Washington promise scholarship program recognizes and encourages the aspiration for superior academic achievement of high school students who attend and graduate from Washington high schools. The program offers a two-year scholarship for eligible students that may be used at any accredited institution within the borders of the state.

NEW SECTION

WAC 250-80-020 Definitions. (1) "Board" means the higher education coordinating board.

(2) "OSPI" means the office of the superintendent of public instruction.

(3) "High school" means a secondary institution in Washington state identified by the office of the superintendent of public instruction as qualified to confer high school diplomas to a graduating senior class.

(4) "Parent(s)" mean the biological or adoptive parent of the student applicant and the spouse of a biological or adoptive parent. In cases of divorce or separation the parent for purposes of reporting income and family size is the biological or adoptive parent who provided more than one-half of the applicant's support in the previous twelve months. The term parent does not include either foster parents or legal guardians.

(5) "Family size" is the number of people for whom the applicant's parent(s) provided more than one-half of the support in the previous twelve months.

(6) "Income," in most cases means the applicant parent's adjusted gross income (AGI) as reported on the previous calendar year's federal tax return. For the independent student, income means the student's adjusted gross income as reported on the previous calendar year's federal tax return.

(7) "Independent student" means a student whose biological parents are both deceased and there is no adoptive parent, or the student is a "ward of the court," or the student has been

legally emancipated by court order. The board may also recognize a student as independent due to exceptional circumstances as recognized by the appeal committee.

(8) "Appeals committee" means a committee convened by the board to review petitions and requests by students for consideration of individual exceptional circumstances.

(9) "Median family income (MFI)" means the median income for the state of Washington, by family size, as compiled by the federal Bureau of the Census and reported annually in the *Federal Register*.

(10) "Income cutoff" means one hundred thirty-five percent of the median family income.

(11) "Academic year" means the fall, winter, and spring quarters or the fall and spring semesters between July 1st and June 30th.

(12) "Eligible student" means a person who:

(a) Graduates from a public or private high school located in the state of Washington; and

(b) Is in the top ten percent of his or her 1999 graduating class; or

(c) Is in the top fifteen percent of his or her 2000 graduating class; and

(d) Has a family income less than one hundred thirty-five percent of the state's median; and

(e) Enrolls at least half time in an eligible postsecondary institution in the state of Washington.

(13) "Eligible postsecondary institution" means:

(a) A public institution authorized by the Washington legislature and receiving operating support through the state general fund; or

(b) A postsecondary institution, whose campus or branch campus is physically located in the state of Washington, and who is accredited by a nationally recognized accrediting body. The recognized accrediting bodies are:

(i) The Northwest Association of Schools and Colleges or a similar regional accrediting body as determined by the board;

(ii) The Accrediting Bureau of Health Education Schools;

(iii) The Accrediting Council for Continuing Education and Training;

(iv) The Accrediting Commission of Career Schools and Colleges of Technology;

(v) The Accrediting Council for Independent Colleges and Schools;

(vi) The National Accrediting Commission of Cosmetology Arts and Sciences; and

Agrees to administer the program in accordance with the applicable rules and program guidelines.

(14) "Authorized use period" means the period of time the eligible student has to complete using his or her scholarship. The board will determine the authorized use period for each class of graduating high school seniors.

NEW SECTION

WAC 250-80-030 Application procedure. (1) The eligible student will make application directly to the board.

(2) The completed application will include a data sheet, signed certification statement, a copy of the parent's previous

calendar year's federal tax return for the purpose of verifying the income, and any other documentation requested by the board in response to missing, incomplete, or unclear information. Student income information will be accepted, in lieu of parental information, when the board recognizes the applicant as being an independent student.

(3) The board will treat all applications in a confidential manner.

(4) Applications will be made available through several means including:

(a) Mailings to public and private high school principals in the state;

(b) Posting on the HECB website ([HTTP://WWW.HECB.WA.GOV/](http://www.hecb.wa.gov/));

(c) Direct mailing to students.

(5) The board will annually set a deadline for the receipt of applications from that year's eligible graduating high school seniors and the deadline for renewal applications from eligible students having graduated in prior years.

(6) Applications must be received by the deadline for each graduating class of high school seniors to be considered for payment at any time during the authorized use period.

NEW SECTION

WAC 250-80-040 Recipient selection. (1) Recipients include all eligible students who have completed applications prior to the annual deadline, who are verified as having finished in the top ten percent of their senior graduating high school class, and who enroll in an eligible school.

(2) The student who is determined eligible for the first year of scholarship benefits is also presumed eligible for the second year's benefits. The student will not need to provide income information after once establishing his or her eligibility.

(3) Students not meeting the eligibility requirements for the first year of scholarship benefits may reapply for the second year of benefits.

(4) Eligibility determinations made by the appeals committee are final.

NEW SECTION

WAC 250-80-050 Authorized award amounts. (1) The maximum annual authorized award shall not exceed the representative average annual tuition and fees for resident students attending the state's community and technical colleges, as determined by the board.

(2) The actual authorized annual award for each recipient shall be the annual appropriation, as determined by the board to be available for grants, evenly prorated among the eligible students.

NEW SECTION

WAC 250-80-060 Grant disbursement. (1) Eligible students must enroll on at least a half-time status in order to receive a scholarship disbursement.

(2) Grants to students will be disbursed in equal payments, once per term, across the three quarter or two semester academic year.

(3) State of Washington public colleges and universities may request payment for funds up to the limit of the per term award for each enrolled eligible student. The state public college or university may apply the proceeds of the scholarship to any outstanding debt owed by the student to the institution. The institution must disburse any remainder directly to the eligible student.

(4) Nonstate institutions may request that checks be written to eligible students attending their schools. The board will write individual warrants payable to each eligible student and delivered to the school for disbursement.

(5) The independent university and the private vocational school must disburse the warrant once the student's half-time or greater enrollment has been verified. The school may not withhold or delay disbursement for any reason other than for less than half-time enrollment. The school has thirty days to either disburse the warrant or return it to the board.

NEW SECTION

WAC 250-80-070 Renewals and authorized use period. (1) Eligible students may renew their award for the second year's benefits, subject to the availability of funding.

(2) The deadline for the return of renewal applications will be set annually by the board.

(3) The board will determine the maximum number of years each class of graduating high school seniors has to complete usage of the scholarship.

(4) For the graduating classes of 1999 and 2000, the authorized use period is limited to two consecutive years following graduation. Students who were not eligible for the first year of benefits, or who did not use the first year of benefits, may reapply for the second year benefits, but may not renew for a third year.

(5) Receipt of the scholarship is dependent upon the availability of funding.

NEW SECTION

WAC 250-80-080 Appeals. (1) The board will set an annual deadline for the receipt of appeals.

(2) Appeals must be submitted to the board in writing before the application deadline.

(3) The board may use its judgment to except individual students from a program rule or rules based on substantial documented mitigating circumstances.

NEW SECTION

WAC 250-80-090 The account. (1) The Washington promise scholarship account is established in the custody of the state treasurer for the purpose of administering the Washington promise scholarship program.

(2) The annual allotment is to be deposited into the account for the purpose of making commitments to students for future scholarship payments, disbursements of the schol-

arship awards, and for the administrative expenses of the program, as limited by the board's biennial budget provisos.

(3) All moneys not claimed by students, the refund of tuition and fees, and contributions from nonstate sources are to be deposited into the account and used for future payments.

NEW SECTION

WAC 250-80-100 Program administration. (1) The higher education coordinating board shall administer the program. The board shall be responsible for:

- (a) Collection of student applications;
- (b) Determination of student eligibility;
- (c) Determination of the eligibility of postsecondary institutions within Washington;
- (d) Adjudication of all appeals;
- (e) Disbursement of awards; and
- (f) Maintenance of records.

(2) The OSPI shall be responsible for:

(a) Certifying the list of qualified high schools in the state of Washington;

(b) Providing guidance to high schools as to how the top ten percent or fifteen percent of each senior graduating class shall be determined;

(c) Specifying the number of students per high school that may be named as comprising the top ten percent or top fifteen percent of the graduating class;

(d) The collection and compilation of the list from each high school of the top ten percent or top fifteen percent of each graduating high school class; and

(e) The delivery of that list to the board.

WSR 99-20-080

EMERGENCY RULES

DEPARTMENT OF

FISH AND WILDLIFE

[Order 99-178—Filed October 4, 1999, 3:51 p.m.]

Date of Adoption: October 4, 1999.

Purpose: Commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-33-01000V and 220-33-01000W; 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: Harvestable numbers of salmon and sturgeon are available on the non-Indian allocation for fall commercial fisheries. Season is consistent with the 1999 Management Agreement, ESA requirements, and actions of the Columbia River Compact of September 27, 1999. 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 1, Amended 0, Repealed 2.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Immediately.

October 4, 1999

Jeff P. Koenings

Director

by Larry Peck

NEW SECTION

WAC 220-33-0100W Columbia River season below Bonneville Notwithstanding the provision 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.

1) OPEN AREA: SMCRA 1A, 1B, and 1C upstream to the Longview Bridge.

a) SEASON: 7:00 a.m. to 7:00 p.m. October 6, 1999
7:00 a.m. to 7:00 p.m. October 7, 1999

b) GEAR: 6-inch maximum mesh. Unslackened gillnet.

c) ALLOWABLE SALE: Salmon and sturgeon.

d) SANCTUARIES: Grays Bay, Elokomin-A, Abernathy, Big Creek.

2) OPEN AREA: Those waters of SMCRA 1D upstream of the I-5 Bridge and SMCRA 1E.

a) SEASON: 6:00 p.m. October 5, 1999 to 6:00 p.m. October 7, 1999

b) GEAR: 8-inch minimum mesh.

c) ALLOWABLE SALE: Salmon and sturgeon.

d) SANCTUARIES: Washougal, Sandy.

2) OPEN AREA: Tongue Point/South Channel

Tongue Point Basin is open to fishing in all waters bounded by a line from the red light at Tongue Point to the flashing green light at the rock jetty on the northwesterly tip of Mott Island, a line from a marker at the south end of Mott Island easterly to a marker on the northwest bank on Lois Island, and a line from a marker on the southwest end of Lois Island due westerly to a marker on the opposite bank. In addition, South Channel is open to fishing in all waters bounded by a line from a marker on John Day Point through the green buoy "7" thence to a marker on the southwest end of Lois Island upstream to an upper boundary line from a marker on Settler Point northwesterly to flashing red marker

"10" thence northwesterly to a marker on the sand bar defining the terminus of South Channel. All open waters are under concurrent jurisdiction.

a) SEASON:

Nightly 6:00 p.m. to 8:00 a.m.

Starting dates: October 4, October 5, October 6, October 11, October 12, October 13, October 18, October 19, October 20, October 25, October 26 and October 27.

b) GEAR:

8-inch maximum mesh restriction. Legal gear restricted to a maximum length of 250 fathoms and weight on leadline not to exceed 2 pounds on any one fathom within Tongue Point Basin. In South Channel, nets are restricted to 100 fathoms in length with no weight restrictions on the leadline. Fishers participating in the Tongue Point Basin fishery may have stored on board their boats, gill nets with leadline in excess of 2 pounds per fathom.

c) ALLOWABLE SALE: Salmon and sturgeon.

3) OPEN AREA: Blind Slough/Knappa Slough

Blind Slough is open from markers at the mouth of Gnat Creek located approximately 1/2 mile upstream of the county road bridge downstream to markers at the mouth of Blind Slough. Concurrent waters extend downstream of the railroad bridge and require an Oregon license. In addition, Knappa Slough is open to fishing in all waters bounded by a line from the northerly most marker at the mouth of Blind Slough westerly to a marker on Karlson Island downstream to a north-south line defined by a marker on the eastern end of Minaker Island to markers on Karlson Island and the Oregon shore. An area closure at the mouth of Big Creek defined by markers of about a 100' radius.

a) SEASON:

Nightly 6:00 p.m. to 8:00 a.m.

Starting dates: October 4, October 5, October 6, October 11, October 12, October 13, October 18, October 19, October 20, October 25, October 26, October 27

Blind Slough/Knappa Slough

b) GEAR: Nets restricted to 100 fathoms in length with no weight restriction on leadline. 8-inch maximum mesh.

c) ALLOWABLE SALE: Salmon and sturgeon.

4) OPEN AREA: Deep River

Deep River is open to fishing down river from the town of Deep River to the mouth (a marker at Miller Point to a marker on the opposite bank). Concurrent waters extend downstream of the Highway 4 bridge. State waters extend upstream of the Highway 4 bridge.

a) SEASON:

Nightly 6:00 p.m. to 8:00 a.m.

Starting dates: October 4, October 5, October 6, October 11, October 12, October 13, October 18, October 19, October 20, October 25, October 26, October 27

b) GEAR: Nets restricted to 100 fathoms in length with no weight restriction on leadline. 8-inch maximum mesh size restriction.

c) ALLOWABLE SALE: Salmon and sturgeon.

5) OTHER RULES FOR TONGUE POINT/SOUTH CHANNEL, BLIND SLOUGH/KNAPPA SLOUGH, DEEP RIVER:

Transportation or possession of fish outside of the fishing area when the main stem is closed is unlawful unless by

EMERGENCY

licensed buyer. An exception to the rule would allow fishers to transport their catch out of the fishing area with a permit issued by an authorized agency employee after examining the catch or by a self-issued permit in the absence of an authorized employee. One copy of the self-issued permit is to be retained by the fisher while the original must be deposited in a locked box located in or adjacent to the fishing area.

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

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

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-33-01000V Columbia River season below Bonneville. (99-170)

The following section of the Washington Administrative Code is repealed effective 8:01 a.m. October 28, 1999:

WAC 220-33-01000W Columbia River seasons below Bonneville.

**WSR 99-20-103
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES**

(Economic Services Administration)
(Division of Assistance Programs)

[Filed October 5, 1999, 1:13 p.m., effective October 20, 1999]

Date of Adoption: October 5, 1999.

Purpose: To establish that eligibility for other funding sources must be determined before benefits are authorized from the consolidated emergency assistance program and all other funding sources for housing assistance must be used in lieu of CEAP benefits.

Citation of Existing Rules Affected by this Order: Amending WAC 388-436-0030 Eligibility for CEAP depends on other possible cash benefits.

Statutory Authority for Adoption: RCW 74.04.660.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The Washington legislature made significant changes in the funding level of this program in the 1999 state budget. These changes are necessary to keep the program within allotted funds. This rule is in effect under an earlier emergency rule and this second emergency filing is to keep the rule in effect while the permanent rule-making process is completed.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 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: October 20, 1999.

October 5, 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 388-436-0030 Eligibility (~~conditions~~) for CEAP(~~—~~) depends on other possible (~~resources~~) cash benefits. (1) (~~As a condition of eligibility for CEAP, applicants must take all necessary steps to establish eligibility for the following programs~~) Before the department approves CEAP benefits, we must determine that all household members are ineligible for benefits from any of the following programs:

- (a) Temporary assistance for needy families (TANF);
- (b) State family assistance (SFA);
- (c) Refugee cash assistance (RCA);
- (d) Diversion cash assistance (DCA).

(2) To receive CEAP, the applicant must take all necessary steps to receive benefits from the following programs:

- (a) TANF, SFA, and RCA;
- (b) Supplemental security income (SSI);

~~((e))~~ (c) Medical assistance for those applicants (~~requesting emergency~~) declaring a medical (~~care~~) need;

~~((f))~~ (d) Food assistance for those applicants declaring (~~an emergency~~) a food need; (~~and~~

~~(g))~~ (e) Housing assistance from any available source for those applicants declaring a housing need;

(f) Unemployment compensation, (~~if~~) veteran's benefits, industrial insurance benefits, Social Security benefits, pension benefits, or any other source of financial benefits the applicant is potentially eligible to receive.

~~((2))~~ CEAP applicants under a grant penalty for failure to comply with program requirements of TANF/SFA, Work First under chapter 388-310 WAC, refugee cash assistance, general assistance or SSI are treated as follows:

(a) All members are ineligible and the CEAP application is denied if compliance could have prevented the need for emergency assistance.

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~~(b) Only the member responsible for the grant penalty is ineligible for CEAP if the compliance could not have prevented the need for emergency assistance))~~

(3) The department may not authorize CEAP benefits to any household containing a member who is under a grant penalty for failure to comply with program requirements of TANF/SFA, RCA, or WorkFirst under chapter 388-310 WAC.

**WSR 99-20-136
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 99-181—Filed October 6, 1999, 10:06 a.m., effective October 7, 1999, 12:01 a.m.]

Date of Adoption: October 5, 1999.
Purpose: Personal use rules.

Citation of Existing Rules Affected by this Order:
Repealing WAC 220-56-19000B, 220-57-49500E and 232-28-61900V; and amending WAC 220-57-495 and 232-28-619.

Statutory Authority for Adoption: RCW 75.08.080 and 77.12.040.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The number of fall chinook returning to the Washougal River Salmon Hatchery is less than is needed to meet escapement needs. This action will provide protection for fall chinook in shallow water staging areas until a significant rain allows migration upstream or natural spawning occurs. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 2, Amended 0, Repealed 3.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: October 7, 1999, 12:01 a.m.

October 5, 1999
Evan Jacoby
for Jeff P. Koenings
Director

NEW SECTION

WAC 220-57-49500E Washougal River. Notwithstanding the provisions of WAC 220-57-495, effective 12:01 a.m. October 7, 1999 through October 31, 1999, it is unlawful to fish for and possess salmon in those waters upstream of the Little Washougal River.

NEW SECTION

WAC 232-28-61900V Exceptions to state-wide rules. Notwithstanding the provisions of WAC 232-28-619, effective 12:01 a.m. October 7, 1999 through October 31, 1999, it is unlawful to fish or possess gamefish in those waters of the Washougal River upstream of the Little Washougal River.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-56-19000B Coastal salmon seasons. (99-148)

The following sections of the Washington Administrative Code are repealed effective 12:01 a.m. November 1, 1999:

WAC 220-57-49500E Washougal River.

WAC 232-28-61900V Exceptions to state-wide rules.

**WSR 99-20-142
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 99-180—Filed October 6, 1999, 11:20 a.m.]

Date of Adoption: October 5, 1999.

Purpose: Subsistence fishing rules.

Citation of Existing Rules Affected by this Order:
Repealing WAC 220-32-05500X and 220-32-05500Y; and amending WAC 220-32-055.

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: Harvestable numbers of fall chinook, coho and steelhead are available for tribal harvest in the Yakima River and harvestable numbers of fall chinook and coho are available for tribal harvest in the Klickitat River. Seasons are consistent with state/tribal management plans. Matches state regulations with tribal regulations. There is insufficient time to promulgate permanent regulations.

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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.

October 5, 1999

Evan Jacoby

for Jeff P. Koenings

Director

be sold. All fish must be sold within 1 mile of the Klickitat Falls fishing area.

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

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

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-32-05500X Columbia River tributaries—
Subsistence (99-83)

The following section of the Washington Administrative Code is repealed effective 6:01 December 18, 1999:

WAC 220-32-05500Y Columbia River tributaries—
Subsistence.

NEW SECTION

WAC 220-32-05500Y Columbia River tributaries—Subsistence. Notwithstanding the provisions of WAC 220-32-055 effective immediately until further notice, it is unlawful for a person possessing treaty fishing rights under the Yakama treaty to take or possess salmon taken for subsistence purposes from the Yakima River, Klickitat River, Wind River, Icicle River, or Drano Lake except under the following provisions:

Yakima River (Subsistence)

Open: 6:00 a.m. Tuesdays to 6:00 p.m. Saturdays, weekly immediately to November 27, 1999.

Area: In those waters of the Yakima River in the vicinity of Horn Rapids Dam and Prosser Dam and where the Yakima River borders the Yakama reservation. Fishing is not allowed within 30 feet of any fish ladder, fishway, or fish bypass pipe associated with irrigation canals or fish screening structures.

Gear: Fishing may be conducted with dip nets, set bag nets or hook and line with bait and lures. Snagging of fish is prohibited. All other gears are unlawful.

Other: Only chinook salmon, coho salmon and steelhead may be taken in the above described fishing area.

Klickitat River (Commercial/Subsistence)

Open: Noon Tuesdays to 6:00 p.m. Saturdays, weekly immediately to December 18, 1999.

Area: In those waters of the Klickitat River from the site of the former Swinging Bridge upstream to Fishway #5 provided that fishing is not allowed within 25 feet of the entrance to any fishway.

Gear: Fishing may be conducted with dipnets, setbag nets, or hook and line with bait or lures. Snagging of fish is prohibited. All other gears are unlawful.

Other: Only chinook and coho salmon taken within the above described fishing area may be sold. Steelhead may not

EMERGENCY



OFFICE OF THE CODE REVISER
 Quarterly Rule-Making Report
 Covering Registers 99-13 through 99-18

Type of Activity	New	Amended	Repealed
ACCOUNTANCY, BOARD OF			
Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	19	5	2
Number of Rules Proposed for Permanent Adoption	31	5	6
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	0	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	0	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0
ADMINISTRATIVE HEARINGS, OFFICE OF			
Type of Activity	New	Amended	Repealed
Number of Rules Proposed for Permanent Adoption	42	28	2
AGRICULTURE, DEPARTMENT OF			
Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	235	40	155
Number of Rules Proposed for Permanent Adoption	388	30	293
Number of Rules Withdrawn	3	1	0
Number of Sections Adopted at Request of a Nongovernmental Entity	2	5	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	34	28	150
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	2	0
Number of Sections Adopted on the Agency's own Initiative	34	30	151
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	26	24	142
Number of Sections Adopted using Pilot Rule Making	0	0	0
CLARK COLLEGE			
Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	18	0	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	9	0	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	9	0	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	9	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

MISC.

Type of Activity	New	Amended	Repealed
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COMBINED FUND DRIVE, WASHINGTON STATE EMPLOYEES

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	1	1	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	1	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	1	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

COMMUNITY AND TECHNICAL COLLEGES, STATE BOARD FOR

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	1	1	0
Number of Rules Adopted as Emergency Rules	3	1	0
Number of Rules Proposed for Permanent Adoption	15	11	0
Number of Sections Adopted at Request of a Nongovernmental Entity	1	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	1	2	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	1	1	0
Number of Sections Adopted on the Agency's own Initiative	1	2	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	1	2	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

COMMUNITY, TRADE AND ECONOMIC DEVELOPMENT, DEPARTMENT OF

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	5	5	0
Number of Rules Adopted as Emergency Rules	2	0	0
Number of Rules Proposed for Permanent Adoption	5	5	0
Number of Rules Withdrawn	47	0	7
Number of Sections Adopted at Request of a Nongovernmental Entity	0	3	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	1	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	1	2	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	5	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

CORRECTIONS, DEPARTMENT OF

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	1	1	0

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Type of Activity	New	Amended	Repealed
COUNTY ROAD ADMINISTRATION BOARD			
Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	1	1	0
Number of Rules Proposed for Permanent Adoption	1	1	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	0	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	0	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0
ECOLOGY, DEPARTMENT OF			
Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	2	0	0
Number of Rules Proposed for Permanent Adoption	14	14	0
Number of Sections Adopted at Request of a Nongovernmental Entity	1	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	0	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	0	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0
EDUCATION, STATE BOARD OF			
Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	6	6	0
Number of Rules Adopted as Emergency Rules	8	8	0
Number of Rules Proposed for Permanent Adoption	42	26	0
Number of Rules Withdrawn	8	0	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	4	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	5	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	7	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	3	0
Number of Sections Adopted using Pilot Rule Making	0	0	0
EMPLOYMENT SECURITY DEPARTMENT			
Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	26	1	5
Number of Rules Adopted as Emergency Rules	9	0	3
Number of Rules Proposed for Permanent Adoption	31	0	14

MISC.

Type of Activity	New	Amended	Repealed
Number of Rules Withdrawn	5	0	1
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	7	1	2
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	12	0	6
Number of Sections Adopted on the Agency's own Initiative	1	1	2
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	7	1	2
Number of Sections Adopted using Pilot Rule Making	0	0	0

FINANCIAL INSTITUTIONS, DEPARTMENT OF

Type of Activity	New	Amended	Repealed
Number of Rules Proposed for Permanent Adoption	6	6	0
Number of Rules Withdrawn	2	2	0

FISH AND WILDLIFE, DEPARTMENT OF

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	103	86	11
Number of Rules Adopted as Emergency Rules	243	0	73
Number of Rules Proposed for Permanent Adoption	46	32	9
Number of Rules Withdrawn	13	12	1
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	0	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	83	88	73
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

FOREST PRACTICES BOARD

Type of Activity	New	Amended	Repealed
Number of Rules Adopted as Emergency Rules	14	8	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	2	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	3	6	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

FREIGHT MOBILITY STRATEGIC INVESTMENT BOARD

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	76	0	0
Number of Rules Adopted as Emergency Rules	76	0	0
Number of Rules Proposed for Permanent Adoption	76	0	0

MISC.

Type of Activity	New	Amended	Repealed
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	76	0	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	76	0	0
Number of Sections Adopted on the Agency's own Initiative	76	0	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

GAMBLING COMMISSION

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	5	5	0
Number of Rules Proposed for Permanent Adoption	14	7	1
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	0	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	5	0
Number of Sections Adopted using Negotiated Rule Making	0	5	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

GENERAL ADMINISTRATION, DEPARTMENT OF

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	68	44	24
Number of Rules Proposed for Permanent Adoption	6	5	1
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	44	24
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	41	24
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

HEALTH CARE AUTHORITY

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	2	2	0
Number of Rules Adopted as Emergency Rules	6	4	0
Number of Rules Proposed for Permanent Adoption	3	3	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	1	6	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	1	6	0

MISC.

Type of Activity	New	Amended	Repealed
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	2	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

HEALTH, DEPARTMENT OF

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	121	40	15
Number of Rules Proposed for Permanent Adoption	49	12	1
Number of Sections Adopted at Request of a Nongovernmental Entity	3	7	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	5	10
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	16	12	2
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	16	2	0
Number of Sections Adopted on the Agency's own Initiative	1	17	6
Number of Sections Adopted using Negotiated Rule Making	1	12	1
Number of Sections Adopted using Other Alternative Rule Making	11	13	6
Number of Sections Adopted using Pilot Rule Making	0	0	0

HIGHER EDUCATION COORDINATING BOARD

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	5	5	0
Number of Rules Adopted as Emergency Rules	2	0	0
Number of Rules Proposed for Permanent Adoption	2	0	0
Number of Sections Adopted at Request of a Nongovernmental Entity	1	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	1	5	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	1	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	1	2	0
Number of Sections Adopted on the Agency's own Initiative	1	5	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	1	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

HUMAN RIGHTS COMMISSION

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	80	18	28
Number of Rules Proposed for Permanent Adoption	55	25	24
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	0	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	1	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	1	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	17	17	28
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	17	18	28
Number of Sections Adopted using Pilot Rule Making	0	0	0

INSURANCE COMMISSIONER'S OFFICE

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	8	2	0

MISC.

Type of Activity	New	Amended	Repealed
Number of Rules Proposed for Permanent Adoption	5	1	0
Number of Rules Withdrawn	3	1	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	1	2	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	2	2	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

JUDICIAL CONDUCT, COMMISSION ON

Type of Activity	New	Amended	Repealed
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	1	11	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	0	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	1	11	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

LABOR AND INDUSTRIES, DEPARTMENT OF

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	595	233	38
Number of Rules Proposed for Permanent Adoption	436	99	87
Number of Rules Withdrawn	1	1	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	9	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	66	223	35
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	65	76	3
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	76	0	0
Number of Sections Adopted on the Agency's own Initiative	1	169	34
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	66	216	36
Number of Sections Adopted using Pilot Rule Making	0	0	0

LAKE WASHINGTON TECHNICAL COLLEGE

Type of Activity	New	Amended	Repealed
Number of Rules Adopted as Emergency Rules	2	2	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	2	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	2	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0

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Type of Activity	New	Amended	Repealed
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

LICENSING, DEPARTMENT OF

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	60	16	24
Number of Rules Adopted as Emergency Rules	8	6	0
Number of Rules Proposed for Permanent Adoption	58	40	9
Number of Rules Withdrawn	5	3	2
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	11	19	24
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	2	5	16
Number of Sections Adopted on the Agency's own Initiative	10	5	7
Number of Sections Adopted using Negotiated Rule Making	2	11	1
Number of Sections Adopted using Other Alternative Rule Making	0	6	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

LIQUOR CONTROL BOARD

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	10	1	1
Number of Rules Proposed for Permanent Adoption	1	1	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	0	1
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	4	1	1
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	4	1	1
Number of Sections Adopted using Pilot Rule Making	0	0	0

LOTTERY, WASHINGTON STATE/LOTTERY COMMISSION

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	21	1	20
Number of Rules Proposed for Permanent Adoption	4	1	1
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	0	20
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	1	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

NATURAL RESOURCES, DEPARTMENT OF

Type of Activity	New	Amended	Repealed
Number of Rules Adopted as Emergency Rules	2	0	0

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Type of Activity	New	Amended	Repealed
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	0	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	1	0	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

OUTDOOR RECREATION, INTERAGENCY COMMITTEE FOR

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	1	1	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	0	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	1	0
Number of Sections Adopted on the Agency's own Initiative	0	0	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	1	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

PARKS AND RECREATION COMMISSION

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	2	2	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	2	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	2	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	2	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

PENINSULA COLLEGE

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	173	3	0
Number of Rules Proposed for Permanent Adoption	103	0	103
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	0	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	86	1	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

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Type of Activity	New	Amended	Repealed
PERSONNEL RESOURCES BOARD			
Type of Activity	New	Amended	Repealed
Number of Rules Proposed for Permanent Adoption	20	16	0
PILOTAGE COMMISSIONERS, BOARD OF			
Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	1	1	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	1	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	0	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	0	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	1	0
Number of Sections Adopted using Pilot Rule Making	0	0	0
PUBLIC EMPLOYMENT RELATIONS COMMISSION			
Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	48	42	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	3	42	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	1	0
Number of Sections Adopted on the Agency's own Initiative	3	42	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0
PUBLIC INSTRUCTION, SUPERINTENDENT OF			
Type of Activity	New	Amended	Repealed
Number of Rules Adopted as Emergency Rules	5	5	0
Number of Rules Proposed for Permanent Adoption	318	123	35
Number of Rules Withdrawn	1	1	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	5	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	5	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0
RETIREMENT SYSTEMS, DEPARTMENT OF			
Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	57	51	0
Number of Rules Proposed for Permanent Adoption	38	32	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0

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Type of Activity	New	Amended	Repealed
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	3	9	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	12	0
Number of Sections Adopted on the Agency's own Initiative	0	30	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

REVENUE, DEPARTMENT OF

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	37	8	19
Number of Rules Proposed for Permanent Adoption	40	4	14
Number of Rules Withdrawn	1	1	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	0	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	4	0
Number of Sections Adopted on the Agency's own Initiative	5	7	19
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	5	8	19
Number of Sections Adopted using Pilot Rule Making	0	0	0

SECRETARY OF STATE

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	3	3	0
Number of Rules Adopted as Emergency Rules	64	43	3
Number of Rules Proposed for Permanent Adoption	32	18	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	9	45	3
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	9	43	3
Number of Sections Adopted on the Agency's own Initiative	9	45	3
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

SOCIAL AND HEALTH SERVICES, DEPARTMENT OF

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	862	90	106
Number of Rules Adopted as Emergency Rules	28	20	0
Number of Rules Proposed for Permanent Adoption	179	32	19
Number of Rules Withdrawn	8	4	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	329	62	103
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	231	26	64
Number of Sections Adopted in Order to Comply with Federal Statute	230	0	63

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Type of Activity	New	Amended	Repealed
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	4	32	0
Number of Sections Adopted on the Agency's own Initiative	47	71	29
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	335	107	106
Number of Sections Adopted using Pilot Rule Making	0	0	0

TAX APPEALS, BOARD OF

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	36	0	14
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	0	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	11	0	14
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	11	0	14
Number of Sections Adopted using Pilot Rule Making	0	0	0

TOXICOLOGIST, STATE

Type of Activity	New	Amended	Repealed
Number of Rules Adopted as Emergency Rules	1	1	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	1	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	1	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	1	0

TRANSPORTATION, DEPARTMENT OF

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	7	5	0
Number of Rules Adopted as Emergency Rules	5	5	0
Number of Rules Proposed for Permanent Adoption	7	5	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	1	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	8	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	1	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	1	3	0
Number of Sections Adopted on the Agency's own Initiative	0	0	0
Number of Sections Adopted using Negotiated Rule Making	1	10	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

TREASURER, OFFICE OF THE STATE

Type of Activity	New	Amended	Repealed
Number of Rules Proposed for Permanent Adoption	13	13	0

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Type of Activity	New	Amended	Repealed
UTILITIES AND TRANSPORTATION COMMISSION			
Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	16	6	0
Number of Rules Proposed for Permanent Adoption	115	25	22
Number of Rules Withdrawn	116	0	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	5	5	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	0	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0
VOLUNTEER FIREFIGHTERS, BOARD FOR			
Type of Activity	New	Amended	Repealed
Number of Rules Proposed for Permanent Adoption	1	1	0
WASHINGTON STATE PATROL			
Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	7	5	0
Number of Rules Proposed for Permanent Adoption	7	5	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	2	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	0	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	2	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	1	0	0
Number of Sections Adopted on the Agency's own Initiative	0	1	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0
YAKIMA VALLEY COMMUNITY COLLEGE			
Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	20	14	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	3	14	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	3	14	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0
TOTALS FOR THE QUARTER:			
Number of Permanent Rules Adopted	2739	745	462
Number of Rules Adopted as Emergency Rules	478	103	79

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Type of Activity	New	Amended	Repealed
Number of Rules Proposed for Permanent Adoption	2203	626	641
Number of Rules Withdrawn	213	26	11
Number of Sections Adopted at Request of a Nongovernmental Entity	8	32	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	560	550	372
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	312	118	69
Number of Sections Adopted in Order to Comply with Federal Statute	230	2	63
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	199	108	25
Number of Sections Adopted on the Agency's own Initiative	410	627	391
Number of Sections Adopted using Negotiated Rule Making	4	38	2
Number of Sections Adopted using Other Alternative Rule Making	494	421	354
Number of Sections Adopted using Pilot Rule Making	0	1	0

WSR 99-20-001
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF HEALTH
 (Board of Hearing and Speech)
 [Memorandum—September 21, 1999]

The Board of Hearing and Speech has scheduled the following 2000 board meeting dates and locations as follows:

- February 18, 2000 Olympia
- May 19, 2000 Wenatchee
- August 18, 2000 Bellingham
- November 17, 2000 Olympia

If you have questions, please contact (360) 236-4916 or by e-mail at TDY0303@doh.wa.gov.

WSR 99-20-002
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF
FISH AND WILDLIFE
 (Fish and Wildlife Commission)
 [Memorandum—September 1, 1999]

The Washington Fish and Wildlife Commission would like to publish a notice of change from the 1999 meeting schedule filed under WSR 98-24-063 as follows: The December 10-11 meeting location is changed from Seattle to Vancouver.

WSR 99-20-004
NOTICE OF PUBLIC MEETINGS
STATE BOARD FOR
COMMUNITY AND TECHNICAL COLLEGES
 [Memorandum—September 16, 1999]

RESOLUTION 99-09-20

WHEREAS, each year the state board adopts its meeting schedule for the next calendar year for publication in the Washington State Register; and

WHEREAS, the state board has agreed upon the following dates and locations for 2000. All proposed host colleges have been contacted and have agreed to host the state board on the dates and locations indicated below:

- January 18-19, 2000 State Board Office
- February 2000 No Meeting
- March 1-2, 2000 Bates Technical College, Tacoma
- April 12-13, 2000 North Seattle Community College
- May 10-11, 2000 Olympic College, Bremerton
- June 21-22, 2000 Walla Walla Community College
- August 13-15, 2000 State Board Retreat
(location to be determined)
- September 20-21, 2000 Peninsula College, Port Angeles
- October No Meeting
- November 1-2, 2000 Everett Community College
- December 6-7, 2000 Highline Community College, Des Moines

WSR 99-20-015
PROCLAMATION
OFFICE OF THE GOVERNOR
 [September 24, 1999]

TERMINATING STATE OF EMERGENCY
I, GARY LOCKE, Governor of the state of Washington, pursuant to RCW 43.06.210, do hereby terminate the Proclamation signed April 21, 1998, which proclaimed a State of Emergency in Washington State due to an imminent danger of an infestation of the plant pest Asian gypsy moth (Lyman-

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tria dispar L.) in the northeastern portion of The Port of Tacoma and adjoining area.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the state of Washington to be affixed at Olympia, this 24th day of September, A.D., Nineteen Hundred and Ninety-Nine.

Gary Locke
Governor of Washington

BY THE GOVERNOR:
Ralph Munro
Secretary of State

WSR 99-20-016
PROCLAMATION
OFFICE OF THE GOVERNOR
[September 24, 1999]

TERMINATING STATE OF EMERGENCY

I, GARY LOCKE, Governor of the state of Washington, pursuant to RCW 43.06.210, do hereby terminate the Proclamation signed May 4, 1998, which proclaimed a State of Emergency in Washington State for a civil disturbance in the City of Pullman, Washington on May 3, 1998.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the state of Washington to be affixed at Olympia, this 24th day of September, A.D., Nineteen Hundred and Ninety-Nine.

Gary Locke
Governor of Washington

BY THE GOVERNOR:
Ralph Munro
Secretary of State

WSR 99-20-017
PROCLAMATION
OFFICE OF THE GOVERNOR
[September 24, 1999]

TERMINATING STATE OF EMERGENCY

I, GARY LOCKE, Governor of the state of Washington, pursuant to RCW 43.06.210, do hereby terminate the Proclamation signed August 21, 1998, which proclaimed a State of Emergency in Washington State for the Makah Days tribal celebration of August 28-30, 1998, and whaling to be undertaken by the Makah Indian Tribe on or after October 1, 1998.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the state of Washington to be affixed at Olympia, this 24th day of September, A.D., Nineteen Hundred and Ninety-Nine.

Gary Locke
Governor of Washington

BY THE GOVERNOR:
Ralph Munro
Secretary of State

WSR 99-20-018
PROCLAMATION
OFFICE OF THE GOVERNOR
[September 24, 1999]

TERMINATING STATE OF EMERGENCY

I, GARY LOCKE, Governor of the state of Washington, pursuant to RCW 43.06.210, do hereby terminate the Proclamation signed July 15, 1998, and the associated Amendment signed July 23, 1998, which proclaimed a State of Emergency in Washington State for heavy rains, flash flooding, and slides that occurred on July 3, 1998, and continued on July 9 and 10, 1998, in Asotin, Benton, Franklin, Kittitas, Lincoln and Yakima Counties.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the state of Washington to be affixed at Olympia, this 24th day of September, A.D., Nineteen Hundred and Ninety-Nine.

Gary Locke
Governor of Washington

BY THE GOVERNOR:
Ralph Munro
Secretary of State

WSR 99-20-019
PROCLAMATION
OFFICE OF THE GOVERNOR
[September 24, 1999]

TERMINATING STATE OF EMERGENCY

I, GARY LOCKE, Governor of the state of Washington, pursuant to RCW 43.06.210, do hereby terminate the Proclamation signed March 25, 1998, which proclaimed a State of Emergency in Washington State for a unique combination of events that occurred on March 3, 1998, that resulted in the catastrophic failure of the Carbon River Bridge on State Route 165 in Pierce County.

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IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the state of Washington to be affixed at Olympia, this 24th day of September, A.D., Nineteen Hundred and Ninety-Nine.

Gary Locke

Governor of Washington

BY THE GOVERNOR:

Ralph Munro

Secretary of State

WSR 99-20-022

DEPARTMENT OF SOCIAL AND HEALTH SERVICES

[Filed September 28, 1999, 12:46 p.m.]

Before chapter 388-818 WAC please add a heading entitled "Deaf and Hard of Hearing Services." In the effort to migrate all of DSHS rules into one WAC title, I am requesting that you renumber the rules as follows:

Old WAC Number	New WAC Number
388-43-001	388-818-001
388-43-002	388-818-002
388-43-003	388-818-003
388-43-005	388-818-005
388-43-010	388-818-010
388-43-020	388-818-020
388-43-030	388-818-030
388-43-040	388-818-040
388-43-050	388-818-050
388-43-060	388-818-060
388-43-070	388-818-070
388-43-080	388-818-080
388-43-090	388-818-090
388-43-110	388-818-110
388-43-130	388-818-130

Marie Myerchin-Redifer, Manager
Rules and Policies Assistance Unit

WSR 99-20-023

DEPARTMENT OF SOCIAL AND HEALTH SERVICES

[Filed September 28, 1999, 12:48 p.m.]

In the effort to migrate all of DSHS rules into one WAC title, I am requesting that you renumber the rules as follows:

Old WAC Number	New WAC Number
440-26-005	388-815-005
440-26-010	388-815-010
440-26-020	388-815-020
440-26-030	388-815-030
440-26-100	388-815-100
440-26-110	388-815-110
440-26-120	388-815-120
440-26-130	388-815-130
440-26-140	388-815-140
440-26-160	388-815-160
440-26-200	388-815-200
440-26-205	388-815-205
440-26-210	388-815-210
440-26-215	388-815-215
440-26-220	388-815-220
440-26-230	388-815-230
440-26-240	388-815-240
440-26-250	388-815-250

Marie Myerchin-Redifer, Manager
Rules and Policies Assistance Unit

WSR 99-20-030

ATTORNEY GENERAL OPINION

Cite as: AGO 1999 No. 8
[August 4, 1999]

COUNTIES - CHARTERS - FREEHOLDERS - Authority of county officials to submit alternative provisions for proposed county charter to voters.

When the state constitution authorizes alternative provisions of a new county charter to be submitted to the voters, it refers exclusively to charter provisions drafted and submitted by the freeholders who have prepared the proposed charter; the law does not permit the county commissioners or any other person to submit alternative provisions to be voted on with the original proposal.

The Honorable Bradley W. Anderson
Skamania County Prosecuting Attorney
PO Box 790
Stevenson, WA 98648

MISC.

WSR 99-20-032

ATTORNEY GENERAL'S OFFICE

[Filed September 29, 1999, 10:49 a.m.]

**NOTICE OF REQUEST FOR ATTORNEY GENERAL'S OPINION
WASHINGTON ATTORNEY GENERAL**

The Washington Attorney General issues formal published opinions in response to requests by the heads of state agencies, state legislators, and county prosecuting attorneys. When it appears that individuals outside the Attorney General's Office have information or expertise that will assist in the preparation of a particular opinion, a summary of that opinion request will be published in the state register. If you are interested in commenting on a request listed in this volume of the register, you should notify the Attorney General's Office of your interest by October 27, 1999. This is not the due date by which comments must be received. However, if you do not notify the Attorney General's Office of your interest in commenting on an opinion request by October 27, 1999, the opinion may be issued before your comments have been received. You may notify the Attorney General's Office of your intention to comment by calling (360) 586-4218, or by writing to the Solicitor General, Office of the Attorney General, P.O. Box 40100, Olympia, WA 98504-0100. When you notify the office of your intention to comment, you will be provided with a copy of the opinion request in which you are interested; information about the Attorney General's Opinion process; information on how to submit your comments; and a due date by which your comments must be received to ensure that they are fully considered.

The Attorney General's Office seeks public input on the following opinion request(s).

**99-09-06 Request by Hans Dunshee
State Representative, 39th District**

Is a computer database of real property tax assessment records that includes the name and address of individual taxpayers a list of individuals that cannot be disclosed for a commercial purpose? Does placement of such information on the internet violate the Public Disclosure Act? If such information includes the individual names of taxpayers, may a county assessor delete the names of those who ask, for security or privacy reasons, to be left off?

WSR 99-20-033

**NOTICE OF PUBLIC MEETINGS
CLOVER PARK
TECHNICAL COLLEGE**

[Memorandum—September 8, 1999]

Please be advised that the board of trustees of Clover Park Technical College at their regularly scheduled meeting on September 8, 1999, identified the following dates for their monthly meetings in the year 2000, in compliance with RCW 42.30.075.

<u>Date</u>	<u>Time</u>	<u>Location</u>
January 12, 2000	4:00 p.m.	Boardroom Building #15
February 9, 2000	4:00 p.m.	Boardroom Building #15
March 8, 2000	4:00 p.m.	Boardroom Building #15
April 12, 2000	4:00 p.m.	Boardroom Building #15
May 10, 2000	4:00 p.m.	Boardroom Building #15
June 14, 2000	4:00 p.m.	Boardroom Building #15
July 12, 2000	4:00 p.m.	Boardroom Building #15
August 9, 2000	4:00 p.m.	Boardroom Building #15
September 13, 2000	4:00 p.m.	Boardroom Building #15
October 11, 2000	4:00 p.m.	Boardroom Building #15
November 8, 2000	4:00 p.m.	Boardroom Building #15
December 13, 2000	4:00 p.m.	Boardroom Building #15

All meetings will begin at 4:00 p.m. in the Boardroom located in building #15 on the Clover Park Technical College campus at 4500 Steilacoom Boulevard S.W., Lakewood, WA 98499-4098.

WSR 99-20-034

**NOTICE OF PUBLIC MEETINGS
ADVISORY BOARD OF PLUMBERS**

[Memorandum—September 27, 1999]

In accordance with chapter 42.30 RCW, Open Public Meetings Act, the time and place of regular meetings for the Plumbers Advisory Board for 2000 have been scheduled. The meetings are scheduled to begin at 8:00 a.m. on the third Tuesday of January, April, July and October at the following location: On January 18, April 18, July 18 and October 17, 2000, at the Department of Labor and Industries, Rehabilitation Resource Center, 12806 Gateway Drive, Seattle, WA (Tukwila).

MISC.

WSR 99-20-038
INTERPRETIVE OR POLICY STATEMENT
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
[Filed September 29, 1999, 1:28 p.m.]

DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT

Document Title: Billing Instructions.
Subject: Acute physical medicine and rehabilitation (acute PM&R).
Effective Date: September 1999.

Document Description: These are billing instructions for acute PM&R providers to use when billing Medicaid eligible clients. Included in this document are sections on: Level A Hospital-Based Acute PM&R, Level B Hospital or Nursing Facility-Based Acute PM&R, Covered Revenue Codes and Condition Codes, and Billing.

To receive a copy of the interpretive or policy statement, contact Ann Myers, Regulatory Improvement Coordinator, Department of Social and Health Services, Medical Assistance Administration, Division of Program Support, P.O. Box 45530, Olympia, WA 98504, phone (360) 586-2337, TDD 1-800-848-5429, fax (360) 753-7315, e-mail mail to: MYERSEA@dshs.wa.gov.

September 24, 1999
Leslie Saeger

Regulatory Improvement Project Manager

WSR 99-20-041
NOTICE OF PUBLIC MEETINGS
HEALTH CARE AUTHORITY
(Public Employees Benefits Board)
[Memorandum—September 28, 1999]

Public Employees Benefits Board
Revised 1999 Meeting Schedule

<u>Date</u>	<u>Location</u>
October 26, 1999 8:00 a.m. to 5:00 p.m.	Washington State Training and Conference Center 19010 First Avenue South Seattle, WA 98148 (206) 439-3720
November 9, 1999, 1:00 p.m.	CANCELED
December 7, 1999, 1:00 p.m.	Cavanaugh's at Capital Lake Cavanaugh's Board Room 2300 Evergreen Park Drive Olympia, WA 99201 [98502] (360) 943-4000

If you are a person with a disability and need a special accommodation, please contact Judy Lamm at (360) 923-2828.

WSR 99-20-042
INSURANCE COMMISSIONER'S OFFICE
[Filed September 29, 1999, 3:32 p.m.]

In the Matter of the Merger of) No. G 99-47
EMPIRE LIFE INSURANCE) NOTICE OF HEARING
COMPANY with and into)
SAFECO LIFE INSURANCE)
COMPANY)

TO: Edward H. Southon
Assistant General Counsel
SAFECO Insurance Companies
SAFECO Plaza
Seattle, Washington 98185

George Pagos
Associate General Counsel
SAFECO Life Insurance Company
Post Office Box 34690
Seattle, Washington 98124-1690

Randall H. Talbot, President
Empire Life Insurance Company
Post Office Box 34690
Seattle, Washington 98124-1690

Empire Life Insurance Company is a domestic Washington life and disability insurance company. Empire Life Insurance Company is 100% owned by SAFECO Life Insurance Com-

WSR 99-20-039
INTERPRETIVE OR POLICY STATEMENT
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
[Filed September 29, 1999, 1:30 p.m.]

DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT

Document Title: 99-48 MAA Numbered Memorandum.
Subject: Vendor rate increase for infusion/parenteral/enteral therapy supplies.
Effective Date: September 1, 1999.

Document Description: The Medical Assistance Administration has made changes to the medical nutrition program (formerly known as infusion/enteral/parenteral). This memo describes those changes and should be used as an update to Numbered Memorandum 99-32 MAA.

To receive a copy of the interpretive or policy statement, contact Ann Myers, Regulatory Improvement Coordinator, Department of Social and Health Services, Medical Assistance Administration, Division of Program Support, P.O. Box 45530, Olympia, WA 98504, phone (360) 586-2337, TDD 1-800-848-5429, fax (360) 753-7315, e-mail mail to: MYERSEA@dshs.wa.gov.

September 24, 1999
Leslie Saeger

Regulatory Improvement Project Manager

MISC.

pany, a domestic Washington life and disability insurance company.

SAFECO Life Insurance Company has announced its intention to merge Empire Life Insurance Company with and into SAFECO Life Insurance Company.

A merger involving a domestic Washington insurance company is controlled by RCW 48.31.010. Pursuant to RCW 48.31.010 (1)(a) a plan of merger was submitted to the Insurance Commissioner on August 27, 1999.

YOU ARE HEREBY NOTIFIED a hearing will be held commencing Wednesday, October 20, 1999, at 9 a.m. in the conference room of the Insurance Commissioner's Office, 420 Golf Club Road, Lacey, Washington 98503, to consider the proposed merger of Empire Life Insurance Company into SAFECO Life Insurance Company.

The hearing will be held under the authority granted the Commissioner by Chapter 48.04 RCW and RCW 48.31.010 (1)(b). RCW 48.31.010 (1)(b) prescribes conditions upon which approval of the proposed merger shall be judged.

The Commissioner has not taken, and will not take, any position on this matter prior to entry of the hearing order.

All parties may be represented at the hearing. They may examine witnesses and fully respond and present evidence and argument on all issues involved, as required by the Administrative Procedure Act. The hearing will be governed by the Administrative Procedure Act, Chapter 34.05 RCW, and the model rules of procedure contained in Chapter 10-08 WAC. A party who fails to attend or participate in any stage of the proceeding may be held in default in accordance with Chapter 34.05 RCW.

The Commissioner will be represented by James E. Tompkins, Assistant Deputy Commissioner, and Ronald Pastuch, Financial Analyst.

Assistant Deputy Commissioner John B. Woodall will hear and determine this matter. His address is Office of the Insurance Commissioner, Post Office Box 40259, Olympia, Washington 98504-0259. His telephone number is (360) 407-0535.

ENTERED AT OLYMPIA, WASHINGTON, this 29th day of September, 1999.

DEBORAH SENN
Insurance Commissioner
By:
JOHN B. WOODALL
Assistant Deputy Commissioner
for Company Supervision

WSR 99-20-045

NOTICE OF PUBLIC MEETINGS EXECUTIVE ETHICS BOARD

[Memorandum—September 29, 1999]

NOTICE OF MEETING CANCELLATION

This is to notify all interested parties, that the Executive Ethics Board's regular meeting, scheduled for October 8, 1999, has been cancelled. The next scheduled meeting is Friday, November 12, 1999.

If you have any questions, please contact Executive Secretary, Meg Grimaldi at (360) 664-0871 or Executive Ethics Board Clerk, Patti Hurn at (360) 586-3265.

WSR 99-20-054

NOTICE OF PUBLIC MEETINGS DEPARTMENT OF AGRICULTURE

(Mint Commission)

[Memorandum—September 28, 1999]

As required by the Open Public Meetings Act, following is a list of regular meetings of the Washington Mint Commission to be held for the calendar year of 2000:

January 10-11, 2000, Annual Mint Convention, Doubletree, Pasco.

February 8, 1999 [2000], Noon Commission Meeting, Doubletree, Pasco.

April 11, 1999 [2000], Noon Commission Meeting, Doubletree, Pasco.

June 6, 1999 [2000], Field Day, Commission Meeting, WSU-Prosser/The Barn.

September 19, 1999 [2000], Noon Commission Meeting, Doubletree, Pasco.

Tuesday, November 9, 1999 [2000], Researcher Meeting, Noon Commission Meeting, WSU-Prosser; The Barn.

If you have any questions, please do not hesitate to contact (509) 547-5538.

WSR 99-20-068

NOTICE OF PUBLIC MEETINGS CONSERVATION COMMISSION

[Memorandum—September 27, 1999]

The Washington State Conservation Commission holds regular bimonthly meetings on the third Thursday of the month at various locations in the state of Washington (WAC 135-04-020).

The following is a change in this schedule for the remainder of 1999.

The Conservation Commission's last meeting for 1999 will be December 1-2, 1999, in Kennewick, Washington.

For further information, contact Vicki Flynn, Conservation Commission, P.O. Box 47721, Olympia, WA 98504-7721, phone (360) 407-6202.

WSR 99-20-070
RULES OF COURT
STATE SUPREME COURT

[October 1, 1999]

IN THE MATTER OF THE ADOPTION) ORDER
OF THE AMENDMENTS TO CR 83) NO. 25700-A-666

The Washington State Bar Association having recom-
mended the adoption of the proposed amendment to CR 83,
and the Court having determined that the proposed amend-
ment will aid in the prompt and orderly administration of jus-
tice and further determined that an emergency exists which
necessitates and early adoption;

Now, therefore, it is hereby

ORDERED:

- (a) That the amendment as attached hereto is adopted.
(b) That pursuant to the emergency provisions of GR
9(i), the amendment will be published expeditiously and
become effective upon publication.

DATED at Olympia, Washington this 1st day of October
1999.

Guy, C. J.

Smith, J.

Madsen, J.

Johnson, J.

Talmadge, J.

Alexander, J.

Sanders, J.

Ireland, J.

[[GENERAL]] CIVIL RULE 83
LOCAL RULES OF [[SUPERIOR]] COURT

(a) Adoption. Each [[superior]] court by action of a
majority of the judges may from time to time make and
amend local rules governing its practice not inconsistent with
these rules. Local rules shall be numbered and indexed in a
manner consistent with the numbering and index system for
the [[Superior Court]] Civil Rules.

(b) Filing With the Administrator for the Courts.
Local rules and amendments become effective only after they
are filed with the state Administrator for the Courts in accor-
dance with GR 7.

Reviser's note: The brackets and enclosed material in the text of the
above section occurred in the copy filed by the agency and appear in the Reg-
ister pursuant to the requirements of RCW 34.08.040.

Reviser's note: The typographical errors in the above material
occurred in the copy filed by the State Supreme Court and appear in the Reg-
ister pursuant to the requirements of RCW 34.08.040.

WSR 99-20-071
RULES OF COURT
STATE SUPREME COURT

[October 1, 1999]

IN THE MATTER OF THE ADOPTION) ORDER
OF THE AMENDMENTS TO CR 40(f)) NO. 25700-A-667
AND NEW CrR 8.9)

The Superior Court Judges' Association having recom-
mended the adoption of the proposed amendments to CR
40(f) and New CrR 8.9, and the Court having considered the
amendments and comments submitted thereto, and having
determined that the proposed amendments will aid in the
prompt and orderly administration of justice and further
determined that an emergency exists which necessitates an
early adoption;

Now, therefore, it is hereby

ORDERED:

- (a) That the amendments as attached hereto are adopted.
(b) That pursuant to the emergency provisions of GR
9(i), the amendments will be published expeditiously and
become effective upon publication.

DATED at Olympia, Washington this 1st day of Octo-
ber, 1999.

Guy, C. J.

Smith, J.

Johnson, J.

Talmadge, J.

Alexander, J.

Ireland, J.

CR 40(f)
CHANGE OF JUDGE

(f) Change of Judge. [Reserved. See RCW 4.12.040
and 4.12.050.] Any right under RCW 4.12.050 to seek dis-
qualification of a judge will be deemed waived unless, in
addition to the limitations in the statute, the motion and affi-
davit is filed with the court no later than thirty days prior to
trial before a pre-assigned judge. For purposes of this rule,
"trial" includes any review or appeal from an administrative
body. If a case is re-assigned to a different judge less than
forty days prior to trial, a party may then move for a change
of judge within ten days of such reassignment, unless the
moving party has previously made such a motion.

Reviser's note: The brackets and enclosed material in the text of the
above section occurred in the copy filed by the agency and appear in the Reg-
ister pursuant to the requirements of RCW 34.08.040.

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

MISC.

CrR 8.9
[New Rule]
CHANGE OF JUDGE

Any right under RCW 4.12.050 to seek disqualification of a judge will be deemed waived unless, in addition to the limitations in the statute, the motion and affidavit is filed with the court no later than thirty days prior to trial before a pre-assigned judge. If a case is re-assigned to a different judge less than forty days prior to trial, a party may then move for a change of judge within ten days of such reassignment, unless the moving party has previously made such a motion.

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

WSR 99-20-072
RULES OF COURT
STATE SUPREME COURT
[October 1, 1999]

IN THE MATTER OF THE ADOPTION) ORDER
OF THE AMENDMENTS TO GR 3 AND) NO. 25700-A-668
NEW GR 21)

The JIS Committee having recommended the adoption of the proposed amendments to GR 3 and New GR 21, and the Court having determined that the proposed amendments will aid in the prompt and orderly administration of justice and further determined that an emergency exists which necessitates an early adoption;

Now, therefore, it is hereby

ORDERED:

(a) That the amendments as attached hereto are adopted.

(b) That pursuant to the emergency provisions of GR 9(i), the amendments will be published expeditiously and become effective upon publication.

DATED at Olympia, Washington this 1st day of October, 1999.

Guy, C. J.

Smith, J.

Madsen, J

Alexander, J.

Johnson, J.

Sanders, J.

Talmadge, J.

Ireland, J.

GR 3

Filings and Hearings—Time Extended

In event the last day for filing any document, having any hearing or for doing any other thing or matter in ~~the office of any clerk of~~ any court shall fall upon a day when such court clerk's office shall be closed according to rule 2 or rule 21,

then and in that event the time for such filing, hearing or other thing or matter shall be extended until the end of the next business day upon which such ~~office court~~ shall be open for business. Notwithstanding this rule, extensions of time for trial are governed by CrR 3.3 (d)(8) and CrRLJ 3.3 (d)(8).

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

NEW GR 21
EMERGENCY COURT CLOSURE

(a). Generally. A court may be closed if weather, technological failure or other hazardous or emergency conditions or events are or become such that the safety and welfare of the employees are threatened or the court is unable to operate or demands immediate action to protect the court, its employees or property. Closure may be ordered by the chief justice, the presiding chief judge, presiding judge or other judge so designated by the affected court in his or her discretion during the pendency of such conditions or events.

(b). Order and Notification. Whenever a court is closed in accordance with section (a), the chief justice, presiding chief judge, presiding judge or other judge directing the closure of the court shall enter an administrative order closing the court which shall be filed with the clerk of the affected court. It shall also be the responsibility of the chief justice, the presiding chief judge, the presiding judge or other judge so designated by the affected court to notify the Office of the Administrator for the Courts of any decision to close a court. All oral notifications to the Office of the Administrator for the Courts shall be followed as soon as practicable with a written statement outlining the condition or event necessitating such action and the length of such closure.

(c). Filings and Hearings—Time Extended. Reserved. See GR 3.

WSR 99-20-083
HOUSING FINANCE COMMISSION

[Filed October 5, 1999, 9:08 a.m.]

NOTICE OF PUBLIC HEARING

The Washington State Housing Finance Commission (the "commission") will hold an open public hearing for the purpose of accepting public comment on the biennial review of amendments to the commission's housing finance plan, as required by laws governing the commission. The public hearing will be held at 1:00 p.m., Thursday, November 18, 1999, at the Commission Offices, 1000 Second Avenue, in its Board Room, 28th Floor, Seattle, WA.

The state housing finance plan provides the general policies of the commission and specific policies with regard to the programs of the commission. The plan outlines the manner in which the commission intends to issue bonds during the period in accordance with the goals and objectives of the plan.

The commission is encouraging public comment on the proposed housing finance plan. Interested parties and indi-

MISC.

viduals are encouraged to send written comments to the commission at the address provided below or to attend the public hearing. A copy of the proposed document may be obtained by telephone or written request to the commission and will be available at the commission as of October 15, 1999.

Written public comment is invited, but must be received by Friday, November 18, 1999, in the offices of the Washington State Housing Finance Commission, 1000 Second Avenue, Suite 2700, Seattle, WA 98104-1046. Verbal testimony will be heard from all interested members of the public attending the hearing. The commission will consider the public testimony and written comments in potential changes made to its housing finance plan.

Kim Herman
Executive Director

WSR 99-20-084

HOUSING FINANCE COMMISSION

[Filed October 5, 1999, 9:09 a.m.]

NOTICE OF PUBLIC HEARING

The Washington State Housing Finance Commission (the "commission") will hold an open public hearing for the purpose of accepting public comment on the biennial review of amendments to the commission's housing finance plan, as required by laws governing the commission. The public hearing will be held at 11:00 a.m., Wednesday, November 17, 1999, at the Spokane Public Library, Downtown Branch, 906 West Main Avenue, Room 1B, Spokane, WA.

The state housing finance plan provides the general policies of the commission and specific policies with regard to the programs of the commission. The plan outlines the manner in which the commission intends to issue bonds during the period in accordance with the goals and objectives of the plan.

The commission is encouraging public comment on the proposed housing finance plan. Interested parties and individuals are encouraged to send written comments to the commission at the address provided below or to attend the public hearing. A copy of the proposed document may be obtained by telephone or written request to the commission and will be available at the commission as of October 15, 1999.

Written public comment is invited, but must be received by Friday, November 18, 1999, in the offices of the Washington State Housing Finance Commission, 1000 Second Avenue, Suite 2700, Seattle, WA 98104-1046. Verbal testimony will be heard from all interested members of the public attending the hearing. The commission will consider the public testimony and written comments in potential changes made to its housing finance plan.

Kim Herman
Executive Director

WSR 99-20-085

NOTICE OF PUBLIC MEETINGS

EDMONDS COMMUNITY COLLEGE

[Memorandum—September 30, 1999]

EDMONDS COMMUNITY COLLEGE

BOARD OF TRUSTEES

NOTICE OF SPECIAL MEETINGS

TO MEDIA/OTHER

- October 5, 1999* High Technology Forum, Edmonds Community College, Snohomish Hall, Room 304, 20226 68th Avenue West, Lynnwood, WA, 5:30 - 8:00 p.m. *Purpose: Industry and campus discussion on high technology programs.*
- October 13-16, 1999* Association of Community College Trustees 1999 Annual Convention, Marriott Marquis Hotel, Atlanta, Georgia.
- October 18, 1999* Building Community Day, EdCC, Snohomish Hall, Triton Union Building, Seaview Gym, 20000 68th Avenue West, Lynnwood, WA, 8:00 a.m. - 5:00 p.m. *Purpose: To promote community on campus.*
- October 21, 1999 Edmonds Community College Board of Trustees Special Board Meeting: EdCC, Snohomish Hall, Room 304A, 20226 68th Avenue West, Lynnwood, WA, 3:00 p.m. *Purpose: To address routine college business issues. NOTE: TIME CHANGE*
- October 21, 1999* Edmonds Community College Foundation Scholarship Banquet, Triton Union Building, 2nd Floor, 20000 68th Avenue West, Lynnwood, WA, 5:30 - 8:00 p.m.
- October 27, 1999* Edmonds Community College Board of Trustees and Federation Executive Council Dinner, EdCC, Culinary Connections, 20000 68th Avenue West, 5:00 p.m.

*This event is being scheduled as a special meeting, which is a study session where not action will be taken.

MISC.

WSR 99-20-116**DEPARTMENT OF ECOLOGY**

[Filed October 6, 1999, 9:33 a.m.]

STATE-WIDE DAIRY WASTE GENERAL DISCHARGE PERMIT
PUBLIC NOTICE OF
TENTATIVE DETERMINATION

The Washington Department of Ecology (ecology) has tentatively determined it will reissue a state-wide National Pollutant Discharge Elimination System/State Dairy Waste general discharge permit to satisfy requirements of the federal Water Pollution Control Act as amended (Title 33 United States Code, Section 1251 et seq.) and the State Water Pollution Control Act (RCW 90.48.160 and 90.48.260). The original permit expired on September 2, 1999.

A commercial dairy farm is a facility engaged in the commercial production of milk from dairy cows. The permit will apply only to those commercial dairy farms requiring permit coverage. Dairy farms needing permit coverage are those that meet the definition of a concentrated animal feeding operation under 40 C.F.R. 122.23 or those meeting the definition of a concentrated dairy animal feeding operation under RCW 90.64.010(8) or 90.64.020. Generally, dairy farms that discharge manure or runoff contaminated with manure to surface waters will require permit coverage. It is expected the permit will be issued on January 10, 2000.

The purpose of the permit is to establish limitations on discharges of manure and wastewater to surface and groundwaters of the state. The limitations are necessary to protect current and future beneficial uses of waters of the state including domestic, industrial and agricultural water supplies, stock watering, fish and shellfish propagation and harvest, wildlife habitat, recreation and commerce and navigation.

In order to comply with conditions of the permit, a permitted dairy farm will need to manage wastewater in accordance with a dairy nutrient management plan developed specifically for the farm. The plan will need to meet the minimum elements for dairy nutrient management planning identified in the 1998 Dairy Nutrient Management Act, chapter 90.64 RCW. Discharges of manure and contaminated runoff to surface and groundwaters of the state will be restricted. It is expected that compliance with the permit will help restore those beneficial uses in those waters of the state that have been degraded due to existing discharges and also prevent future degradation.

Ecology has also prepared an economic impact analysis (EIA) to evaluate the draft permit in accordance with the wastewater discharge general permit rule, chapter 173-226 WAC. The EIA estimated the cost of compliance for both eastern and western Washington herd sizes of 100, 200, 400 and 700 milking animals. One analysis assumed no pollution control facilities were in place to examine the potential maximum costs incurred. The annualized cost per cow for compliance was highest for small herd sizes. The cost for compliance was significantly reduced for farms that already had some pollution control facilities in place and also took advantage of federal and state cost-share programs. Combination

informational meetings and public hearings will be held at the following dates, locations and times.

Tuesday, November 23, 1999
Yakima Area Arboretum
1401 Arboretum Drive
Yakima, WA
Public Informational Meeting: 1 p.m. - 2 p.m.
Public Hearing: 2:30 p.m.

Tuesday, November 30, 1999
Northwest Washington Fairgrounds-Peoples Place
1775 Front Street
Lynden, WA
Public Informational Meeting: 1 p.m. - 2 p.m.
Public Hearing: 2:30 p.m.

Wednesday, December 1, 1999
McCollum Park
WSU Cooperative Extension Auditorium
600 128th Street Southeast
Everett, WA
Public Informational Meeting: 1 p.m. - 2 p.m.
Public Hearing: 2:30 p.m.

Friday, December 3, 1999
Centralia Community College
Main Cafeteria
600 West Locust
Centralia, WA
Public Informational Meeting: 6:30 p.m. - 7:30 p.m.
Public Hearing: 8 p.m.

Interested persons may obtain additional information and a listing of commercial dairy farms in Washington state at the following address: Department of Ecology, Water Quality Program, 300 Desmond Drive, Lacey, WA 98504-7600.

A fifty-two day comment period has been established for those persons wishing to provide comments from October 20, 1999, through December 10, 1999. Written comments and comments received at the public hearings will be considered in formulating the final determination on the draft permit. Written comments should be addressed to: Department of Ecology, Water Quality Program, P.O. Box 47600, Lacey, WA 98504-7600, Attn: Phil KauzLoric, phone (360) 407-6413, e-mail pkau461@ecy.wa.gov.

WSR 99-20-117
RULES COORDINATOR
CLOVER PARK
TECHNICAL COLLEGE
[Filed October 6, 1999, 9:34 a.m.]

In accordance with RCW 34.05.310, please be advised that the Office of Vice-President for Operations and Facilities will serve as the agency rules coordinator for Clover Park Technical College. The mailing address and contact person's phone number are as follows: Ms. Cherie Steele, Administrative Assistant, Clover Park Technical College, 4500 Steila-

com Boulevard S.W., Lakewood, WA 98499-4098, phone
(253) 589-5843, e-mail csteele@cptc.ctc.edu.

Dr. Sharon McGavick
President

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.

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4- 25-740	REP	99-18-114	10- 04-030	AMD-P	99-17-107	10- 08-150	AMD	99-20-115
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16-144-110	REP-XR	99-19-166	16-200-742	REP-XA	99-15-033	16-228-1320	NEW-XA	99-15-033
16-144-120	REP-XR	99-19-166	16-200-750	AMD-P	99-13-164	16-228-1330	NEW-XA	99-15-033
16-144-130	REP-XR	99-19-166	16-200-750	AMD	99-17-043	16-228-1370	NEW-XA	99-15-033
16-144-140	REP-XR	99-19-166	16-200-755	AMD-P	99-13-164	16-228-1380	NEW-XA	99-15-033
16-145	PREP	99-13-179	16-200-755	AMD	99-17-043	16-228-1385	NEW-XA	99-15-033
16-146	PREP	99-13-182	16-200-760	AMD-P	99-13-164	16-228-140	REP-XA	99-15-033
16-147	PREP	99-12-124	16-200-760	AMD	99-17-043	16-228-1400	NEW-XA	99-15-033
16-150-001	REP-XR	99-16-087	16-200-790	AMD-P	99-13-164	16-228-1410	NEW-XA	99-15-033
16-150-010	REP-XR	99-16-087	16-200-790	AMD	99-17-043	16-228-1420	NEW-XA	99-15-033
16-152-001	REP-XR	99-16-087	16-200-795	AMD-P	99-13-164	16-228-143	REP-XA	99-15-033
16-152-010	REP-XR	99-16-087	16-200-795	AMD	99-17-043	16-228-1430	NEW-XA	99-15-033
16-160-010	AMD-P	99-13-195	16-200-815	AMD-P	99-13-164	16-228-1440	NEW-XA	99-15-033
16-160-010	AMD	99-16-054	16-200-815	AMD	99-17-043	16-228-145	REP-XA	99-15-033

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16-228-1455	NEW-XA	99-15-033	16-230-400	PREP	99-13-162	16-231-935	PREP	99-13-162
16-228-1460	NEW-XA	99-15-033	16-230-410	PREP	99-13-162	16-232-001	PREP	99-13-162
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16-228-1540	NEW-XA	99-15-033	16-230-450	PREP	99-13-162	16-232-020	PREP	99-13-162
16-228-155	REP-XA	99-15-033	16-230-460	PREP	99-13-162	16-232-025	PREP	99-13-162
16-228-1550	NEW-XA	99-15-033	16-230-470	PREP	99-13-162	16-232-027	PREP	99-13-162
16-228-1555	NEW-XA	99-15-033	16-231-200	PREP	99-13-162	16-232-030	PREP	99-13-162
16-228-157	REP-XA	99-15-033	16-231-205	PREP	99-13-162	16-232-035	PREP	99-13-162
16-228-1570	NEW-XA	99-15-033	16-231-210	PREP	99-13-162	16-232-038	PREP	99-13-162
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16-228-1590	NEW-XA	99-15-033	16-231-225	PREP	99-13-162	16-232-110	PREP	99-13-162
16-228-160	REP-XA	99-15-033	16-231-230	PREP	99-13-162	16-232-115	PREP	99-13-162
16-228-161	REP-XA	99-15-033	16-231-235	PREP	99-13-162	16-232-120	PREP	99-13-162
16-228-162	REP-XA	99-15-033	16-231-300	PREP	99-13-162	16-232-200	PREP	99-13-162
16-228-164	REP-XA	99-15-033	16-231-305	PREP	99-13-162	16-232-205	PREP	99-13-162
16-228-166	REP-XA	99-15-033	16-231-310	PREP	99-13-162	16-232-210	PREP	99-13-162
16-228-168	REP-XA	99-15-033	16-231-315	PREP	99-13-162	16-232-215	PREP	99-13-162
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16-228-172	REP-XA	99-15-033	16-231-325	PREP	99-13-162	16-232-225	PREP	99-13-162
16-228-180	REP-XA	99-15-033	16-231-330	PREP	99-13-162	16-232-300	PREP	99-13-162
16-228-185	REP-XA	99-15-033	16-231-335	PREP	99-13-162	16-232-305	PREP	99-13-162
16-228-190	REP-XA	99-15-033	16-231-340	PREP	99-13-162	16-232-310	PREP	99-13-162
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16-228-2020	NEW-XA	99-15-033	16-231-410	PREP	99-13-162	16-316-474	AMD-P	99-13-184
16-228-2030	NEW-XA	99-15-033	16-231-413	PREP	99-13-162	16-316-474	AMD-C	99-20-024
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16-228-213	REP-XA	99-15-033	16-231-425	PREP	99-13-162	16-316-717	AMD-C	99-20-024
16-228-214	REP-XA	99-15-033	16-231-500	PREP	99-13-162	16-316-727	PREP	99-04-096
16-228-215	REP-XA	99-15-033	16-231-505	PREP	99-13-162	16-316-727	AMD-P	99-13-184
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16-228-227	REP-XA	99-15-033	16-231-525	PREP	99-13-162	16-322	PREP	99-03-093
16-228-230	REP-XA	99-15-033	16-231-530	PREP	99-13-162	16-401	PREP	99-03-095
16-228-232	REP-XA	99-15-033	16-231-530	PREP	99-13-162	16-401-019	AMD-P	99-07-126
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16-228-320	REP-XR	99-04-006	16-231-610	PREP	99-13-162	16-401-020	AMD	99-12-034
16-228-320	REP	99-07-113	16-231-613	PREP	99-13-162	16-401-020	PREP	99-18-098
16-228-330	REP-XR	99-04-006	16-231-615	PREP	99-13-162	16-401-021	NEW-P	99-07-126
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16-228-410	REP-XA	99-15-033	16-231-715	PREP	99-13-162	16-401-025	AMD	99-12-034
16-228-420	REP-XA	99-15-033	16-231-720	PREP	99-13-162	16-401-025	AMD	99-12-034
16-228-430	REP-XA	99-15-033	16-231-800	PREP	99-13-162	16-401-026	NEW-P	99-18-098
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16-228-655	REP-XA	99-15-033	16-231-820	PREP	99-13-162	16-401-030	AMD	99-12-034
16-228-660	REP-XA	99-15-033	16-231-825	PREP	99-13-162	16-401-030	PREP	99-18-098
16-228-905	REP-XA	99-15-033	16-231-830	PREP	99-13-162	16-401-031	NEW-P	99-07-126
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16-228-915	REP-XA	99-15-033	16-231-835	PREP	99-13-162	16-401-031	NEW	99-12-034
16-228-920	REP-XA	99-15-033	16-231-840	PREP	99-13-162	16-401-040	AMD-P	99-07-126
16-228-925	REP-XA	99-15-033	16-231-840	PREP	99-13-162	16-401-040	AMD	99-12-034
16-228-930	REP-XA	99-15-033	16-231-900	PREP	99-13-162	16-401-040	PREP	99-18-098
16-230	PREP	99-07-087	16-231-905	PREP	99-13-162	16-401-041	NEW-P	99-07-126
16-230-150	PREP	99-13-163	16-231-910	PREP	99-13-162	16-401-041	NEW	99-12-034
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16-230-170	PREP	99-13-163	16-231-915	PREP	99-13-162	16-401-050	AMD-P	99-07-126
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16-403-141	AMD	99-14-036	16-460-100	REP	99-17-001	16-545-080	NEW	99-02-064
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16-406-020	PREP	99-04-094	16-461-010	AMD-P	99-11-096	16-557-020	REP-P	99-20-113
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16-406-020	AMD	99-17-003	16-462	PREP	99-03-094	16-557-030	REP-P	99-20-113
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16-406-025	NEW	99-17-003	16-462-010	AMD-XA	99-07-127	16-557-041	REP-P	99-20-113
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16-406-030	AMD-P	99-08-108	16-462-015	AMD-XA	99-07-127	16-557-060	REP-P	99-20-113
16-406-030	AMD	99-17-003	16-462-015	AMD	99-12-025	16-557-070	REP-P	99-20-113
16-406-050	PREP	99-04-094	16-462-020	AMD-XA	99-07-127	16-557-080	REP-P	99-20-113
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16-406-050	AMD	99-17-003	16-462-021	NEW-XA	99-07-127	16-561-010	AMD-C	99-11-024
16-412-010	REP-XR	99-08-112	16-462-021	NEW	99-12-025	16-561-010	AMD-C	99-12-013
16-412-010	REP	99-17-001	16-462-022	NEW-XA	99-07-127	16-561-010	AMD-W	99-13-142
16-412-020	REP-XR	99-08-112	16-462-022	NEW	99-12-025	16-561-130	NEW-P	99-07-108
16-412-020	REP	99-17-001	16-462-025	AMD-XA	99-07-127	16-561-130	NEW-C	99-11-024
16-412-030	REP-XR	99-08-112	16-462-025	AMD	99-12-025	16-561-130	NEW-C	99-12-013
16-412-030	REP	99-17-001	16-462-030	AMD-XA	99-07-127	16-561-130	NEW-W	99-13-142
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16-412-040	REP	99-17-001	16-462-035	AMD-XA	99-07-127	16-575-015	NEW	99-12-104
16-412-050	REP-XR	99-08-112	16-462-035	AMD	99-12-025	16-604-010	REP	99-04-069
16-412-050	REP	99-17-001	16-462-045	REP-XA	99-07-127	16-607-150	NEW-P	99-16-100
16-412-060	REP-XR	99-08-112	16-462-045	REP	99-12-025	16-607-150	NEW-W	99-20-052
16-412-060	REP	99-17-001	16-462-050	AMD-XA	99-07-127	16-607-155	NEW-P	99-16-100
16-424-010	REP-XR	99-08-112	16-462-050	AMD	99-12-025	16-607-155	NEW-W	99-20-052
16-424-010	REP	99-17-001	16-462-055	AMD-XA	99-07-127	16-607-160	NEW-P	99-16-100
16-424-020	REP-XR	99-08-112	16-462-055	AMD	99-12-025	16-607-160	NEW-W	99-20-052
16-424-020	REP	99-17-001	16-462-060	REP-XA	99-07-127	16-607-165	NEW-P	99-16-100
16-424-030	REP-XR	99-08-112	16-462-060	REP	99-12-025	16-607-165	NEW-W	99-20-052
16-424-030	REP	99-17-001	16-470	PREP	99-03-092	16-607-170	NEW-P	99-16-100
16-436	PREP	99-08-111	16-470-900	PREP	99-03-096	16-607-170	NEW-W	99-20-052
16-448	PREP	99-08-110	16-470-900	AMD-P	99-07-125	16-645-005	NEW-P	99-02-066
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16-451-010	REP	99-17-001	16-470-905	AMD-P	99-07-125	16-645-010	NEW	99-06-072
16-451-020	REP-XR	99-08-112	16-470-905	AMD	99-12-035	16-662-105	AMD-P	99-04-111
16-451-020	REP	99-17-001	16-470-910	PREP	99-03-096	16-662-105	AMD	99-07-056
16-451-030	REP-XR	99-08-112	16-470-910	AMD-P	99-07-125	16-662-110	AMD-P	99-04-111
16-451-030	REP	99-17-001	16-470-910	AMD	99-12-035	16-662-110	AMD	99-07-056
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16-451-040	REP	99-17-001	16-470-911	NEW-P	99-07-125	16-720	PREP	99-16-089
16-451-050	REP-XR	99-08-112	16-470-911	NEW	99-12-035	16-750	PREP	99-13-039
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16-458-004	REP	99-17-002	16-470-920	AMD-P	99-07-125	16-750-105	AMD-P	99-20-137
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16-458-080	AMD	99-17-002	16-470-921	NEW	99-12-035	16-750-135	AMD-P	99-20-137
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16-458-085	AMD	99-17-002	16-483	PREP	99-03-091	16-750-145	AMD-P	99-20-137
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16-460-005	REP	99-17-001	16-532-020	AMD	99-10-095	16-750-155	AMD-P	99-20-137
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16-460-008	REP	99-17-001	16-545-015	NEW	99-02-064	16-750-175	REP-P	99-20-137
16-460-040	REP-XR	99-08-112	16-545-020	NEW	99-02-064	16-750-185	AMD-P	99-20-137
16-460-040	REP	99-17-001	16-545-030	NEW	99-02-064	16-750-190	REP-P	99-20-137
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16-752-115	REP	99-11-087	36-12-415	REP-P	99-20-140	50-16-105	REP	99-08-123
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16-752-120	REP	99-11-087	36-12-435	REP-P	99-20-140	50-44-037	NEW	99-10-024
16-752-125	REP-XR	99-07-124	36-12-445	REP-P	99-20-140	50-44-039	NEW-P	99-07-131
16-752-125	REP	99-11-087	36-12-450	REP-P	99-20-140	50-44-039	NEW	99-10-024
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16-752-135	REP-XR	99-07-124	36-12-485	NEW-P	99-20-140	67-55-060	AMD	99-05-005
16-752-135	REP	99-11-087	36-13-010	NEW-P	99-20-140	67-75-010	AMD	99-05-005
16-752-140	REP-XR	99-07-124	36-13-020	NEW-P	99-20-140	67-75-020	AMD	99-05-005
16-752-140	REP	99-11-087	36-13-030	NEW-P	99-20-140	67-75-030	AMD	99-05-005
16-752-145	REP-XR	99-07-124	36-13-040	NEW-P	99-20-140	67-75-040	AMD	99-05-005
16-752-145	REP	99-11-087	36-13-050	NEW-P	99-20-140	67-75-042	AMD	99-05-005
16-752-146	REP-XR	99-07-124	36-13-060	NEW-P	99-20-140	67-75-044	AMD	99-05-005
16-752-146	REP	99-11-087	36-13-070	NEW-P	99-20-140	67-75-050	AMD	99-05-005
16-752-147	REP-XR	99-07-124	36-13-080	NEW-P	99-20-140	82-50-021	AMD-XA	99-07-128
16-752-147	REP	99-11-087	36-13-090	NEW-P	99-20-140	82-50-021	AMD	99-12-081
16-752-150	REP-XR	99-07-124	36-13-100	NEW-P	99-20-140	98-70-010	PREP	99-10-017
16-752-150	REP	99-11-087	36-13-110	NEW-P	99-20-140	98-70-010	AMD-P	99-13-137
16-752-155	REP-XR	99-07-124	36-13-120	NEW-P	99-20-140	98-70-010	AMD	99-16-079
16-752-155	REP	99-11-087	36-13-130	NEW-P	99-20-140	130-16	PREP	99-08-060
16-752-160	REP-XR	99-07-124	36-13-140	NEW-P	99-20-140	131-16-021	PREP	99-09-017
16-752-160	REP	99-11-087	36-14-100	NEW-P	99-13-127	131-16-021	AMD-P	99-13-043
16-752-165	REP-XR	99-07-124	36-14-100	NEW	99-17-048	131-16-021	AMD-E	99-13-186
16-752-165	REP	99-11-087	36-14-110	NEW-P	99-20-140	131-16-021	AMD-P	99-14-019
16-752-170	REP-XR	99-07-124	36-14-400	NEW-P	99-20-140	131-16-021	AMD-P	99-14-052
16-752-170	REP	99-11-087	36-14-410	NEW-P	99-20-140	131-16-021	AMD-P	99-18-094
25-12-010	REP-P	99-03-098	36-14-420	NEW-P	99-20-140	131-16-021	AMD	99-19-100
25-12-010	REP-W	99-16-074	44-10	PREP	99-15-079	131-16-450	PREP	99-04-029
25-12-020	REP-P	99-03-098	44-10-010	AMD-P	99-19-109	131-16-450	AMD-E	99-07-057
25-12-020	REP-W	99-16-074	44-10-170	AMD-P	99-19-109	131-16-450	AMD-P	99-08-013
25-12-030	REP-P	99-03-098	44-10-200	AMD-P	99-19-109	131-16-450	AMD	99-13-013
25-12-030	REP-W	99-16-074	50-16-020	REP-XR	99-04-073	131-28	PREP	99-10-015
25-12-040	REP-P	99-03-098	50-16-020	REP	99-08-123	131-46	PREP	99-08-057
25-12-040	REP-W	99-16-074	50-16-025	REP-XR	99-04-073	131-46-140	NEW-P	99-14-018
25-12-050	REP-P	99-03-098	50-16-025	REP	99-08-123	131-46-140	NEW-E	99-14-020
25-12-050	REP-W	99-16-074	50-16-030	REP-XR	99-04-073	131-46-140	NEW	99-19-099
25-12-060	REP-P	99-03-098	50-16-030	REP	99-08-123	132A	PREP	99-07-060
25-12-060	REP-W	99-16-074	50-16-035	REP-XR	99-04-073	132A-104-010	REP-XR	99-16-028
25-12-070	REP-P	99-03-098	50-16-035	REP	99-08-123	132A-104-010	REP	99-19-150
25-12-070	REP-W	99-16-074	50-16-040	REP-XR	99-04-073	132A-104-011	NEW-P	99-10-100
25-12-110	NEW-P	99-03-098	50-16-040	REP	99-08-123	132A-104-011	NEW	99-15-072
25-12-110	NEW-W	99-16-074	50-16-045	REP-XR	99-04-073	132A-104-015	REP-XR	99-16-028
25-12-120	NEW-P	99-03-098	50-16-045	REP	99-08-123	132A-104-015	REP	99-19-150
25-12-120	NEW-W	99-16-074	50-16-050	REP-XR	99-04-073	132A-104-016	NEW-P	99-10-100
25-12-130	NEW-P	99-03-098	50-16-050	REP	99-08-123	132A-104-016	NEW	99-15-072
25-12-130	NEW-W	99-16-074	50-16-055	REP-XR	99-04-073	132A-104-020	REP-XR	99-16-028
25-12-140	NEW-P	99-03-098	50-16-055	REP	99-08-123	132A-104-020	REP	99-19-150
25-12-140	NEW-W	99-16-074	50-16-060	REP-XR	99-04-073	132A-104-021	NEW-P	99-10-100
25-12-150	NEW-P	99-03-098	50-16-060	REP	99-08-123	132A-104-021	NEW	99-15-072
25-12-150	NEW-W	99-16-074	50-16-065	REP-XR	99-04-073	132A-108-010	NEW-P	99-10-100
25-12-160	NEW-P	99-03-098	50-16-065	REP	99-08-123	132A-108-010	NEW	99-15-072
25-12-160	NEW-W	99-16-074	50-16-070	REP-XR	99-04-073	132A-108-010	NEW	99-15-072
25-12-170	NEW-P	99-03-098	50-16-070	REP	99-08-123	132A-108-020	NEW-P	99-10-100
25-12-170	NEW-W	99-16-074	50-16-075	REP-XR	99-04-073	132A-108-020	NEW	99-15-072
25-12-180	NEW-P	99-03-098	50-16-075	REP	99-08-123	132A-108-030	NEW-P	99-10-100
25-12-180	NEW-W	99-16-074	50-16-080	REP-XR	99-04-073	132A-108-030	NEW	99-15-072
36-12	PREP	99-12-103	50-16-080	REP	99-08-123	132A-108-040	NEW-P	99-10-100
36-12-195	AMD-P	99-20-140	50-16-085	REP-XR	99-04-073	132A-108-040	NEW	99-15-072
36-12-364	NEW-P	99-13-127	50-16-085	REP	99-08-123	132A-108-040	NEW	99-15-072
36-12-364	NEW	99-17-048	50-16-090	REP-XR	99-04-073	132A-108-050	NEW-P	99-10-100
36-12-365	REP-P	99-20-140	50-16-090	REP	99-08-123	132A-108-050	NEW	99-15-072
36-12-367	REP-P	99-20-140	50-16-095	REP-XR	99-04-073	132A-108-060	NEW-P	99-10-100
36-12-370	REP-P	99-20-140	50-16-095	REP	99-08-123	132A-108-060	NEW	99-15-072
			50-16-095	REP-XR	99-04-073	132A-108-070	NEW-P	99-10-100
			50-16-095	REP	99-08-123	132A-108-070	NEW	99-15-072

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Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
132A-108-080	NEW-P	99-10-100	132A-120-050	REP	99-19-150	132A-136-005	REP-XR	99-16-028
132A-108-080	NEW	99-15-072	132A-120-051	NEW-P	99-10-100	132A-136-005	REP	99-19-150
132A-108-090	NEW-P	99-10-100	132A-120-051	NEW	99-15-072	132A-136-010	REP-XR	99-16-028
132A-108-090	NEW	99-15-072	132A-120-055	REP-XR	99-16-028	132A-136-010	REP	99-19-150
132A-116-001	NEW-P	99-10-100	132A-120-055	REP	99-19-150	132A-136-015	REP-XR	99-16-028
132A-116-001	NEW	99-15-072	132A-120-056	NEW-P	99-10-100	132A-136-015	REP	99-19-150
132A-116-005	REP-XR	99-16-028	132A-120-056	NEW	99-15-072	132A-136-020	REP-XR	99-16-028
132A-116-005	REP	99-19-150	132A-120-060	REP-XR	99-16-028	132A-136-020	REP	99-19-150
132A-116-006	NEW-P	99-10-100	132A-120-060	REP	99-19-150	132A-136-025	REP-XR	99-16-028
132A-116-006	NEW	99-15-072	132A-120-061	NEW-P	99-10-100	132A-136-025	REP	99-19-150
132A-116-010	REP-XR	99-16-028	132A-120-061	NEW	99-15-072	132A-136-030	REP-XR	99-16-028
132A-116-010	REP	99-19-150	132A-122-010	REP-XR	99-16-028	132A-136-030	REP	99-19-150
132A-116-011	NEW-P	99-10-100	132A-122-010	REP	99-19-150	132A-140	AMD-P	99-10-100
132A-116-011	NEW	99-15-072	132A-122-011	NEW-P	99-10-100	132A-140	AMD	99-15-072
132A-116-015	REP-XR	99-16-028	132A-122-011	NEW	99-15-072	132A-140-001	NEW-P	99-10-100
132A-116-015	REP	99-19-150	132A-122-020	REP-XR	99-16-028	132A-140-001	NEW	99-15-072
132A-116-016	NEW-P	99-10-100	132A-122-020	REP	99-19-150	132A-140-005	REP-XR	99-16-028
132A-116-016	NEW	99-15-072	132A-122-021	NEW-P	99-10-100	132A-140-005	REP	99-19-150
132A-116-020	REP-XR	99-16-028	132A-122-021	NEW	99-15-072	132A-140-006	NEW-P	99-10-100
132A-116-020	REP	99-19-150	132A-122-030	REP-XR	99-16-028	132A-140-006	NEW	99-15-072
132A-116-021	NEW-P	99-10-100	132A-122-030	REP	99-19-150	132A-140-010	REP-XR	99-16-028
132A-116-021	NEW	99-15-072	132A-122-040	REP-XR	99-16-028	132A-140-010	REP	99-19-150
132A-116-025	REP-XR	99-16-028	132A-122-040	REP	99-19-150	132A-140-011	NEW-P	99-10-100
132A-116-025	REP	99-19-150	132A-122-050	REP-XR	99-16-028	132A-140-011	NEW	99-15-072
132A-116-026	NEW-P	99-10-100	132A-122-050	REP	99-19-150	132A-140-015	REP-XR	99-16-028
132A-116-026	NEW	99-15-072	132A-128-005	REP-XR	99-16-028	132A-140-015	REP	99-19-150
132A-116-030	NEW-P	99-10-100	132A-128-005	REP	99-19-150	132A-140-016	NEW-P	99-10-100
132A-116-030	NEW	99-15-072	132A-128-010	REP-XR	99-16-028	132A-140-016	NEW	99-15-072
132A-120	AMD-P	99-10-100	132A-128-010	REP	99-19-150	132A-140-020	REP-XR	99-16-028
132A-120	AMD	99-15-072	132A-128-015	REP-XR	99-16-028	132A-140-020	REP	99-19-150
132A-120-005	REP-XR	99-16-028	132A-128-015	REP	99-19-150	132A-140-021	NEW-P	99-10-100
132A-120-005	REP	99-19-150	132A-128-020	REP-XR	99-16-028	132A-140-021	NEW	99-15-072
132A-120-006	NEW-P	99-10-100	132A-128-020	REP	99-19-150	132A-140-025	REP-XR	99-16-028
132A-120-006	NEW	99-15-072	132A-128-025	REP-XR	99-16-028	132A-140-025	REP	99-19-150
132A-120-010	REP-XR	99-16-028	132A-128-025	REP	99-19-150	132A-140-026	NEW-P	99-10-100
132A-120-010	REP	99-19-150	132A-128-030	REP-XR	99-16-028	132A-140-026	NEW	99-15-072
132A-120-011	NEW-P	99-10-100	132A-128-030	REP	99-19-150	132A-140-030	NEW-P	99-10-100
132A-120-011	NEW	99-15-072	132A-128-035	REP-XR	99-16-028	132A-140-030	NEW	99-15-072
132A-120-015	REP-XR	99-16-028	132A-128-035	REP	99-19-150	132A-150-010	NEW-P	99-10-100
132A-120-015	REP	99-19-150	132A-128-040	REP-XR	99-16-028	132A-150-010	NEW	99-15-072
132A-120-016	NEW-P	99-10-100	132A-128-040	REP	99-19-150	132A-150-020	NEW-P	99-10-100
132A-120-016	NEW	99-15-072	132A-128-045	REP-XR	99-16-028	132A-150-020	NEW	99-15-072
132A-120-020	REP-XR	99-16-028	132A-128-045	REP	99-19-150	132A-156-005	REP-XR	99-16-028
132A-120-020	REP	99-19-150	132A-128-050	REP-XR	99-16-028	132A-156-005	REP	99-19-150
132A-120-021	NEW-P	99-10-100	132A-128-050	REP	99-19-150	132A-156-006	NEW-P	99-10-100
132A-120-021	NEW	99-15-072	132A-128-060	REP-XR	99-16-028	132A-156-006	NEW	99-15-072
132A-120-025	REP-XR	99-16-028	132A-128-060	REP	99-19-150	132A-156-010	REP-XR	99-16-028
132A-120-025	REP	99-19-150	132A-128-070	REP-XR	99-16-028	132A-156-010	REP	99-19-150
132A-120-026	NEW-P	99-10-100	132A-128-070	REP	99-19-150	132A-156-011	NEW-P	99-10-100
132A-120-026	NEW	99-15-072	132A-128-080	REP-XR	99-16-028	132A-156-011	NEW	99-15-072
132A-120-030	REP-XR	99-16-028	132A-128-080	REP	99-19-150	132A-156-015	REP-XR	99-16-028
132A-120-030	REP	99-19-150	132A-128-090	REP-XR	99-16-028	132A-156-015	REP	99-19-150
132A-120-031	NEW-P	99-10-100	132A-128-090	REP	99-19-150	132A-156-016	NEW-P	99-10-100
132A-120-031	NEW	99-15-072	132A-128-100	REP-XR	99-16-028	132A-156-016	NEW	99-15-072
132A-120-035	REP-XR	99-16-028	132A-128-100	REP	99-19-150	132A-156-020	REP-XR	99-16-028
132A-120-035	REP	99-19-150	132A-130-010	NEW-P	99-10-100	132A-156-020	REP	99-19-150
132A-120-036	NEW-P	99-10-100	132A-130-010	NEW	99-15-072	132A-156-025	REP-XR	99-16-028
132A-120-036	NEW	99-15-072	132A-130-020	NEW-P	99-10-100	132A-156-025	REP	99-19-150
132A-120-040	REP-XR	99-16-028	132A-130-020	NEW	99-15-072	132A-156-030	REP-XR	99-16-028
132A-120-040	REP	99-19-150	132A-130-030	NEW-P	99-10-100	132A-156-030	REP	99-19-150
132A-120-041	NEW-P	99-10-100	132A-130-030	NEW	99-15-072	132A-160-005	REP-XR	99-16-028
132A-120-041	NEW	99-15-072	132A-131-010	NEW-P	99-10-100	132A-160-005	REP	99-19-150
132A-120-045	REP-XR	99-16-028	132A-131-010	NEW	99-15-072	132A-160-006	NEW-P	99-10-100
132A-120-045	REP	99-19-150	132A-131-020	NEW-P	99-10-100	132A-160-006	NEW	99-16-029
132A-120-046	NEW-P	99-10-100	132A-131-020	NEW	99-15-072	132A-160-015	REP-XR	99-16-028
132A-120-046	NEW	99-15-072	132A-133-020	NEW-P	99-10-100	132A-160-015	REP	99-19-150
132A-120-050	REP-XR	99-16-028	132A-133-020	NEW	99-15-072	132A-160-020	REP-XR	99-16-028

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132A-160-020	REP	99-19-150	132A-276-031	NEW-P	99-10-100	132A-310-005	REP	99-19-150
132A-165-005	REP-XR	99-16-028	132A-276-031	NEW	99-15-072	132A-310-010	REP-XR	99-16-028
132A-165-005	REP	99-19-150	132A-276-035	REP-XR	99-16-028	132A-310-010	REP	99-19-150
132A-165-015	REP-XR	99-16-028	132A-276-035	REP	99-19-150	132A-320-010	NEW-P	99-10-100
132A-165-015	REP	99-19-150	132A-276-040	REP-XR	99-16-028	132A-320-010	NEW	99-15-072
132A-165-025	REP-XR	99-16-028	132A-276-040	REP	99-19-150	132A-320-020	NEW-P	99-10-100
132A-165-025	REP	99-19-150	132A-276-045	AMD-P	99-10-100	132A-320-020	NEW	99-15-072
132A-165-035	REP-XR	99-16-028	132A-276-045	AMD	99-15-072	132A-320-030	NEW-P	99-10-100
132A-165-035	REP	99-19-150	132A-276-050	REP-XR	99-16-028	132A-320-030	NEW	99-15-072
132A-165-045	REP-XR	99-16-028	132A-276-050	REP	99-19-150	132A-350-015	NEW-P	99-10-100
132A-165-045	REP	99-19-150	132A-276-055	REP-XR	99-16-028	132A-350-015	NEW	99-15-072
132A-165-055	REP-XR	99-16-028	132A-276-055	REP	99-19-150	132A-350-020	NEW-P	99-10-100
132A-165-055	REP	99-19-150	132A-276-060	REP-XR	99-16-028	132A-350-020	NEW	99-15-072
132A-165-065	REP-XR	99-16-028	132A-276-060	REP	99-19-150	132A-350-030	NEW-P	99-10-100
132A-165-065	REP	99-19-150	132A-276-065	REP-XR	99-16-028	132A-350-030	NEW	99-15-072
132A-165-075	REP-XR	99-16-028	132A-276-065	REP	99-19-150	132A-350-040	NEW-P	99-10-100
132A-165-075	REP	99-19-150	132A-276-070	REP-XR	99-16-028	132A-350-040	NEW	99-15-072
132A-165-085	REP-XR	99-16-028	132A-276-070	REP	99-19-150	132A-350-045	NEW-P	99-10-100
132A-165-085	REP	99-19-150	132A-280-005	REP-XR	99-16-028	132A-350-045	NEW	99-15-072
132A-168-005	REP-XR	99-16-028	132A-280-005	REP	99-19-150	132A-350-050	NEW-P	99-10-100
132A-168-005	REP	99-19-150	132A-280-006	NEW-P	99-10-100	132A-350-050	NEW	99-15-072
132A-168-006	NEW-P	99-10-100	132A-280-006	NEW	99-15-072	132H-168-010	REP-P	99-05-018
132A-168-006	NEW	99-15-072	132A-280-010	REP-XR	99-16-028	132H-168-010	REP	99-10-045
132A-168-010	REP-XR	99-16-028	132A-280-010	REP	99-19-150	132H-168-020	REP-P	99-05-018
132A-168-010	REP	99-19-150	132A-280-011	NEW-P	99-10-100	132H-168-020	REP	99-10-045
132A-168-011	NEW-P	99-10-100	132A-280-011	NEW	99-15-072	132H-168-030	REP-P	99-05-018
132A-168-011	NEW	99-15-072	132A-280-015	REP-XR	99-16-028	132H-168-030	REP	99-10-045
132A-168-015	REP-XR	99-16-028	132A-280-015	REP	99-19-150	132H-168-040	REP-P	99-05-018
132A-168-015	REP	99-19-150	132A-280-016	NEW-P	99-10-100	132H-168-040	REP	99-10-045
132A-168-016	NEW-P	99-10-100	132A-280-016	NEW	99-15-072	132H-168-050	REP-P	99-05-018
132A-168-016	NEW	99-15-072	132A-280-020	REP-XR	99-16-028	132H-168-050	REP	99-10-045
132A-168-021	NEW-P	99-10-100	132A-280-020	REP	99-19-150	132H-168-060	REP-P	99-05-018
132A-168-021	NEW	99-15-072	132A-280-021	NEW-P	99-10-100	132H-168-060	REP	99-10-045
132A-168-026	NEW-P	99-10-100	132A-280-021	NEW	99-15-072	132H-168-070	REP-P	99-05-018
132A-168-026	NEW	99-15-072	132A-280-026	NEW-P	99-10-100	132H-168-070	REP	99-10-045
132A-176-005	REP-XR	99-16-028	132A-280-026	NEW	99-15-072	132H-168-080	REP-P	99-05-018
132A-176-005	REP	99-19-150	132A-280-030	REP-XR	99-16-028	132H-168-080	REP	99-10-045
132A-176-006	NEW-P	99-10-100	132A-280-030	REP	99-19-150	132H-168-090	REP-P	99-05-018
132A-176-006	NEW	99-15-072	132A-280-031	NEW-P	99-10-100	132H-168-090	REP	99-10-045
132A-180-005	REP-XR	99-16-028	132A-280-031	NEW	99-15-072	132H-168-990	REP-P	99-05-018
132A-180-005	REP	99-19-150	132A-280-035	NEW-P	99-10-100	132H-168-990	REP	99-10-045
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132A-180-010	REP	99-19-150	132A-280-040	NEW-P	99-10-100	132H-168-9901	REP	99-10-045
132A-180-015	REP-XR	99-16-028	132A-280-040	NEW	99-15-072	132H-168-9902	REP-P	99-05-018
132A-180-015	REP	99-19-150	132A-280-045	NEW-P	99-10-100	132H-168-9902	REP	99-10-045
132A-180-020	REP-XR	99-16-028	132A-280-045	NEW	99-15-072	132H-168-9903	REP-P	99-05-018
132A-180-020	REP	99-19-150	132A-280-050	NEW-P	99-10-100	132H-168-9903	REP	99-10-045
132A-180-025	REP-XR	99-16-028	132A-280-050	NEW	99-15-072	132H-169-010	NEW-P	99-05-018
132A-180-025	REP	99-19-150	132A-280-055	NEW-P	99-10-100	132H-169-010	NEW	99-10-045
132A-180-030	REP-XR	99-16-028	132A-280-055	NEW	99-15-072	132H-169-020	NEW-P	99-05-018
132A-180-030	REP	99-19-150	132A-280-060	NEW-P	99-10-100	132H-169-020	NEW	99-10-045
132A-180-035	REP-XR	99-16-028	132A-280-060	NEW	99-15-072	132H-169-030	NEW-P	99-05-018
132A-180-035	REP	99-19-150	132A-280-065	NEW-P	99-10-100	132H-169-030	NEW	99-10-045
132A-180-040	REP-XR	99-16-028	132A-280-065	NEW	99-15-072	132H-169-040	NEW-P	99-05-018
132A-180-040	REP	99-19-150	132A-280-070	NEW-P	99-10-100	132H-169-040	NEW	99-10-045
132A-276-005	REP-XR	99-16-028	132A-280-070	NEW	99-15-072	132H-169-040	NEW	99-10-045
132A-276-005	REP	99-19-150	132A-280-075	NEW-P	99-10-100	132H-169-050	NEW-P	99-05-018
132A-276-010	REP-XR	99-16-028	132A-280-075	NEW	99-15-072	132H-169-050	NEW	99-10-045
132A-276-010	REP	99-19-150	132A-280-080	NEW-P	99-10-100	132H-169-060	NEW-P	99-05-018
132A-276-015	REP-XR	99-16-028	132A-280-080	NEW	99-15-072	132H-169-060	NEW	99-10-045
132A-276-015	REP	99-19-150	132A-280-085	NEW-P	99-10-100	132H-169-070	NEW-P	99-05-018
132A-276-020	REP-XR	99-16-028	132A-280-085	NEW	99-15-072	132H-169-070	NEW	99-10-045
132A-276-020	REP	99-19-150	132A-300-005	REP-XR	99-16-028	132H-169-080	NEW-P	99-05-018
132A-276-025	REP-XR	99-16-028	132A-300-005	REP	99-19-150	132H-169-080	NEW	99-10-045
132A-276-025	REP	99-19-150	132A-300-010	REP-XR	99-16-028	132H-169-090	NEW-P	99-05-018
132A-276-030	REP-XR	99-16-028	132A-300-010	REP	99-19-150	132H-169-090	NEW	99-10-045
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132P- 33-020	AMD-P	99-08-019	132X- 50-130	PREP	99-19-102	162- 16-020	REP	99-15-025
132P- 33-020	AMD	99-13-140	132X- 50-140	PREP	99-19-102	162- 16-030	REP-P	99-04-108
132P- 33-080	AMD-P	99-08-019	132X- 50-150	PREP	99-19-102	162- 16-030	REP	99-15-025
132P- 33-080	AMD	99-13-140	132X- 50-160	PREP	99-19-102	162- 16-040	REP-P	99-04-108
132P- 33-100	AMD-P	99-08-019	132X- 50-170	PREP	99-19-102	162- 16-040	REP	99-15-025
132P- 33-100	AMD	99-13-140	132X- 50-180	PREP	99-19-102	162- 16-050	REP-P	99-04-108
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132P- 33-120	AMD	99-13-140	132X- 50-200	PREP	99-19-102	162- 16-060	REP-P	99-04-108
132P- 33-123	NEW-P	99-08-019	132X- 50-210	PREP	99-19-102	162- 16-060	REP	99-15-025
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132P- 33-125	NEW-P	99-08-019	132X- 50-230	PREP	99-19-102	162- 16-070	REP	99-15-025
132P- 33-125	NEW	99-13-140	132X- 50-240	PREP	99-19-102	162- 16-080	REP-P	99-04-108
132P- 33-130	AMD-P	99-08-019	132X- 50-250	PREP	99-19-102	162- 16-080	REP	99-15-025
132P- 33-130	AMD	99-13-140	132X- 50-260	PREP	99-19-102	162- 16-090	REP-P	99-04-108
132P- 33-150	AMD-P	99-08-019	132X- 50-270	PREP	99-19-102	162- 16-090	REP	99-15-025
132P- 33-150	AMD	99-13-140	132X- 50-280	PREP	99-19-102	162- 16-100	REP-P	99-04-108
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132P- 33-160	AMD-P	99-08-019	132X- 60-020	PREP	99-19-102	162- 16-110	REP	99-15-025
132P- 33-160	AMD	99-13-140	132X- 60-030	PREP	99-19-102	162- 16-120	REP-P	99-04-108
132P- 33-170	AMD-P	99-08-019	132X- 60-040	PREP	99-19-102	162- 16-120	REP	99-15-025
132P- 33-170	AMD	99-13-140	132X- 60-050	PREP	99-19-102	162- 16-130	REP-P	99-04-108
132P- 33-210	AMD-P	99-08-019	132X- 60-060	PREP	99-19-102	162- 16-130	REP	99-15-025
132P- 33-210	AMD	99-13-140	132X- 60-070	PREP	99-19-102	162- 16-140	REP-P	99-04-108
132P- 33-220	AMD-P	99-08-019	132X- 60-080	PREP	99-19-102	162- 16-140	REP	99-15-025
132P- 33-220	AMD	99-13-140	132X- 60-090	PREP	99-19-102	162- 16-150	REP-P	99-04-108
132P- 33-230	AMD-P	99-08-019	132X- 60-100	PREP	99-19-102	162- 16-150	REP	99-15-025
132P- 33-230	AMD	99-13-140	132X- 60-110	PREP	99-19-102	162- 16-160	REP-P	99-04-108
132P- 33-260	AMD-P	99-08-019	132X- 60-120	PREP	99-19-102	162- 16-160	REP	99-15-025
132P- 33-260	AMD	99-13-140	132X- 60-130	PREP	99-19-102	162- 16-170	REP-P	99-04-108
132P- 33-270	AMD-P	99-08-019	132X- 60-140	PREP	99-19-102	162- 16-170	REP	99-15-025
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132X- 10-040	PREP	99-19-102	137- 08-080	PREP	99-14-017	162- 16-250	NEW	99-15-025
132X- 10-050	PREP	99-19-102	137- 08-090	PREP	99-14-017	162- 16-260	NEW-P	99-04-108
132X- 10-060	PREP	99-19-102	137- 08-100	PREP	99-14-017	162- 16-260	NEW	99-15-025
132X- 10-070	PREP	99-19-102	137- 08-105	PREP	99-14-017	162- 16-270	NEW-P	99-04-108
132X- 10-080	PREP	99-19-102	137- 08-110	PREP	99-14-017	162- 16-270	NEW	99-15-025
132X- 10-090	PREP	99-19-102	137- 08-120	PREP	99-14-017	162- 16-280	NEW-P	99-04-108
132X- 10-100	PREP	99-19-102	137- 08-130	PREP	99-14-017	162- 16-280	NEW	99-15-025
132X- 10-110	PREP	99-19-102	137- 08-140	PREP	99-14-017	162- 16-290	NEW-P	99-04-108
132X- 20	PREP	99-06-032	137- 08-150	PREP	99-14-017	162- 16-290	NEW	99-15-025
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132X- 50-030	PREP	99-19-102	162- 12-100	AMD-P	99-17-102	162- 18-060	REP-P	99-17-102
132X- 50-040	PREP	99-19-102	162- 12-120	AMD-P	99-17-102	162- 18-070	REP-P	99-17-102
132X- 50-050	PREP	99-19-102	162- 12-130	AMD-P	99-17-102	162- 18-080	REP-P	99-17-102
132X- 50-060	PREP	99-19-102	162- 12-135	AMD-P	99-17-102	162- 18-090	REP-P	99-17-102
132X- 50-070	PREP	99-19-102	162- 12-140	AMD-P	99-17-102	162- 18-100	REP-P	99-17-102
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162- 22-010	AMD	99-15-025	162- 30-020	AMD-P	99-04-108	173- 26-110	AMD-P	99-08-124
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162- 26-120	AMD	99-15-025	173- 16-070	REP-P	99-08-124	173-230-040	AMD-P	99-12-038
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162- 26-135	NEW	99-15-025	173- 16-200	REP-P	99-08-124	173-230-061	AMD-P	99-12-038
162- 26-140	AMD-P	99-04-108	173- 16-200	REP-W	99-19-074	173-230-065	NEW-P	99-12-038
162- 26-140	AMD	99-15-025	173- 26	AMD-C	99-12-094	173-230-070	AMD-P	99-12-038
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173-230-120	AMD-P	99-12-038	173-490	PREP	99-17-080	180- 20-011	NEW	99-08-004
173-230-130	AMD-P	99-12-038	173-491	PREP	99-17-080	180- 20-034	AMD	99-08-004
173-230-140	AMD-P	99-12-038	173-495-010	AMD-XA	99-13-174	180- 20-035	REP	99-08-004
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173-325-030	AMD-XA	99-17-114	173-495-045	AMD-XA	99-13-174	180- 20-060	REP	99-08-004
173-325-040	AMD-XA	99-17-114	173-495-060	AMD-XA	99-13-174	180- 20-070	REP	99-08-004
173-325-050	AMD-XA	99-17-114	173-495-065	AMD-XA	99-13-174	180- 20-075	REP	99-08-004
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173-400-040	AMD-P	99-12-096	173-548-001	NEW-P	99-09-092	180- 22-150	AMD-P	99-07-065
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173-400-104	AMD-XA	99-04-097	173-548-031	NEW-P	99-09-092	180- 24-013	REP-P	99-19-151
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173-401	PREP	99-17-080	173-548-035	NEW-P	99-09-092	180- 24-080	REP-P	99-19-151
173-405	PREP	99-07-093	173-548-036	NEW-P	99-09-092	180- 24-101	REP-P	99-19-151
173-405	PREP	99-17-080	173-548-037	NEW-P	99-09-092	180- 24-102	REP-P	99-19-151
173-406	PREP	99-13-173	173-548-040	AMD-P	99-09-092	180- 24-105	NEW-P	99-19-151
173-409	PREP	99-12-093	173-548-050	AMD-P	99-09-092	180- 24-110	AMD-P	99-19-151
173-410	PREP	99-07-093	173-548-060	AMD-P	99-09-092	180- 24-110	RECOD-P	99-19-151
173-410	PREP	99-17-080	173-548-070	AMD-P	99-09-092	180- 24-112	REP-P	99-19-151
173-415	PREP	99-10-042	173-548-075	NEW-P	99-09-092	180- 24-115	RECOD-P	99-19-151
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173-422-170	AMD-P	99-19-123	174-280-015	AMD	99-12-024	180- 24-125	RECOD-P	99-19-151
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173-425	AMD-S	99-18-100	174-280-030	AMD	99-12-024	180- 24-130	RECOD-P	99-19-151
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173-425-010	AMD-P	99-07-110	180- 08-015	NEW	99-10-092	180- 24-135	NEW-P	99-19-151
173-425-010	AMD-S	99-18-100	180- 16-195	AMD-P	99-04-080	180- 24-140	AMD-P	99-19-151
173-425-020	AMD-P	99-07-110	180- 16-195	AMD	99-10-091	180- 24-140	RECOD-P	99-19-151
173-425-020	AMD-S	99-18-100	180- 16-215	PREP	99-04-088	180- 24-145	NEW-P	99-19-151
173-425-030	AMD-P	99-07-110	180- 16-215	AMD-P	99-07-069	180- 24-150	NEW-P	99-19-151
173-425-030	AMD-S	99-18-100	180- 16-215	AMD-W	99-20-087	180- 24-155	NEW-P	99-19-151
173-425-040	AMD-P	99-07-110	180- 16-220	AMD-P	99-04-080	180- 24-160	NEW-P	99-19-151
173-425-040	AMD-S	99-18-100	180- 16-220	AMD	99-10-091	180- 24-165	NEW-P	99-19-151
173-425-050	AMD-P	99-07-110	180- 16-221	REP-XR	99-03-001	180- 24-170	NEW-P	99-19-151
173-425-050	AMD-S	99-18-100	180- 16-221	REP	99-07-054	180- 24-175	NEW-P	99-19-151
173-425-060	AMD-P	99-07-110	180- 16-222	REP-XR	99-03-001	180- 24-180	NEW-P	99-19-151
173-425-060	AMD-S	99-18-100	180- 16-222	REP	99-07-054	180- 24-185	NEW-P	99-19-151
173-425-070	AMD-P	99-07-110	180- 16-226	REP-XR	99-03-001	180- 24-190	NEW-P	99-19-151
173-425-070	AMD-S	99-18-100	180- 16-226	REP	99-07-054	180- 24-195	NEW-P	99-19-151
173-425-080	AMD-P	99-07-110	180- 16-231	REP-XR	99-03-001	180- 24-197	NEW-P	99-19-151
173-425-080	AMD-S	99-18-100	180- 16-231	REP	99-07-054	180- 24-200	REP-P	99-19-151
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173-425-090	REP-S	99-18-100	180- 16-236	REP	99-07-054	180- 24-210	NEW-P	99-19-151
173-425-100	REP-P	99-07-110	180- 16-238	REP-XR	99-03-001	180- 24-215	NEW-P	99-19-151
173-425-100	REP-S	99-18-100	180- 16-238	REP	99-07-054	180- 24-220	NEW-P	99-19-151
173-425-110	REP-P	99-07-110	180- 16-240	REP-P	99-04-080	180- 24-300	REP-P	99-19-151
173-425-110	REP-S	99-18-100	180- 16-240	REP	99-10-091	180- 24-305	AMD-P	99-19-151
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180-24-315	DECOD-P	99-19-151	180-51-075	PREP	99-19-120	180-82	PREP	99-04-109
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180-24-325	REP-P	99-19-151	180-51-107	NEW	99-10-094	180-82-002	NEW	99-04-008
180-24-327	DECOD-P	99-19-151	180-51-107	NEW-W	99-17-085	180-82-004	NEW	99-04-008
180-24-330	REP-P	99-19-151	180-51-110	PREP	99-04-091	180-82-105	NEW	99-04-008
180-24-340	REP-P	99-19-151	180-51-110	AMD-P	99-07-072	180-82-110	NEW	99-04-008
180-24-345	REP-P	99-19-151	180-51-110	AMD-S	99-14-011	180-82-115	NEW	99-04-008
180-24-350	REP-P	99-19-151	180-51-110	AMD-W	99-20-087	180-82-120	NEW	99-04-008
180-24-355	REP-P	99-19-151	180-52	PREP	99-10-090	180-82-125	NEW	99-04-008
180-24-360	REP-P	99-19-151	180-52-041	NEW-P	99-14-087	180-82-130	NEW	99-04-008
180-24-365	REP-P	99-19-151	180-55-085	PREP	99-04-089	180-82-200	NEW	99-04-008
180-24-370	REP-P	99-19-151	180-55-085	AMD-P	99-07-068	180-82-201	NEW	99-04-008
180-24-375	REP-P	99-19-151	180-55-085	AMD-W	99-20-087	180-82-202	NEW	99-04-008
180-24-380	REP-P	99-19-151	180-56-245	PREP	99-04-092	180-82-202	AMD-P	99-19-085
180-25	PREP	99-06-074	180-56-245	AMD-P	99-07-071	180-82-204	NEW	99-04-008
180-26	PREP	99-06-080	180-56-245	AMD-W	99-20-087	180-82-210	NEW	99-04-008
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180-27	AMD-C	99-19-154	180-77A-029	AMD-P	99-07-049	180-82-300	NEW	99-04-008
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180-27-030	AMD-P	99-14-090	180-77A-080	NEW-P	99-07-049	180-82-304	NEW	99-04-008
180-27-056	AMD-P	99-14-090	180-77A-080	NEW	99-12-014	180-82-306	NEW-W	99-08-081
180-27-080	AMD-P	99-14-090	180-78-155	PREP	99-04-087	180-82-308	NEW	99-04-008
180-27-082	NEW-W	99-03-026	180-78-155	AMD-P	99-07-070	180-82-310	NEW	99-04-008
180-27-083	NEW-W	99-03-026	180-78-155	AMD-W	99-20-087	180-82-312	NEW	99-04-008
180-27-102	NEW-P	99-14-090	180-78-207	PREP	99-04-087	180-82-314	NEW	99-04-008
180-27-600	AMD-P	99-14-090	180-78-207	AMD-P	99-07-070	180-82-315	NEW-P	99-04-110
180-27-605	AMD-P	99-14-090	180-78-207	AMD-W	99-20-087	180-82-315	NEW	99-07-102
180-27-610	AMD-P	99-14-090	180-78-210	PREP	99-04-087	180-82-316	NEW	99-04-008
180-27-615	AMD-P	99-14-090	180-78-210	AMD-P	99-07-070	180-82-317	NEW-P	99-04-110
180-29	PREP	99-06-078	180-78-210	AMD-W	99-20-087	180-82-317	NEW	99-07-102
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180-29-040	AMD-P	99-14-088	180-78A-005	AMD-P	99-19-085	180-82-319	NEW	99-07-102
180-29-040	AMD	99-18-107	180-78A-074	REP-P	99-19-085	180-82-320	NEW	99-04-008
180-29-066	NEW-P	99-14-088	180-78A-110	AMD-P	99-19-085	180-82-321	NEW-P	99-04-110
180-29-067	NEW-P	99-14-088	180-78A-125	AMD-P	99-19-085	180-82-321	NEW	99-07-102
180-29-075	AMD-P	99-14-088	180-78A-220	AMD-P	99-19-085	180-82-322	NEW	99-04-008
180-29-085	AMD-P	99-14-088	180-78A-264	AMD-P	99-19-085	180-82-324	NEW	99-04-008
180-29-095	PREP	99-04-086	180-78A-270	AMD-P	99-19-085	180-82-326	NEW	99-04-008
180-29-095	AMD-P	99-07-067	180-78A-310	AMD-P	99-19-085	180-82-328	NEW	99-04-008
180-29-095	AMD-W	99-20-087	180-79A	PREP	99-16-059	180-82-330	NEW	99-04-008
180-29-160	AMD-P	99-14-088	180-79A	PREP	99-16-062	180-82-331	NEW	99-06-005
180-31	PREP	99-06-077	180-79A-030	AMD-P	99-19-085	180-82-332	NEW	99-04-008
180-32	PREP	99-06-076	180-79A-105	AMD-P	99-19-085	180-82-334	NEW	99-04-008
180-33	PREP	99-06-075	180-79A-123	AMD-E	99-19-083	180-82-336	NEW	99-04-008
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180-40-215	PREP	99-04-084	180-79A-150	AMD-P	99-19-085	180-82-339	NEW	99-04-008
180-40-215	AMD-P	99-07-064	180-79A-155	AMD-P	99-19-085	180-82-340	NEW-W	99-08-081
180-40-215	AMD-W	99-20-087	180-79A-211	AMD-P	99-19-085	180-82-342	NEW	99-04-008
180-40-270	AMD-E	99-18-064	180-79A-213	AMD-P	99-19-085	180-82-343	NEW	99-04-008
180-40-270	AMD-P	99-19-003	180-79A-223	PREP	99-06-038	180-82-344	NEW	99-04-008
180-40-285	AMD-E	99-18-064	180-79A-223	AMD-P	99-10-003	180-82-346	NEW	99-04-008
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180-40-305	AMD-E	99-18-064	180-79A-231	AMD-P	99-19-085	180-82-349	NEW	99-07-102
180-40-305	AMD-P	99-19-003	180-79A-241	PREP	99-16-061	180-82-350	NEW	99-04-008
180-40-315	AMD-E	99-18-064	180-79A-241	REP-P	99-19-084	180-82-352	NEW	99-04-008
180-40-315	AMD-P	99-19-003	180-79A-253	AMD-P	99-19-085	180-82-354	NEW	99-04-008
180-41-035	PREP	99-04-090	180-79A-260	PREP	99-16-060	180-82-355	NEW	99-04-008
180-41-035	AMD-P	99-07-073	180-79A-299	AMD-P	99-19-085	180-82-356	NEW	99-04-008
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180- 85-075	PREP	99-06-039	192- 12-074	REP	99-20-131	192-110-050	NEW	99-08-073
180- 85-075	AMD-P	99-10-002	192- 12-076	REP-XA	99-11-090	192-120-001	NEW	99-08-073
180- 85-075	AMD	99-14-010	192- 12-076	REP-XA	99-19-013	192-120-010	NEW	99-08-073
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182- 08-095	AMD-P	99-14-082	192- 12-080	REP	99-20-119	192-120-030	NEW	99-08-073
182- 08-095	AMD	99-19-029	192- 12-090	REP-XA	99-11-094	192-120-035	NEW	99-08-073
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182- 12-111	AMD	99-19-028	192- 12-100	REP	99-20-133	192-140-010	NEW	99-08-073
182- 12-119	PREP	99-11-099	192- 12-110	REP-XR	99-10-007	192-140-020	NEW	99-08-073
182- 12-119	AMD-P	99-14-081	192- 12-110	REP	99-20-120	192-140-025	NEW	99-08-073
182- 12-119	AMD	99-19-028	192- 12-115	REP-XR	99-10-008	192-140-030	NEW	99-08-073
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182- 25-010	AMD-P	99-19-027	192- 12-141	REP	99-08-073	192-170-060	NEW-P	99-19-157
182- 25-020	PREP	99-15-099	192- 12-150	REP	99-08-073	192-180-005	NEW-P	99-09-097
182- 25-030	PREP	99-08-107	192- 12-182	REP	99-08-073	192-180-005	NEW	99-13-002
182- 25-030	AMD-P	99-12-032	192- 12-330	AMD	99-08-073	192-180-010	NEW-P	99-09-097
182- 25-030	PREP	99-15-098	192- 12-350	REP-XR	99-13-107	192-180-010	NEW	99-13-002
182- 25-030	AMD	99-16-022	192- 12-350	REP	99-20-122	192-180-015	NEW-P	99-09-097
182- 25-030	AMD-E	99-18-051	192- 12-355	REP-XR	99-13-108	192-180-015	NEW	99-13-002
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182- 25-040	PREP	99-15-098	192- 12-400	REP-XA	99-19-070	192-180-030	NEW	99-13-002
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182- 25-040	AMD-P	99-19-027	192- 16-001	REP-XA	99-11-092	192-210-005	NEW-E	99-13-003
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182- 25-090	AMD	99-12-033	192- 16-051	REP-P	99-13-183	192-210-010	NEW	99-18-066
182- 25-090	PREP	99-15-098	192- 16-051	REP	99-18-066	192-210-015	NEW-E	99-05-003
182- 25-090	AMD-E	99-18-051	192- 16-052	REP-E	99-05-003	192-210-015	NEW-E	99-13-003
182- 25-090	AMD-P	99-19-027	192- 16-052	REP-E	99-13-003	192-210-015	NEW-P	99-13-183
182- 25-100	AMD	99-07-078	192- 16-052	REP-P	99-13-183	192-210-015	NEW	99-18-066
182- 25-105	AMD	99-07-078	192- 16-052	REP	99-18-066	192-300-050	NEW-P	99-05-068
182- 25-110	AMD	99-07-078	192- 16-057	REP-E	99-05-003	192-300-050	NEW-W	99-18-065
192- 04-060	AMD	99-15-069	192- 16-057	REP-E	99-13-003	192-300-050	NEW-S	99-19-132
192- 04-170	AMD	99-08-073	192- 16-057	REP-P	99-13-183	192-300-100	NEW-XA	99-13-111
192- 04-190	AMD	99-08-073	192- 16-057	REP	99-18-066	192-300-100	NEW	99-20-127
192- 12-005	REP	99-08-073	192- 23-002	REP	99-08-073	192-300-150	NEW-XA	99-11-094
192- 12-010	REP-XA	99-13-110	192- 23-013	REP	99-08-073	192-300-150	NEW	99-20-132
192- 12-010	REP	99-20-125	192- 23-018	REP	99-08-073	192-300-170	PREP	99-19-066
192- 12-015	REP-XA	99-13-113	192- 24-001	REP	99-08-073	192-300-180	NEW-XA	99-13-112
192- 12-015	REP	99-20-126	192- 24-010	REP	99-08-073	192-300-180	NEW	99-20-128
192- 12-018	PREP	99-19-072	192- 24-020	REP	99-08-073	192-300-190	PREP	99-19-067
192- 12-025	PREP	99-19-066	192- 24-030	REP-P	99-09-097	192-310-035	NEW-XA	99-11-092
192- 12-035	REP-XR	99-10-005	192- 24-030	REP	99-13-002	192-310-035	NEW	99-20-134
192- 12-035	REP	99-20-118	192- 32-040	REP-XR	99-19-046	192-310-040	NEW-XA	99-11-093
192- 12-043	PREP	99-19-073	192- 32-045	REP-XR	99-19-046	192-310-040	NEW	99-20-141
192- 12-050	PREP	99-11-088	192- 32-055	REP-XR	99-19-046	192-310-050	PREP	99-11-088
192- 12-050	REP-P	99-17-092	192- 32-065	REP-XR	99-19-046	192-310-050	NEW-P	99-17-092
192- 12-060	REP-XA	99-13-112	192- 32-075	REP-XR	99-19-046	192-310-055	PREP	99-11-089
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192- 12-066	REP	99-20-129	192-100-500	NEW	99-20-125	192-310-060	NEW	99-20-129
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194-20-010	AMD-XA	99-19-076	196-30-030	NEW-P	99-19-165	220-24-02000J	REP-E	99-16-053
194-20-010	DECOD-X	99-19-076	204-10-020	PREP	99-09-049	220-24-02000J	NEW-E	99-16-053
194-20-020	AMD-XA	99-19-076	204-10-020	AMD-P	99-13-135	220-24-02000J	REP-E	99-17-014
194-20-020	DECOD-X	99-19-076	204-10-020	AMD	99-18-027	220-24-02000K	REP-E	99-17-045
194-20-030	DECOD-X	99-19-076	204-24-050	AMD	99-06-023	220-24-02000K	NEW-E	99-17-045
194-20-030	AMD-XA	99-19-076	204-32-020	PREP	99-09-021	220-24-02000K	REP-E	99-18-016
194-20-040	AMD-XA	99-19-076	204-32-020	AMD-P	99-13-133	220-24-02000L	NEW-E	99-19-012
194-20-040	DECOD-X	99-19-076	204-32-020	AMD	99-18-028	220-24-02000L	REP-E	99-19-012
194-20-050	AMD-XA	99-19-076	204-32-040	PREP	99-09-021	220-24-02000M	NEW-E	99-19-138
194-20-050	DECOD-X	99-19-076	204-32-040	AMD-P	99-13-133	220-24-02000M	REP-E	99-19-138
194-20-060	REP-XA	99-19-076	204-32-040	AMD	99-18-028	220-24-04000A	NEW-E	99-16-016
194-20-070	REP-XA	99-19-076	204-32-060	PREP	99-09-021	220-32-05100J	NEW-E	99-04-059
194-20-080	DECOD-X	99-19-076	204-32-060	AMD-P	99-13-133	220-32-05100J	REP-E	99-04-059
194-20-080	AMD-XA	99-19-076	204-32-060	AMD	99-18-028	220-32-05100K	NEW-E	99-07-009
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194-22-010	AMD-XA	99-16-099	204-38-040	PREP	99-20-037	220-32-05100L	REP-E	99-18-023
194-22-020	AMD-XA	99-16-099	204-38-050	PREP	99-20-037	220-32-05100L	NEW-E	99-18-023
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194-22-130	AMD-XA	99-16-099	204-90-140	PREP	99-09-049	220-32-05100M	NEW-E	99-19-011
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196-23	PREP	99-07-136	204-90-140	AMD	99-18-027	220-32-05100N	NEW-E	99-19-054
196-23-010	NEW-P	99-10-084	204-96-010	PREP	99-09-048	220-32-05100N	REP-E	99-19-054
196-23-010	NEW	99-15-058	204-96-010	NEW-P	99-13-134	220-32-05100P	NEW-E	99-19-140
196-23-020	NEW-P	99-10-085	204-96-010	NEW	99-18-026	220-32-05100P	REP-E	99-19-140
196-23-020	NEW	99-15-055	208-464-010	REP	99-03-009	220-32-05100O	NEW-E	99-20-025
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196-23-030	NEW	99-15-050	208-464-030	REP	99-03-009	220-32-05500T	REP-E	99-09-016
196-23-050	NEW-P	99-10-087	208-464-040	REP	99-03-009	220-32-05500T	NEW-E	99-09-016
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196-24-058	PREP	99-07-134	208-464-060	REP	99-03-009	220-32-05500U	NEW-E	99-11-001
196-24-058	REP-P	99-10-081	208-464-070	REP	99-03-009	220-32-05500U	REP-E	99-12-045
196-24-058	REP	99-15-052	208-464-080	REP	99-03-009	220-32-05500V	NEW-E	99-12-045
196-24-060	PREP	99-02-073	208-464-090	REP	99-03-009	220-32-05500V	REP-E	99-13-079
196-24-060	REP-P	99-10-088	208-480-010	REP	99-03-009	220-32-05500W	NEW-E	99-13-079
196-24-060	REP	99-15-051	208-480-020	REP	99-03-009	220-32-05500W	REP-E	99-13-146
196-24-085	PREP	99-02-071	208-480-030	REP	99-03-009	220-32-05500X	NEW-E	99-13-146
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196-24-090	REP-P	99-10-082	208-480-050	REP	99-03-009	220-32-05500Y	REP-E	99-20-142
196-24-090	REP	99-15-053	208-480-060	REP	99-03-009	220-32-05500Y	NEW-E	99-20-142
196-24-092	PREP	99-02-076	208-480-070	REP	99-03-009	220-32-05700A	NEW-E	99-08-048
196-24-092	REP-P	99-10-083	208-620-020	AMD-XA	99-14-006	220-32-05700A	REP-E	99-13-012
196-24-092	REP	99-15-054	208-620-180	AMD-XA	99-14-006	220-32-05700B	NEW-E	99-13-012
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196-24-095	REP-P	99-10-084	208-630-025	AMD-XA	99-14-007	220-33-01000N	REP-E	99-05-055
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196-24-097	PREP	99-02-078	208-630-100	AMD-XA	99-14-007	220-33-01000P	REP-E	99-06-031
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196-24-097	REP	99-15-055	220-16-225	AMD	99-08-029	220-33-01000O	REP-E	99-10-022
196-24-098	PREP	99-02-079	220-16-32000A	NEW-E	99-13-009	220-33-01000R	REP-E	99-14-016
196-24-098	REP-P	99-10-087	220-16-48000A	NEW-E	99-17-040	220-33-01000R	NEW-E	99-14-016
196-24-098	REP	99-15-056	220-16-550	AMD-XA	99-11-098	220-33-01000S	REP-E	99-16-052
196-24-100	PREP	99-02-072	220-16-550	AMD	99-15-081	220-33-01000S	NEW-E	99-16-052
196-24-100	AMD-P	99-10-088	220-16-55000A	REP-E	99-10-049	220-33-01000S	REP-E	99-18-024
196-24-100	AMD	99-15-051	220-16-55000A	NEW-E	99-10-049	220-33-01000T	NEW-E	99-18-024
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220-44-05000V	NEW-E	99-08-045	220-47-411	AMD-XA	99-12-097	220-52-04600N	NEW-E	99-10-011
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220-47-325	AMD-XA	99-12-097	220-48-01500I	NEW-E	99-08-011	220-55-070	AMD	99-03-029
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220-88A-06000	NEW-E	99-10-050	222-10-020	NEW-C	99-09-078	222-22-076	NEW-P	99-20-144
220-88A-07000	NEW-E	99-10-050	222-10-020	NEW-E	99-16-081	222-22-080	AMD-P	99-20-144
220-88A-07000	REP-E	99-13-131	222-10-020	NEW-C	99-09-078	222-22-090	AMD-C	99-09-078
220-88A-07000	NEW-E	99-13-131	222-10-030	NEW-P	99-20-144	222-22-090	AMD-P	99-20-144
220-88A-07000	REP-E	99-14-014	222-10-035	NEW-P	99-20-144	222-24-010	AMD-C	99-09-078
220-88A-07000	NEW-E	99-14-014	222-10-040	AMD-E	99-07-075	222-24-010	AMD-P	99-20-144
220-88A-07000	REP-E	99-15-019	222-10-040	AMD-E	99-08-078	222-24-015	NEW-P	99-20-144
220-88A-07000	NEW-E	99-15-019	222-10-040	AMD-E	99-16-081	222-24-020	AMD-C	99-09-078
220-88A-07000	REP-E	99-17-004	222-10-043	NEW-E	99-07-075	222-24-020	AMD-P	99-20-144
220-88A-07000	NEW-E	99-17-004	222-10-043	NEW-E	99-08-078	222-24-025	REP-P	99-20-144
220-88A-07000	REP-E	99-17-015	222-10-043	NEW-E	99-16-081	222-24-026	NEW-P	99-20-144
220-88A-07000	NEW-E	99-17-015	222-12-010	AMD-P	99-20-144	222-24-030	AMD-C	99-09-078
220-88A-07000	REP-E	99-17-099	222-12-041	NEW-P	99-20-144	222-24-030	AMD-P	99-20-144
220-88A-07000	NEW-E	99-17-099	222-12-044	NEW-C	99-09-078	222-24-035	AMD-C	99-09-078
220-88A-07000	REP-E	99-19-037	222-12-044	NEW-P	99-20-144	222-24-035	AMD-P	99-20-144
220-88A-07000	NEW-E	99-19-037	222-12-045	AMD-C	99-09-078	222-24-040	AMD-C	99-09-078
220-88A-07000	NEW-E	99-09-036	222-12-090	AMD-P	99-20-144	222-24-040	AMD-P	99-20-144
220-88A-07000	REP-E	99-10-050	222-12-090	AMD-E	99-07-074	222-24-050	AMD-E	99-07-075
220-88A-08000	NEW-E	99-09-036	222-12-090	AMD-E	99-08-077	222-24-050	AMD-E	99-08-078
220-88A-08000	REP-E	99-10-050	222-12-090	AMD-C	99-09-078	222-24-050	AMD-C	99-09-078
220-88A-08000	NEW-E	99-10-050	222-12-090	AMD-E	99-16-080	222-24-050	AMD-E	99-16-081
220-88A-08000	REP-E	99-16-032	222-12-090	AMD-P	99-20-144	222-24-050	AMD-P	99-20-144
220-88A-08000	NEW-E	99-16-032	222-16-010	AMD-E	99-07-075	222-24-051	NEW-P	99-20-144
220-88A-08000	REP-E	99-18-005	222-16-010	AMD-E	99-08-078	222-24-052	NEW-P	99-20-144
220-88A-08000	NEW-E	99-18-005	222-16-010	AMD-C	99-09-078	222-24-060	AMD-C	99-09-078
220-88B-010	REP-E	99-04-053	222-16-010	AMD-E	99-16-081	222-24-060	AMD-P	99-20-144
220-88B-020	REP-E	99-04-053	222-16-010	AMD-P	99-20-144	222-30-010	AMD-C	99-09-078
220-88B-030	REP-E	99-04-053	222-16-030	AMD-E	99-07-074	222-30-010	AMD-P	99-20-144
220-88B-040	REP-E	99-04-053	222-16-030	AMD-E	99-08-077	222-30-020	AMD-C	99-09-078
220-88B-050	REP-E	99-04-053	222-16-030	AMD-C	99-09-078	222-30-020	AMD-P	99-20-144
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220-110-204	AMD	99-10-048	222-16-035	AMD-P	99-20-144	222-30-023	NEW-P	99-20-144
220-110-205	AMD-XA	99-05-023	222-16-036	NEW-P	99-20-144	222-30-040	AMD-E	99-07-075
220-110-205	AMD	99-10-048	222-16-050	AMD-E	99-07-075	222-30-040	AMD-E	99-08-078
220-125-010	NEW-XA	99-19-139	222-16-050	AMD-E	99-08-078	222-30-040	AMD-E	99-16-081
220-125-020	NEW-XA	99-19-139	222-16-050	AMD-C	99-09-078	222-30-040	AMD-P	99-20-144
220-125-040	NEW-XA	99-19-139	222-16-050	AMD-E	99-16-081	222-30-045	NEW-P	99-20-144
220-125-050	NEW-XA	99-19-139	222-16-050	AMD-P	99-20-144	222-30-060	AMD-P	99-20-144
220-125-060	NEW-XA	99-19-139	222-16-080	AMD-E	99-07-075	222-30-070	AMD-C	99-09-078
220-125-070	NEW-XA	99-19-139	222-16-080	AMD-E	99-08-078	222-38-010	AMD-P	99-20-144
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220-130	AMD	99-11-004	222-16-088	NEW-E	99-07-075	222-38-030	AMD-C	99-09-078
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226-01-030	NEW-E	99-13-157	226-16-050	NEW	99-18-048	230-20-115	AMD	99-11-078
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226-01-040	NEW-E	99-13-157	226-16-100	NEW	99-18-048	230-20-192	AMD-P	99-18-077
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226-01-050	NEW-P	99-13-156	226-16-110	NEW-E	99-13-157	230-20-230	AMD-P	99-08-094
226-01-050	NEW-E	99-13-157	226-16-110	NEW	99-18-048	230-20-230	AMD	99-11-078
226-01-050	NEW	99-18-048	226-16-150	NEW-P	99-13-156	230-20-242	AMD-P	99-08-094
226-01-060	NEW-P	99-13-156	226-16-150	NEW-E	99-13-157	230-20-242	AMD	99-11-078
226-01-060	NEW-E	99-13-157	226-16-150	NEW	99-18-048	230-40-010	AMD-P	99-08-093
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226-01-070	NEW-E	99-13-157	226-16-160	NEW	99-18-048	230-40-030	AMD-P	99-08-093
226-01-070	NEW	99-18-048	226-16-170	NEW-P	99-13-156	230-40-050	AMD-P	99-08-093
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226-02-030	NEW-E	99-13-157	226-16-200	NEW	99-18-048	230-40-130	AMD-P	99-08-093
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226-02-040	NEW-P	99-13-156	226-20-010	NEW-E	99-13-157	230-40-160	REP-P	99-08-093
226-02-040	NEW-E	99-13-157	226-20-010	NEW	99-18-048	230-40-200	AMD-P	99-08-093
226-02-040	NEW	99-18-048	226-20-020	NEW-P	99-13-156	230-40-225	AMD-P	99-08-093
226-02-050	NEW-P	99-13-156	226-20-020	NEW-E	99-13-157	230-40-400	AMD-P	99-08-093
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226-02-080	NEW	99-18-048	226-20-060	NEW-P	99-13-156	230-40-600	NEW-P	99-08-093
226-02-090	NEW-P	99-13-156	226-20-060	NEW-E	99-13-157	230-40-610	NEW-P	99-08-093
226-02-090	NEW-E	99-13-157	226-20-060	NEW	99-18-048	230-40-800	NEW-P	99-08-093
226-02-090	NEW	99-18-048	230-02-109	NEW-P	99-08-093	230-40-810	NEW-P	99-08-093
226-02-100	NEW-P	99-13-156	230-02-110	AMD-P	99-08-093	230-40-815	NEW-P	99-08-093
226-02-100	NEW-E	99-13-157	230-02-145	NEW-P	99-08-094	230-40-820	NEW-P	99-08-093
226-02-100	NEW	99-18-048	230-02-145	NEW	99-11-078	230-40-825	NEW-P	99-08-093
226-02-110	NEW-P	99-13-156	230-02-380	AMD-P	99-13-206	230-40-830	NEW-P	99-08-093
226-02-110	NEW-E	99-13-157	230-02-400	REP-P	99-08-093	230-40-833	NEW-P	99-08-093
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226-12-010	NEW-P	99-13-156	230-04-020	AMD-P	99-13-205	230-40-840	NEW-P	99-08-093
226-12-010	NEW-E	99-13-157	230-04-020	AMD	99-18-003	230-40-845	NEW-P	99-08-093
226-12-010	NEW	99-18-048	230-04-022	AMD-P	99-08-093	230-40-850	NEW-P	99-08-093
226-12-040	NEW-P	99-13-156	230-04-080	AMD-P	99-13-206	230-40-855	NEW-P	99-08-093
226-12-040	NEW-E	99-13-157	230-04-080	AMD	99-18-002	230-40-860	NEW-P	99-08-093
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226-12-080	NEW-P	99-13-156	230-04-203	AMD-P	99-08-093	230-40-870	NEW-P	99-08-093
226-12-080	NEW-E	99-13-157	230-04-204	AMD-P	99-08-093	230-40-875	NEW-P	99-08-093
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230- 60-025	AMD	99-18-003	232- 28-02204	AMD	99-10-102	232- 28-61900S	REP-E	99-19-010
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246-310-990	PREP	99-05-011	246-318-750	REP	99-04-052	246-320-785	NEW	99-04-052
246-310-990	AMD-P	99-20-090	246-318-760	REP	99-04-052	246-320-795	NEW	99-04-052
246-316-990	PREP-W	99-04-048	246-318-770	REP	99-04-052	246-320-805	NEW	99-04-052
246-318-010	REP	99-04-052	246-318-780	REP	99-04-052	246-320-815	NEW	99-04-052
246-318-013	REP	99-04-052	246-318-790	REP	99-04-052	246-320-990	NEW	99-04-052
246-318-015	REP	99-04-052	246-318-800	REP	99-04-052	246-320-99902	NEW	99-04-052
246-318-017	REP	99-04-052	246-318-810	REP	99-04-052	246-322-990	AMD-P	99-20-091
246-318-020	REP	99-04-052	246-318-820	REP	99-04-052	246-324-990	AMD-P	99-20-091
246-318-025	REP	99-04-052	246-318-830	REP	99-04-052	246-358	PREP	99-15-108
246-318-030	REP	99-04-052	246-318-840	REP	99-04-052	246-358-025	AMD-E	99-10-096
246-318-033	REP	99-04-052	246-318-850	REP	99-04-052	246-358-600	NEW-P	99-08-098
246-318-035	REP	99-04-052	246-318-860	REP	99-04-052	246-358-600	NEW	99-12-006
246-318-040	REP	99-04-052	246-318-870	REP	99-04-052	246-358-610	NEW-P	99-08-098
246-318-042	REP	99-04-052	246-318-990	REP	99-04-052	246-358-610	NEW	99-12-006
246-318-150	REP	99-04-052	246-318-99902	REP	99-04-052	246-358-620	NEW-P	99-08-098
246-318-155	REP	99-04-052	246-318-99910	REP	99-04-052	246-358-620	NEW	99-12-006
246-318-160	REP	99-04-052	246-320-001	NEW	99-04-052	246-358-630	NEW-P	99-08-098
246-318-170	REP	99-04-052	246-320-010	NEW	99-04-052	246-358-630	NEW	99-12-006
246-318-180	REP	99-04-052	246-320-025	NEW	99-04-052	246-358-640	NEW-P	99-08-098
246-318-190	REP	99-04-052	246-320-045	NEW	99-04-052	246-358-640	NEW	99-12-006
246-318-200	REP	99-04-052	246-320-065	NEW	99-04-052	246-358-650	NEW-P	99-08-098
246-318-210	REP	99-04-052	246-320-085	NEW	99-04-052	246-358-650	NEW	99-12-006
246-318-220	REP	99-04-052	246-320-085	NEW	99-04-052	246-358-660	NEW-P	99-08-098
246-318-230	REP	99-04-052	246-320-105	NEW	99-04-052	246-358-660	NEW	99-12-006
246-318-240	REP	99-04-052	246-320-125	NEW	99-04-052	246-358-670	NEW-P	99-08-098
246-318-240	REP	99-04-052	246-320-145	NEW	99-04-052	246-358-670	NEW	99-12-006
246-318-250	REP	99-04-052	246-320-165	NEW	99-04-052	246-358-680	NEW-P	99-08-098
246-318-260	REP	99-04-052	246-320-185	NEW	99-04-052	246-358-680	NEW	99-12-006
246-318-270	REP	99-04-052	246-320-205	NEW	99-04-052	246-359-001	NEW	99-03-065
246-318-280	REP	99-04-052	246-320-225	NEW	99-04-052	246-359-005	NEW	99-03-065
246-318-290	REP	99-04-052	246-320-245	NEW	99-04-052	246-359-010	NEW	99-03-065
246-318-300	REP	99-04-052	246-320-265	NEW	99-04-052	246-359-020	NEW	99-03-065
246-318-310	REP	99-04-052	246-320-285	NEW	99-04-052	246-359-030	NEW	99-03-065
246-318-320	REP	99-04-052	246-320-305	NEW	99-04-052	246-359-040	NEW	99-03-065
246-318-330	REP	99-04-052	246-320-325	NEW	99-04-052	246-359-050	NEW	99-03-065
246-318-350	REP	99-04-052	246-320-345	NEW	99-04-052	246-359-060	NEW	99-03-065
246-318-370	REP	99-04-052	246-320-365	NEW	99-04-052	246-359-070	NEW	99-03-065
246-318-380	REP	99-04-052	246-320-385	NEW	99-04-052	246-359-080	NEW	99-03-065
246-318-390	REP	99-04-052	246-320-405	NEW	99-04-052	246-359-090	NEW	99-03-065
246-318-400	REP	99-04-052	246-320-500	NEW	99-04-052	246-359-100	NEW	99-03-065
246-318-420	REP	99-04-052	246-320-505	NEW	99-04-052	246-359-110	NEW	99-03-065
246-318-440	REP	99-04-052	246-320-515	NEW	99-04-052	246-359-120	NEW	99-03-065
246-318-450	REP	99-04-052	246-320-525	NEW	99-04-052	246-359-130	NEW	99-03-065
246-318-500	REP	99-04-052	246-320-535	NEW	99-04-052	246-359-140	NEW	99-03-065
246-318-510	REP	99-04-052	246-320-545	NEW	99-04-052	246-359-150	NEW	99-03-065
246-318-520	REP	99-04-052	246-320-555	NEW	99-04-052	246-359-160	NEW	99-03-065
246-318-530	REP	99-04-052	246-320-565	NEW	99-04-052	246-359-170	NEW	99-03-065
246-318-540	REP	99-04-052	246-320-575	NEW	99-04-052	246-359-180	NEW	99-03-065
246-318-550	REP	99-04-052	246-320-585	NEW	99-04-052	246-359-200	NEW	99-03-065
246-318-560	REP	99-04-052	246-320-595	NEW	99-04-052	246-359-210	NEW	99-03-065
246-318-570	REP	99-04-052	246-320-605	NEW	99-04-052	246-359-220	NEW	99-03-065
246-318-580	REP	99-04-052	246-320-615	NEW	99-04-052	246-359-230	NEW	99-03-065
246-318-590	REP	99-04-052	246-320-625	NEW	99-04-052	246-359-240	NEW	99-03-065
246-318-600	REP	99-04-052	246-320-635	NEW	99-04-052	246-359-250	NEW	99-03-065
246-318-610	REP	99-04-052	246-320-645	NEW	99-04-052	246-359-300	NEW	99-03-065
246-318-620	REP	99-04-052	246-320-655	NEW	99-04-052			

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246-359-310	NEW	99-03-065	246-808-370	REP-XR	99-03-061	246-834-990	PREP	99-06-090
246-359-320	NEW	99-03-065	246-808-380	REP-XR	99-03-061	246-838-040	REP	99-08-104
246-359-330	NEW	99-03-065	246-808-390	REP-XR	99-03-061	246-840	PREP	99-11-033
246-359-340	NEW	99-03-065	246-808-640	REP-XR	99-03-061	246-840-010	PREP	99-11-032
246-359-350	NEW	99-03-065	246-808-990	AMD-P	99-02-057	246-840-020	AMD-P	99-06-092
246-359-400	NEW	99-03-065	246-808-990	AMD	99-08-101	246-840-020	AMD	99-10-079
246-359-405	NEW	99-03-065	246-810-990	AMD-P	99-02-057	246-840-020	PREP	99-11-032
246-359-410	NEW	99-03-065	246-810-990	AMD	99-08-101	246-840-050	AMD-P	99-08-099
246-359-420	NEW	99-03-065	246-811-010	NEW-P	99-09-100	246-840-050	AMD	99-13-086
246-359-430	NEW	99-03-065	246-811-010	NEW	99-13-084	246-840-070	AMD-P	99-08-099
246-359-440	NEW	99-03-065	246-811-030	NEW-P	99-09-100	246-840-070	AMD	99-13-086
246-359-500	NEW	99-03-065	246-811-030	NEW	99-13-084	246-840-090	AMD-P	99-08-099
246-359-510	NEW	99-03-065	246-811-045	NEW-P	99-09-100	246-840-090	AMD	99-13-086
246-359-520	NEW	99-03-065	246-811-045	NEW	99-13-084	246-840-125	PREP	99-03-066
246-359-530	NEW	99-03-065	246-811-046	NEW-P	99-09-100	246-840-565	PREP	99-11-032
246-359-540	NEW	99-03-065	246-811-046	NEW	99-13-084	246-840-730	AMD-P	99-18-082
246-359-550	NEW	99-03-065	246-811-047	NEW-P	99-09-100	246-840-740	NEW	99-04-051
246-359-560	NEW	99-03-065	246-811-047	NEW	99-13-084	246-840-760	PREP	99-11-032
246-359-565	NEW	99-03-065	246-811-048	NEW-P	99-09-100	246-840-840	PREP	99-14-002
246-359-570	NEW	99-03-065	246-811-048	NEW	99-13-084	246-840-850	PREP	99-14-002
246-359-575	NEW	99-03-065	246-811-049	NEW-P	99-09-100	246-840-860	PREP	99-14-002
246-359-580	NEW	99-03-065	246-811-049	NEW	99-13-084	246-840-870	PREP	99-14-002
246-359-590	NEW	99-03-065	246-811-060	NEW-P	99-20-060	246-840-880	PREP	99-14-002
246-359-600	NEW	99-03-065	246-811-070	NEW-P	99-09-100	246-840-890	PREP	99-14-002
246-359-700	NEW	99-03-065	246-811-070	NEW	99-13-084	246-840-900	PREP	99-14-002
246-359-710	NEW	99-03-065	246-811-075	NEW-P	99-09-100	246-840-920	PREP	99-11-032
246-359-720	NEW	99-03-065	246-811-075	NEW	99-13-084	246-841-990	PREP	99-16-114
246-359-730	NEW	99-03-065	246-811-080	NEW-P	99-09-100	246-843-001	REP-P	99-20-059
246-359-740	NEW	99-03-065	246-811-080	NEW	99-13-084	246-843-010	AMD-P	99-20-092
246-359-750	NEW	99-03-065	246-811-990	NEW-P	99-09-100	246-843-015	NEW-P	99-20-092
246-359-760	NEW	99-03-065	246-811-990	NEW	99-13-084	246-843-030	REP-P	99-20-059
246-359-800	NEW	99-03-065	246-812-990	AMD-XA	99-18-081	246-843-040	AMD-P	99-20-059
246-359-990	NEW	99-03-065	246-817-990	AMD-P	99-02-057	246-843-050	REP-P	99-20-059
246-360-990	PREP	99-10-077	246-817-990	AMD	99-08-101	246-843-060	REP	99-03-069
246-360-990	AMD-P	99-19-130	246-822-990	AMD-P	99-02-057	246-843-070	AMD-P	99-20-093
246-560-001	AMD	99-03-043	246-822-990	AMD	99-08-101	246-843-071	NEW-P	99-20-093
246-560-002	NEW	99-03-043	246-828-045	NEW	99-08-102	246-843-072	NEW-P	99-20-093
246-560-010	AMD	99-03-043	246-828-061	NEW-P	99-11-036	246-843-073	NEW-P	99-20-093
246-560-011	NEW	99-03-043	246-828-061	NEW	99-19-059	246-843-074	NEW-P	99-20-093
246-560-025	NEW	99-03-043	246-828-105	AMD-XA	99-08-096	246-843-080	REP-P	99-20-093
246-560-035	NEW	99-03-043	246-828-105	AMD	99-19-058	246-843-090	AMD-P	99-20-094
246-560-040	AMD	99-03-043	246-828-110	REP	99-07-020	246-843-093	NEW-P	99-20-094
246-560-045	NEW	99-03-043	246-828-120	REP	99-07-020	246-843-095	AMD-P	99-20-094
246-560-050	AMD	99-03-043	246-828-130	REP	99-07-020	246-843-100	REP-P	99-20-093
246-560-060	AMD	99-03-043	246-828-140	REP	99-07-020	246-843-110	REP-P	99-20-093
246-560-065	NEW	99-03-043	246-828-150	REP	99-07-020	246-843-115	REP-P	99-20-093
246-560-070	REP	99-03-043	246-828-160	REP	99-07-020	246-843-120	REP-P	99-20-093
246-560-075	NEW	99-03-043	246-828-170	REP	99-07-020	246-843-122	REP-P	99-20-093
246-560-077	NEW	99-03-043	246-828-180	REP	99-07-020	246-843-125	REP-P	99-20-095
246-560-085	NEW	99-03-043	246-828-190	REP	99-07-020	246-843-130	AMD-P	99-20-095
246-562	PREP	99-15-101	246-828-200	REP	99-07-020	246-843-150	AMD-P	99-20-095
246-650-990	AMD-P	99-16-115	246-828-210	REP	99-07-020	246-843-170	REP-P	99-20-093
246-650-990	AMD	99-20-036	246-828-230	REP	99-07-020	246-843-200	REP	99-03-068
246-650-991	NEW-P	99-16-115	246-828-240	REP	99-07-020	246-843-205	AMD-P	99-20-058
246-650-991	NEW	99-20-036	246-828-250	REP	99-07-020	246-843-220	REP	99-03-067
246-760	PREP	99-11-030	246-828-260	REP	99-07-020	246-843-225	REP	99-03-067
246-762	PREP	99-11-031	246-828-280	REP-XR	99-16-046	246-843-230	AMD-P	99-20-093
246-790	PREP	99-13-082	246-828-280	REP	99-20-063	246-843-231	NEW-P	99-20-093
246-802-990	AMD-P	99-02-057	246-828-290	AMD	99-08-103	246-845-990	AMD-P	99-02-057
246-802-990	AMD	99-08-101	246-828-310	REP	99-07-020	246-845-990	AMD	99-08-101
246-808-101	REP-XR	99-03-061	246-828-340	REP	99-07-019	246-847-990	AMD-P	99-02-057
246-808-301	REP-XR	99-03-061	246-830-990	AMD-P	99-02-057	246-847-990	AMD	99-08-101
246-808-320	REP-XR	99-03-061	246-830-990	AMD	99-08-101	246-849-990	AMD-P	99-02-057
246-808-330	REP-XR	99-03-061	246-834-050	NEW	99-03-064	246-849-990	AMD	99-08-101
246-808-340	REP-XR	99-03-061	246-834-060	AMD	99-03-064	246-850-060	NEW-P	99-03-083
246-808-350	REP-XR	99-03-061	246-834-070	AMD	99-03-064	246-850-060	NEW	99-07-122
246-808-360	REP-XR	99-03-061	246-834-080	AMD	99-03-064	246-851-270	REP	99-16-047

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246-851-340	REP	99-16-047	246-926-990	AMD	99-08-101	251-01-345	AMD-P	99-16-101
246-851-360	REP	99-16-047	246-928-990	AMD-P	99-02-057	251-01-400	AMD-P	99-02-054
246-851-990	AMD-P	99-02-057	246-928-990	AMD	99-08-101	251-01-400	AMD	99-05-042
246-851-990	AMD	99-08-101	246-930-330	PREP	99-14-001	251-01-420	REP-P	99-02-054
246-883-020	AMD-P	99-18-083	246-930-499	REP	99-07-018	251-01-420	REP	99-05-042
246-887-160	AMD-XA	99-16-116	246-930-990	AMD-P	99-02-057	251-01-435	AMD-P	99-13-106
246-888-010	NEW-P	99-18-084	246-930-990	AMD	99-08-101	251-01-435	AMD	99-19-118
246-888-020	NEW-P	99-18-084	246-935-040	PREP	99-15-103	251-01-440	AMD-P	99-02-054
246-888-030	NEW-P	99-18-084	246-935-050	PREP	99-15-103	251-01-440	AMD	99-05-042
246-888-040	NEW-P	99-18-084	246-935-060	PREP	99-15-103	251-11-130	AMD-P	99-13-106
246-888-050	NEW-P	99-18-084	246-935-140	REP-XR	99-02-080	251-11-130	AMD	99-19-118
246-888-060	NEW-P	99-18-084	246-935-140	REP	99-14-076	251-17-090	AMD-P	99-02-054
246-888-070	NEW-P	99-18-084	248-554-001	PREP	99-17-058	251-17-090	AMD	99-05-042
246-888-080	NEW-P	99-18-084	248-554-005	PREP	99-17-058	251-19-050	AMD-P	99-13-106
246-888-090	NEW-P	99-18-084	248-554-010	PREP	99-17-058	251-19-050	AMD	99-19-118
246-888-100	NEW-P	99-18-084	248-554-015	PREP	99-17-058	251-19-060	AMD-P	99-13-106
246-888-110	NEW-P	99-18-084	248-554-018	PREP	99-17-058	251-19-060	AMD	99-19-118
246-915-990	AMD-P	99-02-057	248-554-020	PREP	99-17-058	251-19-180	NEW-P	99-16-102
246-915-990	AMD	99-08-101	248-554-030	PREP	99-17-058	251-19-180	NEW	99-19-119
246-918-115	NEW-P	99-07-121	250-04-010	REP-XR	99-19-148	251-20-020	AMD-P	99-16-101
246-918-115	NEW-W	99-20-089	250-04-020	REP-XR	99-19-148	251-20-030	AMD-P	99-16-101
246-918-116	NEW-P	99-07-121	250-04-030	REP-XR	99-19-148	251-23-010	AMD-P	99-02-054
246-918-116	NEW-W	99-20-089	250-04-040	REP-XR	99-19-148	251-23-010	AMD	99-05-042
246-918-171	NEW-P	99-18-085	250-04-050	REP-XR	99-19-148	251-23-030	AMD-P	99-02-054
246-918-990	AMD-P	99-06-093	250-04-060	REP-XR	99-19-148	251-23-030	AMD	99-05-042
246-918-990	AMD	99-13-087	250-04-070	REP-XR	99-19-148	251-23-040	AMD-P	99-02-054
246-918-990	AMD-P	99-18-085	250-04-080	REP-XR	99-19-148	251-23-040	AMD	99-05-042
246-919-421	NEW-P	99-18-085	250-08-010	REP-XR	99-19-148	251-23-050	AMD-P	99-02-054
246-919-430	AMD-P	99-18-085	250-08-020	REP-XR	99-19-148	251-23-050	AMD	99-05-042
246-919-450	AMD-P	99-18-085	250-08-030	REP-XR	99-19-148	251-23-060	AMD-P	99-02-054
246-919-460	AMD-P	99-18-085	250-08-040	REP-XR	99-19-148	251-23-060	AMD	99-05-042
246-919-630	NEW-P	99-07-121	250-20-001	AMD-P	99-10-074	251-24-030	AMD-P	99-02-054
246-919-630	NEW-W	99-20-089	250-20-001	AMD	99-16-015	251-24-030	AMD	99-05-042
246-919-640	NEW-P	99-07-121	250-20-011	AMD-P	99-10-074	251-24-030	AMD-P	99-13-105
246-919-640	NEW-W	99-20-089	250-20-011	AMD	99-16-015	251-24-030	AMD	99-19-115
246-919-800	NEW-P	99-18-086	250-20-021	AMD-P	99-10-074	251-24-040	AMD-W	99-05-058
246-919-810	NEW-P	99-18-086	250-20-021	AMD	99-16-015	260-24-560	AMD	99-05-048
246-919-820	NEW-P	99-18-086	250-20-031	AMD-P	99-10-074	260-44-110	AMD-P	99-02-082
246-919-830	NEW-P	99-18-086	250-20-031	AMD	99-16-015	260-44-110	AMD	99-05-049
246-919-990	AMD-P	99-18-085	250-20-041	AMD-P	99-10-074	260-44-120	AMD-P	99-02-082
246-922-010	AMD-P	99-08-100	250-20-041	AMD	99-16-015	260-44-120	AMD	99-05-049
246-922-010	AMD	99-14-074	250-61-060	AMD	99-06-022	260-48-600	AMD-P	99-02-081
246-922-090	REP-P	99-08-100	250-61-090	AMD	99-06-021	260-48-600	AMD	99-06-026
246-922-090	REP	99-14-074	250-79	PREP	99-10-070	260-48-620	AMD-P	99-02-081
246-922-100	AMD-P	99-08-100	250-79-030	NEW-E	99-14-034	260-48-620	AMD	99-06-026
246-922-100	AMD	99-14-074	250-79-030	NEW-P	99-15-084	260-48-700	NEW-P	99-02-081
246-922-300	AMD-P	99-15-104	250-79-030	NEW	99-19-147	260-48-700	NEW	99-06-026
246-922-300	AMD	99-20-096	250-80-010	NEW-E	99-20-076	260-48-710	NEW-P	99-02-081
246-922-310	AMD-P	99-15-104	250-80-020	NEW-E	99-20-076	260-48-710	NEW	99-06-026
246-922-310	AMD	99-20-096	250-80-030	NEW-E	99-20-076	260-48-720	NEW-P	99-02-081
246-924-180	AMD-P	99-09-101	250-80-040	NEW-E	99-20-076	260-48-720	NEW	99-06-026
246-924-180	AMD	99-14-075	250-80-050	NEW-E	99-20-076	260-48-910	NEW-P	99-02-081
246-924-230	AMD-P	99-09-101	250-80-060	NEW-E	99-20-076	260-48-910	NEW	99-06-026
246-924-230	AMD	99-14-075	250-80-070	NEW-E	99-20-076	260-52-070	AMD	99-05-047
246-924-240	AMD-P	99-09-101	250-80-080	NEW-E	99-20-076	260-75	PREP	99-03-014
246-924-240	AMD	99-14-075	250-80-090	NEW-E	99-20-076	262-01	PREP	99-20-067
246-924-250	AMD-P	99-09-101	250-80-100	NEW-E	99-20-076	275-25-010	DECOD	99-19-104
246-924-250	AMD	99-14-075	251-01-014	NEW-P	99-02-054	275-25-015	DECOD	99-19-104
246-924-300	AMD-P	99-09-101	251-01-014	NEW	99-05-042	275-25-020	DECOD	99-19-104
246-924-300	AMD	99-14-075	251-01-015	AMD-P	99-02-054	275-25-030	DECOD	99-19-104
246-924-330	AMD-P	99-09-101	251-01-015	AMD	99-05-042	275-25-040	DECOD	99-19-104
246-924-330	AMD	99-14-075	251-01-040	AMD-P	99-02-054	275-25-520	DECOD	99-19-104
246-924-340	REP-P	99-09-101	251-01-040	AMD	99-05-042	275-25-527	DECOD	99-19-104
246-924-340	REP	99-14-075	251-01-190	AMD-P	99-02-054	275-25-530	DECOD	99-19-104
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246-924-990	AMD	99-08-101	251-01-330	REP-P	99-02-054	275-26-005	DECOD	99-19-104
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275-26-021	DECOD	99-19-104	275-27-213	DECOD	99-19-104	275-38-620	DECOD	99-19-104
275-26-022	DECOD	99-19-104	275-27-219	DECOD	99-19-104	275-38-625	DECOD	99-19-104
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275-26-055	DECOD	99-19-104	275-27-223	DECOD	99-19-104	275-38-655	DECOD	99-19-104
275-26-060	DECOD	99-19-104	275-27-230	DECOD	99-19-104	275-38-660	DECOD	99-19-104
275-26-065	DECOD	99-19-104	275-27-240	DECOD	99-19-104	275-38-665	DECOD	99-19-104
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275-26-071	DECOD	99-19-104	275-27-400	DECOD	99-19-104	275-38-670	DECOD	99-19-104
275-26-072	DECOD	99-19-104	275-27-500	DECOD	99-19-104	275-38-675	DECOD	99-19-104
275-26-073	DECOD	99-19-104	275-27-800	DECOD	99-19-104	275-38-678	DECOD	99-19-104
275-26-074	DECOD	99-19-104	275-27-810	DECOD	99-19-104	275-38-680	DECOD	99-19-104
275-26-075	DECOD	99-19-104	275-27-820	DECOD	99-19-104	275-38-685	DECOD	99-19-104
275-26-076	DECOD	99-19-104	275-30-010	AMD	99-03-077	275-38-690	DECOD	99-19-104
275-26-077	DECOD	99-19-104	275-30-030	AMD	99-03-077	275-38-695	DECOD	99-19-104
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275-26-107	DECOD	99-19-104	275-30-080	REP	99-03-077	275-38-720	DECOD	99-19-104
275-26-110	DECOD	99-19-104	275-31-005	DECOD	99-19-104	275-38-725	DECOD	99-19-104
275-26-115	DECOD	99-19-104	275-31-010	DECOD	99-19-104	275-38-745	DECOD	99-19-104
275-27	PREP	99-10-063	275-31-020	DECOD	99-19-104	275-38-750	DECOD	99-19-104
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275-27-020	DECOD-P	99-15-043	275-31-040	DECOD	99-19-104	275-38-765	DECOD	99-19-104
275-27-020	AMD-P	99-15-043	275-31-050	DECOD	99-19-104	275-38-770	DECOD	99-19-104
275-27-023	DECOD	99-19-104	275-31-070	DECOD	99-19-104	275-38-775	DECOD	99-19-104
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275-27-060	DECOD	99-19-104	275-38-005	DECOD	99-19-104	275-38-800	DECOD	99-19-104
275-27-180	NEW	99-04-071	275-38-015	DECOD	99-19-104	275-38-805	DECOD	99-19-104
275-27-180	DECOD	99-19-104	275-38-020	DECOD	99-19-104	275-38-810	DECOD	99-19-104
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275-27-190	NEW	99-04-071	275-38-035	DECOD	99-19-104	275-38-815	DECOD	99-19-104
275-27-190	DECOD	99-19-104	275-38-045	DECOD	99-19-104	275-38-820	DECOD	99-19-104
275-27-191	NEW	99-04-071	275-38-050	DECOD	99-19-104	275-38-831	DECOD	99-19-104
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275-27-192	DECOD	99-19-104	275-38-065	DECOD	99-19-104	275-38-845	DECOD	99-19-104
275-27-193	NEW	99-04-071	275-38-075	DECOD	99-19-104	275-38-846	DECOD	99-19-104
275-27-193	DECOD	99-19-104	275-38-080	DECOD	99-19-104	275-38-850	DECOD	99-19-104
275-27-194	NEW	99-04-071	275-38-090	DECOD	99-19-104	275-38-860	DECOD	99-19-104
275-27-194	DECOD	99-19-104	275-38-510	DECOD	99-19-104	275-38-863	DECOD	99-19-104
275-27-195	NEW	99-04-071	275-38-515	DECOD	99-19-104	275-38-865	DECOD	99-19-104
275-27-195	DECOD	99-19-104	275-38-520	DECOD	99-19-104	275-38-868	DECOD	99-19-104
275-27-196	NEW	99-04-071	275-38-525	DECOD	99-19-104	275-38-869	DECOD	99-19-104
275-27-196	DECOD	99-19-104	275-38-530	DECOD	99-19-104	275-38-870	DECOD	99-19-104
275-27-197	NEW	99-04-071	275-38-535	DECOD	99-19-104	275-38-875	DECOD	99-19-104
275-27-197	DECOD	99-19-104	275-38-540	DECOD	99-19-104	275-38-880	DECOD	99-19-104
275-27-198	NEW	99-04-071	275-38-545	DECOD	99-19-104	275-38-885	DECOD	99-19-104
275-27-198	DECOD	99-19-104	275-38-546	DECOD	99-19-104	275-38-886	DECOD	99-19-104
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275-27-199	DECOD	99-19-104	275-38-555	DECOD	99-19-104	275-38-888	DECOD	99-19-104
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275-27-200	DECOD	99-19-104	275-38-565	DECOD	99-19-104	275-38-890	DECOD	99-19-104
275-27-202	NEW	99-04-071	275-38-570	DECOD	99-19-104	275-38-892	DECOD	99-19-104
275-27-202	DECOD	99-19-104	275-38-585	DECOD	99-19-104	275-38-895	DECOD	99-19-104
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275-27-204	DECOD	99-19-104	275-38-590	DECOD	99-19-104	275-38-903	DECOD	99-19-104
275-27-211	NEW	99-04-071	275-38-595	DECOD	99-19-104	275-38-906	DECOD	99-19-104
275-27-211	DECOD	99-19-104	275-38-600	DECOD	99-19-104	275-38-910	DECOD	99-19-104
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275- 38-930	DECOD	99-19-104	292-100-030	AMD	99-06-073	296- 17	PREP	99-07-099
275- 38-935	DECOD	99-19-104	292-100-040	AMD	99-06-073	296- 17	PREP	99-07-100
275- 38-940	DECOD	99-19-104	292-100-050	AMD	99-06-073	296- 17	PREP	99-13-203
275- 38-945	DECOD	99-19-104	292-100-060	AMD	99-06-073	296- 17-31007	AMD-P	99-12-115
275- 38-950	DECOD	99-19-104	292-100-070	AMD	99-06-073	296- 17-31007	AMD	99-18-068
275- 38-955	DECOD	99-19-104	292-100-080	AMD	99-06-073	296- 17-31007	AMD-P	99-19-162
275- 38-960	DECOD	99-19-104	292-100-090	AMD	99-06-073	296- 17-31012	AMD-P	99-12-115
275- 41-005	DECOD	99-19-104	292-100-100	AMD	99-06-073	296- 17-31012	AMD	99-18-068
275- 41-010	DECOD	99-19-104	292-100-105	NEW	99-06-073	296- 17-31013	AMD-P	99-12-115
275- 41-015	DECOD	99-19-104	292-100-110	AMD	99-06-073	296- 17-31013	AMD	99-18-068
275- 41-020	DECOD	99-19-104	292-100-120	AMD	99-06-073	296- 17-31018	AMD-P	99-19-162
275- 41-025	DECOD	99-19-104	292-100-130	AMD	99-06-073	296- 17-31021	AMD-P	99-12-115
275- 59	PREP	99-14-065	292-100-140	AMD	99-06-073	296- 17-31021	AMD	99-18-068
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284- 23-310	PREP	99-13-199	292-100-180	AMD	99-06-073	296- 17-35203	AMD	99-18-068
284- 23-320	PREP	99-13-199	292-100-190	AMD	99-06-073	296- 17-505	AMD-P	99-12-115
284- 23-330	PREP	99-13-199	292-100-200	AMD	99-06-073	296- 17-505	AMD	99-18-068
284- 23-340	PREP	99-13-199	292-100-210	NEW	99-06-073	296- 17-50603	AMD-P	99-12-115
284- 23-350	PREP	99-13-199	296- 13	PREP	99-17-115	296- 17-50603	AMD	99-18-068
284- 23-360	PREP	99-13-199	296- 14	PREP	99-10-025	296- 17-50910	AMD-P	99-12-115
284- 23-370	PREP	99-13-199	296- 14-100	AMD-P	99-13-201	296- 17-50910	AMD	99-18-068
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284- 43	AMD-C	99-03-038	296- 14-410	AMD-P	99-13-201	296- 17-519	AMD-P	99-12-115
284- 43	PREP	99-13-198	296- 14-410	AMD	99-18-062	296- 17-519	AMD	99-18-068
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284- 43-130	AMD-P	99-03-007	296- 15-010	REP-P	99-18-067	296- 17-52102	AMD	99-18-068
284- 43-130	AMD-W	99-16-073	296- 15-020	REP-P	99-18-067	296- 17-52106	AMD-P	99-12-115
284- 43-130	AMD-P	99-16-106	296- 15-021	NEW-P	99-18-067	296- 17-52106	AMD	99-18-068
284- 43-130	AMD	99-19-032	296- 15-022	REP-P	99-18-067	296- 17-52108	AMD-P	99-12-115
284- 43-205	NEW-P	99-11-102	296- 15-023	REP-P	99-18-067	296- 17-52108	AMD	99-18-068
284- 43-205	NEW-C	99-13-045	296- 15-025	REP-P	99-18-067	296- 17-52109	AMD-P	99-12-115
284- 43-205	NEW	99-16-036	296- 15-026	REP-P	99-18-067	296- 17-52109	AMD	99-18-068
284- 43-320	AMD-P	99-12-106	296- 15-02601	REP-P	99-18-067	296- 17-52110	AMD-P	99-12-115
284- 43-330	AMD-P	99-12-106	296- 15-02602	REP-P	99-18-067	296- 17-52110	AMD	99-18-068
284- 43-340	REP-P	99-12-106	296- 15-02603	REP-P	99-18-067	296- 17-52111	AMD-P	99-12-115
284- 43-350	NEW-P	99-12-106	296- 15-02604	REP-P	99-18-067	296- 17-52111	AMD	99-18-068
284- 43-360	NEW-P	99-12-106	296- 15-02605	REP-P	99-18-067	296- 17-52113	AMD-P	99-12-115
284- 43-370	NEW-P	99-12-106	296- 15-030	REP-P	99-18-067	296- 17-52113	AMD	99-18-068
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284- 43-810	NEW-P	99-16-106	296- 15-061	NEW-P	99-18-067	296- 17-539	AMD-P	99-12-115
284- 43-810	NEW	99-19-032	296- 15-065	REP-P	99-18-067	296- 17-539	AMD	99-18-068
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284- 46-507	AMD-P	99-19-173	296- 15-090	REP-P	99-18-067	296- 17-544	AMD	99-18-068
284- 50-377	AMD-P	99-19-173	296- 15-110	REP-P	99-18-067	296- 17-545	AMD-P	99-12-115
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284- 53-005	NEW	99-16-005	296- 15-130	REP-P	99-18-067	296- 17-552	AMD-P	99-12-115
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296-17-58505	REP	99-18-068	296-17-90120	AMD	99-18-068	296-24-20513	AMD	99-12-091
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296-54-54710	NEW-P	99-08-072	296-54-575	AMD	99-17-117	296-54-603	AMD	99-17-117
296-54-54710	NEW	99-17-117	296-54-577	AMD-P	99-08-072	296-54-604	NEW-P	99-08-072
296-54-54720	NEW-P	99-08-072	296-54-577	AMD	99-17-117	296-54-604	NEW	99-17-117
296-54-54720	NEW	99-17-117	296-54-579	AMD-P	99-08-072	296-54-605	AMD-P	99-08-072
296-54-54730	NEW-P	99-08-072	296-54-579	AMD	99-17-117	296-54-605	AMD	99-17-117
296-54-54730	NEW	99-17-117	296-54-581	AMD-P	99-08-072	296-54-607	AMD-P	99-08-072
296-54-54740	NEW-P	99-08-072	296-54-581	AMD	99-17-117	296-54-607	AMD	99-17-117
296-54-54740	NEW	99-17-117	296-54-58110	NEW-P	99-08-072	296-54-701	NEW-P	99-08-072
296-54-54750	NEW-P	99-08-072	296-54-58110	NEW	99-17-117	296-54-701	NEW	99-17-117
296-54-54750	NEW	99-17-117	296-54-58120	NEW-P	99-08-072	296-54-70110	NEW-P	99-08-072
296-54-54760	NEW-P	99-08-072	296-54-58120	NEW	99-17-117	296-54-70110	NEW	99-17-117
296-54-54760	NEW	99-17-117	296-54-58130	NEW-P	99-08-072	296-54-70120	NEW-P	99-08-072
296-54-54770	RECOD	99-17-117	296-54-58130	NEW	99-17-117	296-54-70120	NEW	99-17-117
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296-54-703	NEW-P	99-08-072	296-62-07184	NEW	99-10-071	296-62-07342	AMD	99-10-071
296-54-705	NEW-P	99-08-072	296-62-07186	NEW	99-10-071	296-62-07343	AMD	99-10-071
296-54-705	NEW	99-17-117	296-62-07188	NEW	99-10-071	296-62-07347	AMD	99-10-071
296-54-707	NEW-P	99-08-072	296-62-07190	NEW	99-10-071	296-62-07347	AMD-XA	99-12-089
296-54-707	NEW	99-17-117	296-62-07192	NEW	99-10-071	296-62-07347	AMD	99-17-094
296-54-99002	AMD-P	99-08-072	296-62-07194	NEW	99-10-071	296-62-07354	AMD-XA	99-12-089
296-54-99002	AMD	99-17-117	296-62-07201	NEW	99-10-071	296-62-07354	AMD	99-17-094
296-54-99003	AMD-P	99-08-072	296-62-07202	NEW	99-10-071	296-62-07367	AMD	99-10-071
296-54-99003	AMD	99-17-117	296-62-07203	NEW	99-10-071	296-62-07369	AMD	99-10-071
296-54-99004	AMD-P	99-08-072	296-62-07205	NEW	99-10-071	296-62-07379	REP	99-10-071
296-54-99004	AMD	99-17-117	296-62-07206	NEW	99-10-071	296-62-07383	AMD	99-10-071
296-54-99007	REP-P	99-08-072	296-62-07208	NEW	99-10-071	296-62-07413	AMD	99-10-071
296-54-99008	REP-P	99-08-072	296-62-07209	NEW	99-10-071	296-62-07425	AMD	99-10-071
296-54-99009	REP-P	99-08-072	296-62-07210	NEW	99-10-071	296-62-07431	REP	99-10-071
296-54-99010	REP-P	99-08-072	296-62-07212	NEW	99-10-071	296-62-07433	AMD-XA	99-12-089
296-54-99013	NEW-P	99-08-072	296-62-07213	NEW	99-10-071	296-62-07433	AMD	99-17-094
296-54-99013	NEW	99-17-117	296-62-07214	NEW	99-10-071	296-62-07441	AMD	99-10-071
296-54-99014	NEW-P	99-08-072	296-62-07217	NEW	99-10-071	296-62-07445	REP	99-10-071
296-54-99014	NEW	99-17-117	296-62-07218	NEW	99-10-071	296-62-07460	AMD	99-10-071
296-56	PREP	99-02-083	296-62-07219	NEW	99-10-071	296-62-07470	AMD	99-10-071
296-56	PREP	99-12-037	296-62-07222	NEW	99-10-071	296-62-07521	AMD	99-10-071
296-56-60053	AMD	99-10-071	296-62-07223	NEW	99-10-071	296-62-07523	AMD	99-10-071
296-56-60077	AMD-P	99-16-084	296-62-07224	NEW	99-10-071	296-62-07533	REP	99-10-071
296-56-60235	AMD	99-10-071	296-62-07225	NEW	99-10-071	296-62-07540	AMD	99-10-071
296-59	PREP	99-02-083	296-62-07230	NEW	99-10-071	296-62-07542	AMD-XA	99-12-089
296-59	PREP	99-06-040	296-62-07231	NEW	99-10-071	296-62-07542	AMD	99-17-094
296-59-035	AMD-P	99-15-086	296-62-07233	NEW	99-10-071	296-62-07550	REP	99-10-071
296-59-040	REP-P	99-15-086	296-62-07234	NEW	99-10-071	296-62-07615	AMD	99-10-071
296-62	PREP	99-02-083	296-62-07235	NEW	99-10-071	296-62-07635	REP	99-10-071
296-62	PREP	99-04-057	296-62-07236	NEW	99-10-071	296-62-07639	REP	99-10-071
296-62	PREP	99-07-014	296-62-07238	NEW	99-10-071	296-62-07662	REP	99-10-071
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296-62-07101	AMD	99-10-071	296-62-07240	NEW	99-10-071	296-62-07666	REP	99-10-071
296-62-07102	NEW	99-10-071	296-62-07242	NEW	99-10-071	296-62-07668	REP	99-10-071
296-62-07103	AMD	99-10-071	296-62-07243	NEW	99-10-071	296-62-07670	REP	99-10-071
296-62-07105	AMD	99-10-071	296-62-07245	NEW	99-10-071	296-62-07672	REP	99-10-071
296-62-07107	AMD	99-10-071	296-62-07246	NEW	99-10-071	296-62-07701	AMD-P	99-08-071
296-62-07109	AMD	99-10-071	296-62-07247	NEW	99-10-071	296-62-07701	AMD	99-17-026
296-62-07111	AMD	99-10-071	296-62-07248	NEW	99-10-071	296-62-07703	AMD-P	99-08-071
296-62-07113	AMD	99-10-071	296-62-07251	NEW	99-10-071	296-62-07703	AMD	99-17-026
296-62-07115	AMD	99-10-071	296-62-07253	NEW	99-10-071	296-62-07709	AMD-P	99-08-071
296-62-07117	AMD	99-10-071	296-62-07255	NEW	99-10-071	296-62-07709	AMD	99-17-026
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296-62-07121	REP	99-10-071	296-62-07260	NEW	99-10-071	296-62-07712	AMD	99-17-026
296-62-07130	NEW	99-10-071	296-62-07261	NEW	99-10-071	296-62-07713	AMD-P	99-08-071
296-62-07131	NEW	99-10-071	296-62-07263	NEW	99-10-071	296-62-07713	AMD	99-17-026
296-62-07132	NEW	99-10-071	296-62-07265	NEW	99-10-071	296-62-07715	AMD	99-10-071
296-62-07133	NEW	99-10-071	296-62-07267	NEW	99-10-071	296-62-07721	AMD-P	99-08-071
296-62-07150	NEW	99-10-071	296-62-07269	NEW	99-10-071	296-62-07721	AMD	99-17-026
296-62-07151	NEW	99-10-071	296-62-07271	NEW	99-10-071	296-62-07722	AMD-P	99-08-071
296-62-07152	NEW	99-10-071	296-62-07273	NEW	99-10-071	296-62-07722	AMD	99-10-071
296-62-07153	NEW	99-10-071	296-62-07275	NEW	99-10-071	296-62-07722	AMD	99-17-026
296-62-07154	NEW	99-10-071	296-62-07277	NEW	99-10-071	296-62-07728	AMD-P	99-08-071
296-62-07155	NEW	99-10-071	296-62-07279	NEW	99-10-071	296-62-07728	AMD	99-17-026
296-62-07156	NEW	99-10-071	296-62-07281	NEW	99-10-071	296-62-07733	AMD	99-10-071
296-62-07160	NEW	99-10-071	296-62-07283	NEW	99-10-071	296-62-07735	AMD-P	99-08-071
296-62-07161	NEW	99-10-071	296-62-07285	NEW	99-10-071	296-62-07735	AMD	99-17-026
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296-62-07172	NEW	99-10-071	296-62-07293	NEW	99-10-071	296-62-11019	AMD	99-10-071
296-62-07175	NEW	99-10-071	296-62-07295	NEW	99-10-071	296-62-11021	AMD	99-10-071
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296-62-14120	NEW-P	99-13-144	296-62-3040	AMD	99-07-097	296-62-31440	NEW	99-07-097
296-62-14125	NEW-P	99-13-144	296-62-30405	NEW	99-07-097	296-62-31445	NEW	99-07-097
296-62-14130	NEW-P	99-13-144	296-62-30410	NEW	99-07-097	296-62-31450	NEW	99-07-097
296-62-14135	NEW-P	99-13-144	296-62-30415	NEW	99-07-097	296-62-31455	NEW	99-07-097
296-62-14140	NEW-P	99-13-144	296-62-30420	NEW	99-07-097	296-62-31460	NEW	99-07-097
296-62-14145	NEW-P	99-13-144	296-62-30425	NEW	99-07-097	296-62-31465	NEW	99-07-097
296-62-14150	NEW-P	99-13-144	296-62-30430	NEW	99-07-097	296-62-31470	NEW	99-07-097
296-62-14155	NEW-P	99-13-144	296-62-30435	NEW	99-07-097	296-62-3152	AMD	99-07-097
296-62-14170	NEW-P	99-13-144	296-62-30440	NEW	99-07-097	296-62-3160	AMD	99-07-097
296-62-14171	NEW-P	99-13-144	296-62-30445	NEW	99-07-097	296-62-3180	AMD	99-07-097
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296-62-14174	NEW-P	99-13-144	296-62-30460	NEW	99-07-097	296-62-410	NEW	99-07-097
296-62-14175	NEW-P	99-13-144	296-62-30465	NEW	99-07-097	296-62-41001	NEW	99-07-097
296-62-14176	NEW-P	99-13-144	296-62-30465	NEW	99-07-097	296-62-41003	NEW	99-07-097
296-62-14176	NEW-P	99-13-144	296-62-3050	AMD	99-07-097	296-62-41010	NEW	99-07-097
296-62-14500	REP-P	99-13-144	296-62-30505	NEW	99-07-097	296-62-41010	NEW	99-07-097
296-62-14501	REP-P	99-13-144	296-62-30510	NEW	99-07-097	296-62-41011	NEW	99-07-097
296-62-14503	REP-P	99-13-144	296-62-30515	NEW	99-07-097	296-62-41013	NEW	99-07-097
296-62-14505	REP-P	99-13-144	296-62-30520	NEW	99-07-097	296-62-41015	NEW	99-07-097
296-62-14507	REP-P	99-13-144	296-62-30525	NEW	99-07-097	296-62-41017	NEW	99-07-097
296-62-14509	REP-P	99-13-144	296-62-30530	NEW	99-07-097	296-62-41019	NEW	99-07-097
296-62-14511	REP-P	99-13-144	296-62-30535	NEW	99-07-097	296-62-41020	NEW	99-07-097
296-62-14513	REP-P	99-13-144	296-62-3060	AMD	99-07-097	296-62-41021	NEW	99-07-097
296-62-14515	REP-P	99-13-144	296-62-30605	NEW	99-07-097	296-62-41023	NEW	99-07-097
296-62-14517	REP-P	99-13-144	296-62-30610	NEW	99-07-097	296-62-41025	NEW	99-07-097
296-62-14519	REP-P	99-13-144	296-62-30615	NEW	99-07-097	296-62-41025	AMD-XA	99-12-089
296-62-14520	REP-P	99-13-144	296-62-3070	AMD	99-07-097	296-62-41025	AMD	99-17-094
296-62-14521	REP-P	99-13-144	296-62-30705	NEW	99-07-097	296-62-41030	NEW	99-07-097
296-62-14523	REP-P	99-13-144	296-62-30710	NEW	99-07-097	296-62-41031	NEW	99-07-097
296-62-14525	REP-P	99-13-144	296-62-30715	NEW	99-07-097	296-62-41033	NEW	99-07-097
296-62-14527	REP-P	99-13-144	296-62-30715	NEW	99-07-097	296-62-41033	NEW	99-07-097
296-62-14527	REP-P	99-13-144	296-62-3080	AMD	99-07-097	296-62-41035	NEW	99-07-097
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296-62-14533	AMD	99-10-071	296-62-30905	NEW	99-07-097	296-62-41041	NEW	99-07-097
296-62-20011	AMD	99-10-071	296-62-30910	NEW	99-07-097	296-62-41042	NEW	99-07-097
296-62-20017	AMD-XA	99-12-089	296-62-30915	NEW	99-07-097	296-62-41043	NEW	99-07-097
296-62-20017	AMD	99-17-094	296-62-30920	NEW	99-07-097	296-62-41044	NEW	99-07-097
296-62-20019	AMD	99-10-071	296-62-30925	NEW	99-07-097	296-62-41045	NEW	99-07-097
296-62-20027	AMD	99-10-071	296-62-30930	NEW	99-07-097	296-62-41046	NEW	99-07-097
296-62-20027	AMD-XA	99-12-089	296-62-30935	NEW	99-07-097	296-62-41047	NEW	99-07-097
296-62-20027	AMD	99-17-094	296-62-30940	NEW	99-07-097	296-62-41060	NEW	99-07-097
296-62-20029	AMD-XA	99-12-089	296-62-3100	AMD	99-07-097	296-62-41061	NEW	99-07-097
296-62-20029	AMD	99-17-094	296-62-31005	NEW	99-07-097	296-62-41063	NEW	99-07-097
296-62-300	AMD	99-07-097	296-62-31010	NEW	99-07-097	296-62-41080	NEW	99-07-097
296-62-30001	NEW	99-07-097	296-62-31010	NEW	99-07-097	296-62-41081	NEW	99-07-097
296-62-30003	NEW	99-07-097	296-62-31015	NEW	99-07-097	296-62-41082	NEW	99-07-097
296-62-3010	AMD	99-07-097	296-62-31020	NEW	99-07-097	296-62-41084	NEW	99-07-097
296-62-30105	NEW	99-07-097	296-62-3110	AMD	99-07-097	296-62-41085	NEW	99-07-097
296-62-30110	NEW	99-07-097	296-62-31105	NEW	99-07-097	296-62-41086	NEW	99-07-097
296-62-30115	NEW	99-07-097	296-62-31110	NEW	99-07-097	296-63	PREP	99-02-083
296-62-30120	NEW	99-07-097	296-62-3112	REP	99-07-097	296-65	PREP	99-02-083
296-62-30125	NEW	99-07-097	296-62-3120	AMD	99-07-097	296-65-003	AMD-P	99-08-071
296-62-30130	NEW	99-07-097	296-62-3130	AMD	99-07-097	296-65-003	AMD	99-17-026
296-62-30135	NEW	99-07-097	296-62-31305	NEW	99-07-097	296-65-010	AMD-P	99-08-071
296-62-30140	NEW	99-07-097	296-62-31310	NEW	99-07-097	296-65-010	AMD	99-17-026
296-62-30145	NEW	99-07-097	296-62-31315	NEW	99-07-097	296-65-012	AMD-P	99-08-071
296-62-3020	AMD	99-07-097	296-62-31320	NEW	99-07-097	296-65-012	AMD	99-17-026
296-62-30205	NEW	99-07-097	296-62-31325	NEW	99-07-097	296-65-020	AMD-P	99-08-071
296-62-30205	NEW	99-07-097	296-62-31330	NEW	99-07-097	296-65-020	AMD	99-17-026
296-62-30210	NEW	99-07-097	296-62-31335	NEW	99-07-097	296-65-025	AMD-P	99-08-071
296-62-30215	NEW	99-07-097	296-62-3138	AMD	99-07-097	296-65-025	AMD	99-17-026
296-62-30220	NEW	99-07-097	296-62-3140	AMD	99-07-097	296-65-030	AMD-P	99-08-071
296-62-30225	NEW	99-07-097	296-62-31405	NEW	99-07-097	296-65-030	AMD	99-17-026
296-62-30230	NEW	99-07-097	296-62-31410	NEW	99-07-097	296-67	PREP	99-02-083
296-62-30235	NEW	99-07-097	296-62-31415	NEW	99-07-097	296-78	PREP	99-02-083
296-62-3030	AMD	99-07-097	296-62-31420	NEW	99-07-097	296-78	PREP	99-06-040
296-62-30305	NEW	99-07-097	296-62-31425	NEW	99-07-097	296-78	PREP	99-12-037
296-62-30310	NEW	99-07-097	296-62-31430	NEW	99-07-097			

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296-78-545	AMD-P	99-15-086	296-79-27003	AMD	99-16-083	296-79-31009	AMD-P	99-06-071
296-78-550	AMD-P	99-15-086	296-79-27005	AMD-P	99-06-071	296-79-31009	AMD	99-16-083
296-78-555	REP-P	99-15-086	296-79-27005	AMD	99-16-083	296-79-31011	REP-P	99-06-071
296-78-665	AMD	99-10-071	296-79-27007	AMD-P	99-06-071	296-79-31011	REP	99-16-083
296-78-71019	AMD	99-10-071	296-79-27007	AMD	99-16-083	296-79-31013	REP-P	99-06-071
296-79	PREP	99-02-083	296-79-27009	AMD-P	99-06-071	296-79-31013	REP	99-16-083
296-79-010	AMD-P	99-06-071	296-79-27009	AMD	99-16-083	296-79-320	AMD-P	99-06-071
296-79-010	AMD	99-16-083	296-79-27011	AMD-P	99-06-071	296-79-320	AMD	99-16-083
296-79-011	NEW-P	99-06-071	296-79-27011	AMD	99-16-083	296-86A-020	AMD-P	99-08-128
296-79-011	NEW	99-16-083	296-79-27013	AMD-P	99-06-071	296-86A-020	AMD	99-12-080
296-79-020	AMD-P	99-06-071	296-79-27013	AMD	99-16-083	296-86A-025	AMD-P	99-08-128
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296-79-030	AMD-P	99-06-071	296-79-27015	AMD	99-16-083	296-86A-028	AMD-P	99-08-128
296-79-030	AMD	99-16-083	296-79-280	AMD-P	99-06-071	296-86A-028	AMD	99-12-080
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296-79-040	AMD	99-16-083	296-79-290	AMD-P	99-06-071	296-86A-030	AMD	99-12-080
296-79-050	AMD-P	99-06-071	296-79-290	AMD	99-16-083	296-86A-040	AMD-P	99-08-128
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296-79-060	REP-P	99-06-071	296-79-29001	AMD	99-16-083	296-86A-060	AMD-P	99-08-128
296-79-060	REP	99-16-083	296-79-29003	AMD-P	99-06-071	296-86A-060	AMD	99-12-080
296-79-070	AMD-P	99-06-071	296-79-29003	AMD	99-16-083	296-86A-070	AMD-P	99-08-128
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296-79-080	AMD-P	99-06-071	296-79-29005	AMD	99-16-083	296-86A-073	AMD-P	99-08-128
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296-79-090	AMD-P	99-06-071	296-79-29007	AMD	99-16-083	296-86A-074	AMD-P	99-08-128
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296-79-110	AMD-P	99-06-071	296-79-29011	AMD	99-16-083	296-86A-080	AMD-P	99-08-128
296-79-110	AMD	99-16-083	296-79-29013	AMD-P	99-06-071	296-86A-080	AMD	99-12-080
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296-79-130	AMD	99-16-083	296-79-29017	AMD-P	99-06-071	296-104-002	PREP	99-05-021
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296-79-190	AMD	99-16-083	296-79-29029	AMD-P	99-06-071	296-104-025	AMD-P	99-17-028
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296-79-210	AMD	99-16-083	296-79-29033	AMD-P	99-06-071	296-104-035	AMD-P	99-17-028
296-79-220	AMD-P	99-06-071	296-79-29033	AMD	99-16-083	296-104-040	PREP	99-05-021
296-79-220	AMD	99-16-083	296-79-29035	AMD-P	99-06-071	296-104-040	AMD-P	99-17-028
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296-79-270	AMD	99-16-083	296-79-31005	REP-P	99-06-071	296-104-100	AMD-P	99-17-028
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296-104-135	AMD-P	99-17-028	296-150C-1730	REP-XR	99-16-113	296-150M-3000	AMD	99-12-080
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296-125-0725	NEW-W	99-09-081	296-150F-0320	AMD	99-13-010	296-150T-0050	NEW	99-12-079
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296-150C-0500	AMD-XA	99-17-116	296-150F-0625	NEW-P	99-08-129	296-150T-0120	NEW-P	99-08-130
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296-304	PREP	99-02-083	308-19-140	AMD-P	99-08-087	308-56A-200	AMD-P	99-07-016
296-304	PREP	99-12-037	308-19-150	AMD-P	99-08-087	308-56A-200	AMD	99-12-031
296-304-03005	AMD	99-10-071	308-19-160	AMD-P	99-08-087	308-56A-205	REP-P	99-07-016
296-305	PREP	99-02-083	308-19-200	AMD-P	99-08-087	308-56A-205	REP	99-12-031
296-305-01003	AMD	99-05-080	308-19-210	AMD-P	99-08-087	308-56A-215	AMD-P	99-07-016
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296-305-02001	AMD	99-05-080	308-19-240	AMD-P	99-08-087	308-56A-250	AMD	99-08-065
296-305-02003	AMD	99-05-080	308-19-250	AMD-P	99-08-087	308-56A-255	REP-P	99-04-038
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296-305-02013	AMD	99-05-080	308-19-400	AMD-P	99-08-087	308-56A-265	AMD-P	99-04-038
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308- 57-135	PREP	99-18-126	308- 93-079	PREP	99-18-009	308- 94-220	REP-P	99-19-144
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388-15-19600	PREP	99-18-042	388-71-0815	NEW	99-19-048	388-87-025	REP-P	99-20-111
388-15-19610	AMD	99-03-041	388-71-0820	NEW-P	99-14-066	388-87-0250	PREP	99-05-044
388-15-19610	PREP	99-18-042	388-71-0820	NEW	99-19-048	388-87-048	PREP	99-13-190
388-15-19620	AMD	99-03-041	388-71-0825	NEW-P	99-14-066	388-87-048	REP-P	99-11-053
388-15-19620	PREP	99-18-042	388-71-0825	NEW	99-19-048	388-87-065	REP	99-16-069
388-15-19630	AMD	99-03-041	388-71-0830	NEW-P	99-14-066	388-87-065	REP	99-06-043
388-15-19630	PREP	99-18-042	388-71-0830	NEW	99-19-048	388-87-079	PREP	99-08-122
388-15-19640	AMD	99-03-041	388-71-0835	NEW-P	99-14-066	388-87-080	REP-P	99-08-122
388-15-19640	PREP	99-18-042	388-71-0835	NEW	99-19-048	388-87-080	REP	99-13-049
388-15-19650	AMD	99-03-041	388-71-0840	NEW-P	99-14-066	388-87-090	PREP	99-11-084
388-15-19650	PREP	99-18-042	388-71-0840	NEW	99-19-048	388-87-090	REP-P	99-20-106
388-15-19660	AMD	99-03-041	388-71-0845	NEW-P	99-14-066	388-87-105	REP-P	99-20-111
388-15-19660	PREP	99-18-042	388-71-0845	NEW	99-19-048	388-87-110	REP-W	99-11-060
388-15-19670	AMD	99-03-041	388-74-010	PREP	99-17-056	388-87-250	REP-P	99-20-111
388-15-19670	PREP	99-18-042	388-74-030	PREP	99-17-056	388-96-010	AMD-E	99-14-029
388-15-19680	AMD	99-03-041	388-78A-020	AMD-XA	99-09-052	388-96-010	AMD-P	99-19-024
388-15-19680	PREP	99-18-042	388-78A-020	AMD	99-15-067	388-96-202	AMD-P	99-19-024
388-15-198	PREP	99-18-042	388-78A-040	AMD-XA	99-09-052	388-96-218	AMD-E	99-14-029
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388-15-203	PREP	99-09-051	388-78A-050	AMD-XA	99-09-052	388-96-384	AMD-P	99-19-024
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388-96-565	AMD-P	99-19-024	388-290-035	REP	99-14-023	388-290-850	NEW-P	99-08-121
388-96-572	AMD-P	99-19-024	388-290-050	REP-P	99-08-121	388-290-850	NEW	99-14-023
388-96-585	AMD-P	99-19-024	388-290-050	REP	99-14-023	388-290-850	PREP	99-17-024
388-96-708	AMD-P	99-19-024	388-290-055	REP-P	99-08-121	388-290-900	NEW-P	99-08-121
388-96-709	AMD-E	99-14-029	388-290-055	REP	99-14-023	388-290-900	NEW	99-14-023
388-96-709	AMD-P	99-19-024	388-290-060	REP-P	99-08-121	388-290-905	NEW	99-14-023
388-96-710	AMD-E	99-14-029	388-290-060	REP	99-14-023	388-290-910	NEW	99-14-023
388-96-710	AMD-P	99-19-024	388-290-070	REP-P	99-08-121	388-290-915	NEW	99-14-023
388-96-714	NEW-E	99-14-029	388-290-070	REP	99-14-023	388-290-920	NEW	99-14-023
388-96-714	NEW-P	99-19-024	388-290-075	NEW-P	99-08-121	388-290-920	PREP	99-17-024
388-96-718	AMD-P	99-19-024	388-290-075	NEW	99-14-023	388-290-925	NEW	99-14-023
388-96-723	AMD-E	99-14-029	388-290-080	REP-P	99-08-121	388-290-930	NEW	99-14-023
388-96-723	AMD-P	99-19-024	388-290-080	REP	99-14-023	388-290-935	NEW	99-14-023
388-96-724	AMD-E	99-14-029	388-290-090	REP-P	99-08-121	388-290-940	NEW	99-14-023
388-96-724	AMD-P	99-19-024	388-290-090	REP	99-14-023	388-290-945	NEW	99-14-023
388-96-725	AMD-E	99-14-029	388-290-1000	NEW-P	99-08-121	388-290-950	NEW	99-14-023
388-96-725	AMD-P	99-19-024	388-290-105	REP-P	99-08-121	388-290-950	PREP	99-17-024
388-96-726	AMD-E	99-14-029	388-290-105	REP	99-14-023	388-310	PREP	99-14-024
388-96-726	AMD-P	99-19-024	388-290-1050	NEW-P	99-08-121	388-310-0100	AMD-P	99-05-072
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388-96-730	NEW-P	99-19-024	388-290-1150	NEW-P	99-08-121	388-310-0200	AMD-P	99-05-072
388-96-731	NEW-E	99-14-029	388-290-1200	NEW-P	99-08-121	388-310-0200	AMD	99-08-051
388-96-731	NEW-P	99-19-024	388-290-125	NEW-P	99-08-121	388-310-0200	AMD-E	99-14-041
388-96-748	NEW-E	99-14-029	388-290-125	NEW	99-14-023	388-310-0200	AMD-P	99-18-072
388-96-748	NEW-P	99-19-024	388-290-1250	NEW-P	99-08-121	388-310-0200	AMD-W	99-20-105
388-96-766	AMD-P	99-19-024	388-290-1300	NEW-P	99-08-121	388-310-0300	AMD-P	99-05-071
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388-96-776	AMD-E	99-14-029	388-290-150	NEW	99-14-023	388-310-0400	AMD-P	99-05-071
388-96-776	AMD-P	99-19-024	388-290-200	NEW-P	99-08-121	388-310-0400	AMD	99-10-027
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388-165-110	RECOD	99-15-076	388-290-270	NEW-P	99-08-121	388-310-0400	AMD-W	99-20-105
388-165-120	RECOD	99-15-076	388-290-270	NEW	99-14-023	388-310-0500	AMD-P	99-05-071
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388-165-140	RECOD	99-15-076	388-290-280	NEW	99-14-023	388-310-0600	AMD-P	99-05-071
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388-165-180	NEW-P	99-18-071	388-290-300	NEW	99-14-023	388-310-0700	AMD-P	99-05-071
388-165-185	NEW-P	99-18-071	388-290-350	NEW-P	99-08-121	388-310-0700	AMD	99-10-027
388-165-190	NEW-P	99-18-071	388-290-350	NEW	99-14-023	388-310-0700	AMD-P	99-18-072
388-165-195	NEW-P	99-18-071	388-290-375	NEW-P	99-08-121	388-310-0700	AMD-W	99-20-105
388-165-200	NEW-P	99-18-071	388-290-375	NEW	99-14-023	388-310-0800	AMD-P	99-05-071
388-165-205	NEW-P	99-18-071	388-290-400	NEW-P	99-08-121	388-310-0800	AMD-S	99-10-028
388-165-210	NEW-P	99-18-071	388-290-400	NEW	99-14-023	388-310-0800	AMD	99-14-043
388-165-215	NEW-P	99-18-071	388-290-400	PREP	99-17-024	388-310-0900	AMD-P	99-05-071
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388-165-225	NEW-P	99-18-071	388-290-450	NEW	99-14-023	388-310-1000	AMD-P	99-05-071
388-165-230	NEW-P	99-18-071	388-290-475	NEW-P	99-08-121	388-310-1000	AMD	99-10-027
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388-165-240	NEW-P	99-18-071	388-290-500	NEW-P	99-08-121	388-310-1050	AMD	99-10-027
388-165-245	NEW-P	99-18-071	388-290-500	NEW	99-14-023	388-310-1100	AMD-P	99-05-071
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388-290-015	NEW	99-14-023	388-290-650	NEW-P	99-08-121	388-310-1400	AMD-P	99-18-072
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388-290-020	REP	99-14-023	388-290-700	NEW-P	99-08-121	388-310-1500	AMD-P	99-05-071
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388-320-115	REP	99-15-065	388-412-0015	AMD-P	99-12-117	388-450-0050	AMD	99-09-054
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388-458-0001	NEW-P	99-19-159	388-501-0100	NEW-P	99-20-111	388-527-2733	NEW-P	99-07-025
388-458-0010	AMD-P	99-19-159	388-501-0130	PREP	99-05-044	388-527-2733	NEW	99-11-076
388-462-0005	REP-P	99-10-105	388-501-0160	PREP	99-08-040	388-527-2735	REP-P	99-07-025
388-462-0005	REP	99-14-045	388-501-0160	AMD-P	99-20-107	388-527-2735	REP	99-11-076
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440-44-026	PREP	99-17-055	456-12-095	NEW	99-13-098	458-20-131	AMD	99-08-090
446-16-070	AMD-P	99-03-080	456-12-100	REP-P	99-08-091	458-20-135	AMD-E	99-12-077
446-16-070	AMD	99-07-051	456-12-100	REP	99-13-098	458-20-135	PREP	99-12-078
446-16-080	AMD-P	99-03-080	456-12-105	NEW-P	99-08-091	458-20-135	AMD-E	99-20-003
446-16-080	AMD	99-07-051	456-12-105	NEW	99-13-098	458-20-136	AMD-E	99-12-077
446-16-100	AMD-P	99-03-080	456-12-110	REP-P	99-08-091	458-20-136	PREP	99-12-078
446-16-100	AMD	99-07-051	456-12-110	REP	99-13-098	458-20-136	AMD-E	99-20-003
446-16-110	AMD-P	99-03-080	456-12-115	NEW-P	99-08-091	458-20-13601	NEW-E	99-12-077
446-16-110	AMD	99-07-051	456-12-115	NEW	99-13-098	458-20-13601	PREP	99-12-078
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458-20-225	REP	99-08-005	458-57-600	REP-P	99-11-104	468-51-100	AMD	99-06-034
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458-29A-400	NEW	99-20-053	458-65-020	REP-XR	99-04-018	468-66-050	AMD-E	99-18-096
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458-29A-500	NEW	99-20-053	458-65-030	REP-XR	99-04-018	468-66-070	AMD-E	99-18-096
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458-29A-600	NEW	99-20-053	458-65-040	REP-XR	99-04-018	468-66-110	AMD-E	99-18-096
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458-57-025	NEW-P	99-11-104	468-12	PREP	99-04-042	468-310-100	AMD	99-03-025
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458-57-045	NEW	99-15-095	468-34-150	AMD-W	99-08-082	468-550-030	AMD	99-18-059
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458-57-510	REP	99-15-095	468-38-110	AMD-P	99-05-006	468-550-040	AMD	99-18-059
458-57-520	REP-P	99-11-104	468-38-110	AMD	99-08-025	468-550-060	AMD-P	99-15-011
458-57-520	REP	99-15-095	468-38-150	REP-XR	99-04-058	468-550-060	AMD	99-18-059
458-57-530	REP-P	99-11-104	468-38-150	REP	99-07-098	468-550-070	AMD-P	99-15-011
458-57-530	REP	99-15-095	468-38-170	REP-XR	99-04-058	468-550-070	AMD	99-18-059
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458-57-540	REP	99-15-095	468-38-210	REP-XR	99-04-058	468-550-080	NEW	99-18-059
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458-57-550	REP	99-15-095	468-38-290	AMD-E	99-10-004	474-10-010	NEW	99-03-004
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458-57-560	REP	99-15-095	468-38-290	AMD-P	99-14-047	474-10-030	NEW	99-03-004
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474- 10-090	NEW	99-03-004	479- 05-020	NEW-E	99-19-006	479- 12-110	NEW-E	99-19-006
474- 10-100	NEW	99-03-004	479- 05-020	NEW-P	99-20-143	479- 12-110	NEW-P	99-20-143
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478-140-010	AMD-P	99-08-056	479- 05-050	NEW-E	99-19-006	479- 12-140	NEW-E	99-19-006
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478-140-015	AMD-P	99-08-056	479- 05-060	NEW-E	99-19-006	479- 12-150	NEW-E	99-19-006
478-140-015	AMD	99-12-110	479- 05-060	NEW-P	99-20-143	479- 12-150	NEW-P	99-20-143
478-140-018	AMD-P	99-08-056	479- 05-070	NEW-E	99-19-006	479- 12-200	NEW-E	99-19-006
478-140-018	AMD	99-12-110	479- 05-070	NEW-P	99-20-143	479- 12-200	NEW-P	99-20-143
478-140-019	NEW-P	99-08-056	479- 05-080	NEW-E	99-19-006	479- 12-210	NEW-E	99-19-006
478-140-019	NEW	99-12-110	479- 05-080	NEW-P	99-20-143	479- 12-210	NEW-P	99-20-143
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478-140-021	AMD	99-12-110	479- 05-090	NEW-P	99-20-143	479- 12-220	NEW-P	99-20-143
478-140-024	AMD-P	99-08-056	479- 05-100	NEW-E	99-19-006	479- 12-230	NEW-E	99-19-006
478-140-024	AMD	99-12-110	479- 05-100	NEW-P	99-20-143	479- 12-230	NEW-P	99-20-143
478-140-050	AMD-P	99-08-056	479- 05-110	NEW-E	99-19-006	479- 12-240	NEW-E	99-19-006
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478-140-060	REP-P	99-08-056	479- 05-120	NEW-E	99-19-006	479- 12-240	NEW-E	99-19-006
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478-210-010	REP	99-06-033	479- 05-150	NEW-E	99-19-006	479- 12-300	NEW-P	99-20-143
478-210-020	REP	99-06-033	479- 05-150	NEW-P	99-20-143	479- 12-310	NEW-E	99-19-006
478-324-020	AMD-XA	99-19-096	479- 05-160	NEW-E	99-19-006	479- 12-310	NEW-P	99-20-143
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478-324-040	AMD-XA	99-19-096	479- 05-170	NEW-E	99-19-006	479- 12-340	NEW-P	99-20-143
478-324-045	NEW-XA	99-19-096	479- 05-170	NEW-P	99-20-143	479- 12-350	NEW-E	99-19-006
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478-324-070	AMD-XA	99-19-096	479- 05-190	NEW-E	99-19-006	479- 12-360	NEW-P	99-20-143
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478-324-110	AMD-XA	99-19-096	479- 05-200	NEW-E	99-19-006	479- 12-370	NEW-P	99-20-143
478-324-120	AMD-XA	99-19-096	479- 05-200	NEW-P	99-20-143	479- 12-400	NEW-E	99-19-006
478-324-130	AMD-XA	99-19-096	479- 05-210	NEW-E	99-19-006	479- 12-400	NEW-P	99-20-143
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478-324-180	AMD-XA	99-19-096	479- 05-230	NEW-E	99-19-006	479- 12-420	NEW-P	99-20-143
478-324-190	AMD-XA	99-19-096	479- 05-230	NEW-P	99-20-143	479- 12-430	NEW-E	99-19-006
478-324-200	AMD-XA	99-19-096	479- 05-240	NEW-E	99-19-006	479- 12-430	NEW-P	99-20-143
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479- 01-020	AMD-P	99-20-143	479- 05-260	NEW-E	99-19-006	479- 13-010	REP-P	99-20-143
479- 01-040	AMD-E	99-19-006	479- 05-260	NEW-P	99-20-143	479- 13-011	REP-E	99-19-006
479- 01-040	AMD-P	99-20-143	479- 05-270	NEW-E	99-19-006	479- 13-011	REP-P	99-20-143
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479- 01-050	AMD-P	99-20-143	479- 05-280	NEW-E	99-19-006	479- 13-025	REP-P	99-20-143
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479- 02-020	REP-P	99-20-143	479- 12-005	AMD-E	99-19-006	479- 13-070	REP-P	99-20-143
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479- 02-050	AMD-E	99-19-006	479- 12-008	AMD-P	99-20-143	479- 14-008	NEW-E	99-19-006
479- 02-050	AMD-P	99-20-143	479- 12-010	AMD-E	99-19-006	479- 14-008	NEW-P	99-20-143
479- 02-060	AMD-E	99-19-006	479- 12-010	REP-P	99-20-143	479- 14-010	NEW-E	99-19-006
479- 02-060	AMD-P	99-20-143	479- 12-010	REP-P	99-20-143	479- 14-010	NEW-P	99-20-143
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479- 02-110	AMD-P	99-20-143	479- 12-020	REP-E	99-19-006	479- 14-100	NEW-P	99-20-143
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479-14-140	NEW-P	99-20-143	479-20-007	AMD-P	99-03-089	479-116-015	REP-P	99-20-143
479-14-150	NEW-E	99-19-006	479-20-007	AMD	99-08-021	479-116-016	REP-P	99-20-143
479-14-150	NEW-P	99-20-143	479-20-007	REP-E	99-19-006	479-116-020	REP-P	99-20-143
479-14-160	NEW-E	99-19-006	479-20-007	REP-P	99-20-143	479-116-030	REP-P	99-20-143
479-14-160	NEW-P	99-20-143	479-20-010	REP-E	99-19-006	479-116-035	REP-P	99-20-143
479-14-170	NEW-E	99-19-006	479-20-010	REP-P	99-20-143	479-116-040	REP-P	99-20-143
479-14-170	NEW-P	99-20-143	479-20-011	REP-E	99-19-006	479-116-045	REP-P	99-20-143
479-14-180	NEW-E	99-19-006	479-20-011	REP-P	99-20-143	479-116-050	REP-P	99-20-143
479-14-180	NEW-P	99-20-143	479-20-013	REP-E	99-19-006	479-116-060	REP-P	99-20-143
479-14-190	NEW-E	99-19-006	479-20-013	REP-P	99-20-143	479-116-070	REP-P	99-20-143
479-14-190	NEW-P	99-20-143	479-20-016	REP-E	99-19-006	479-116-080	REP-P	99-20-143
479-15-005	NEW-E	99-19-006	479-20-016	REP-P	99-20-143	479-120-010	REP-P	99-20-143
479-15-005	NEW-P	99-20-143	479-20-020	AMD-P	99-03-089	479-120-011	REP-P	99-20-143
479-15-008	NEW-E	99-19-006	479-20-020	AMD	99-08-021	479-120-013	REP-P	99-20-143
479-15-008	NEW-P	99-20-143	479-20-020	REP-E	99-19-006	479-120-016	REP-P	99-20-143
479-15-010	NEW-E	99-19-006	479-20-020	REP-P	99-20-143	479-120-020	REP-P	99-20-143
479-15-010	NEW-P	99-20-143	479-20-025	AMD-P	99-03-089	479-120-025	REP-P	99-20-143
479-15-100	NEW-E	99-19-006	479-20-025	AMD	99-08-021	479-120-027	REP-P	99-20-143
479-15-100	NEW-P	99-20-143	479-20-025	REP-E	99-19-006	479-120-031	REP-P	99-20-143
479-15-110	NEW-E	99-19-006	479-20-025	REP-P	99-20-143	479-120-037	REP-P	99-20-143
479-15-110	NEW-P	99-20-143	479-20-027	REP-E	99-19-006	479-120-086	REP-P	99-20-143
479-15-120	NEW-E	99-19-006	479-20-027	REP-P	99-20-143	479-120-089	REP-P	99-20-143
479-15-120	NEW-P	99-20-143	479-20-031	REP-E	99-19-006	479-120-095	REP-P	99-20-143
479-15-130	NEW-E	99-19-006	479-20-031	REP-P	99-20-143	479-310-010	REP-E	99-19-006
479-15-130	NEW-P	99-20-143	479-20-037	AMD-P	99-03-089	479-310-010	REP-P	99-20-143
479-15-140	NEW-E	99-19-006	479-20-037	AMD	99-08-021	479-310-050	REP-E	99-19-006
479-15-140	NEW-P	99-20-143	479-20-037	REP-E	99-19-006	479-310-050	REP-P	99-20-143
479-16-010	REP-E	99-19-006	479-20-037	REP-P	99-20-143	479-310-100	REP-E	99-19-006
479-16-010	REP-P	99-20-143	479-20-086	REP-E	99-19-006	479-310-100	REP-P	99-20-143
479-16-015	REP-E	99-19-006	479-20-086	REP-P	99-20-143	479-310-150	REP-E	99-19-006
479-16-015	REP-P	99-20-143	479-20-089	REP-E	99-19-006	479-310-150	REP-P	99-20-143
479-16-016	REP-E	99-19-006	479-20-089	REP-P	99-20-143	479-310-200	REP-E	99-19-006
479-16-016	REP-P	99-20-143	479-20-095	REP-E	99-19-006	479-310-200	REP-P	99-20-143
479-16-020	AMD-P	99-03-089	479-20-095	REP-P	99-20-143	479-312-010	REP-E	99-19-006
479-16-020	AMD	99-08-021	479-24-010	REP-P	99-20-143	479-312-010	REP-P	99-20-143
479-16-020	REP-E	99-19-006	479-24-020	REP-P	99-20-143	479-312-050	REP-E	99-19-006
479-16-020	REP-P	99-20-143	479-24-030	REP-P	99-20-143	479-312-050	REP-P	99-20-143
479-16-030	REP-E	99-19-006	479-24-040	REP-P	99-20-143	479-312-100	REP-E	99-19-006
479-16-030	REP-P	99-20-143	479-24-050	REP-P	99-20-143	479-312-100	REP-P	99-20-143
479-16-035	REP-E	99-19-006	479-24-070	REP-P	99-20-143	479-312-150	REP-E	99-19-006
479-16-035	REP-P	99-20-143	479-112-001	REP-E	99-19-006	479-312-150	REP-P	99-20-143
479-16-040	AMD-P	99-03-089	479-112-001	REP-P	99-20-143	479-312-200	REP-E	99-19-006
479-16-040	AMD	99-08-021	479-112-003	REP-E	99-19-006	479-312-200	REP-P	99-20-143
479-16-040	REP-E	99-19-006	479-112-003	REP-P	99-20-143	479-312-250	REP-E	99-19-006
479-16-040	REP-P	99-20-143	479-112-0055	REP-E	99-19-006	479-312-250	REP-P	99-20-143
479-16-045	REP-E	99-19-006	479-112-0055	REP-P	99-20-143	479-312-300	REP-E	99-19-006
479-16-045	REP-P	99-20-143	479-112-007	REP-E	99-19-006	479-312-300	REP-P	99-20-143
479-16-050	REP-E	99-19-006	479-112-007	REP-P	99-20-143	479-316-010	REP-E	99-19-006
479-16-050	REP-P	99-20-143	479-112-008	REP-E	99-19-006	479-316-010	REP-P	99-20-143
479-16-060	REP-E	99-19-006	479-112-008	REP-P	99-20-143	479-316-050	REP-E	99-19-006
479-16-060	REP-P	99-20-143	479-112-009	REP-E	99-19-006	479-316-050	REP-P	99-20-143
479-16-080	REP-E	99-19-006	479-112-009	REP-P	99-20-143	479-316-100	REP-E	99-19-006
479-16-080	REP-P	99-20-143	479-112-010	REP-E	99-19-006	479-316-100	REP-P	99-20-143
479-16-085	REP-E	99-19-006	479-112-010	REP-P	99-20-143	479-316-200	REP-E	99-19-006
479-16-085	REP-P	99-20-143	479-112-017	REP-E	99-19-006	479-316-200	REP-P	99-20-143
479-16-098	AMD-P	99-03-089	479-112-017	REP-P	99-20-143	479-316-250	REP-E	99-19-006
479-16-098	AMD	99-08-021	479-112-018	REP-E	99-19-006	479-316-250	REP-P	99-20-143
479-16-098	REP-E	99-19-006	479-112-018	REP-P	99-20-143	479-316-300	REP-E	99-19-006
479-16-098	REP-P	99-20-143	479-112-020	REP-E	99-19-006	479-316-300	REP-P	99-20-143
479-17-100	NEW-E	99-19-006	479-112-020	REP-P	99-20-143	479-320-050	REP-E	99-19-006
479-17-100	NEW-P	99-20-143	479-113-010	REP-P	99-20-143	479-320-050	REP-P	99-20-143

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Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
479-320-100	REP-E	99-19-006	479-420-025	REP-P	99-20-143	480-09-460	AMD	99-05-031
479-320-100	REP-P	99-20-143	479-420-027	REP-E	99-19-006	480-09-465	AMD	99-05-031
479-320-150	REP-E	99-19-006	479-420-027	REP-P	99-20-143	480-09-466	AMD	99-05-031
479-320-150	REP-P	99-20-143	479-420-031	REP-E	99-19-006	480-09-467	AMD	99-05-031
479-320-200	REP-E	99-19-006	479-420-031	REP-P	99-20-143	480-09-470	AMD	99-05-031
479-320-200	REP-P	99-20-143	479-420-037	REP-E	99-19-006	480-09-475	AMD	99-05-031
479-410-010	REP-E	99-19-006	479-420-037	REP-P	99-20-143	480-09-500	AMD	99-05-031
479-410-010	REP-P	99-20-143	479-420-086	REP-E	99-19-006	480-09-510	AMD	99-05-031
479-410-020	REP-E	99-19-006	479-420-086	REP-P	99-20-143	480-09-600	AMD	99-05-031
479-410-020	REP-P	99-20-143	479-420-089	REP-E	99-19-006	480-09-610	AMD	99-05-031
479-410-100	REP-E	99-19-006	479-420-089	REP-P	99-20-143	480-09-620	AMD	99-05-031
479-410-100	REP-P	99-20-143	479-420-095	REP-E	99-19-006	480-09-700	AMD	99-05-031
479-410-150	REP-E	99-19-006	479-420-095	REP-P	99-20-143	480-09-705	AMD	99-05-031
479-410-150	REP-P	99-20-143	479-510-060	REP-E	99-19-006	480-09-710	AMD	99-05-031
479-410-160	REP-E	99-19-006	479-510-060	REP-P	99-20-143	480-09-720	AMD	99-05-031
479-410-160	REP-P	99-20-143	479-510-076	REP-E	99-19-006	480-09-730	AMD	99-05-031
479-410-170	REP-E	99-19-006	479-510-076	REP-P	99-20-143	480-09-735	AMD	99-05-031
479-410-170	REP-P	99-20-143	479-510-080	REP-E	99-19-006	480-09-736	AMD	99-05-031
479-410-180	REP-E	99-19-006	479-510-080	REP-P	99-20-143	480-09-740	AMD	99-05-031
479-410-180	REP-P	99-20-143	479-510-110	REP-E	99-19-006	480-09-745	AMD	99-05-031
479-410-200	REP-E	99-19-006	479-510-110	REP-P	99-20-143	480-09-750	AMD	99-05-031
479-410-200	REP-P	99-20-143	479-510-120	REP-E	99-19-006	480-09-751	AMD	99-05-031
479-412-020	REP-E	99-19-006	479-510-120	REP-P	99-20-143	480-09-760	AMD	99-05-031
479-412-020	REP-P	99-20-143	479-510-210	REP-E	99-19-006	480-09-770	AMD	99-05-031
479-412-100	REP-E	99-19-006	479-510-210	REP-P	99-20-143	480-09-780	AMD	99-05-031
479-412-100	REP-P	99-20-143	479-510-220	REP-E	99-19-006	480-09-800	AMD	99-05-031
479-412-150	REP-E	99-19-006	479-510-220	REP-P	99-20-143	480-09-810	AMD	99-05-031
479-412-150	REP-P	99-20-143	479-510-410	AMD-P	99-03-088	480-09-815	AMD	99-05-031
479-412-200	REP-E	99-19-006	479-510-410	AMD	99-08-020	480-09-820	AMD	99-05-031
479-412-200	REP-P	99-20-143	479-510-410	REP-E	99-19-006	480-09-830	REP	99-05-031
479-412-250	REP-E	99-19-006	479-510-410	REP-P	99-20-143	480-12-100	REP-W	99-08-085
479-412-250	REP-P	99-20-143	479-510-420	AMD-P	99-03-088	480-12-370	RE-AD	99-08-026
479-412-300	REP-E	99-19-006	479-510-420	AMD	99-08-020	480-12-375	REP	99-08-026
479-412-300	REP-P	99-20-143	479-510-420	REP-E	99-19-006	480-12-375	REP-W	99-08-085
479-412-310	REP-E	99-19-006	479-510-420	REP-P	99-20-143	480-14-060	AMD-XA	99-14-079
479-412-310	REP-P	99-20-143	479-510-450	NEW-P	99-03-088	480-14-060	AMD	99-20-013
479-416-010	REP-E	99-19-006	479-510-450	NEW	99-08-020	480-15-040	AMD-XA	99-14-079
479-416-010	REP-P	99-20-143	479-510-460	NEW-P	99-03-088	480-15-040	AMD	99-20-013
479-416-015	REP-E	99-19-006	479-510-460	NEW	99-08-020	480-30-015	AMD-XA	99-14-079
479-416-015	REP-P	99-20-143	479-510-500	REP-E	99-19-006	480-30-015	AMD	99-20-013
479-416-016	REP-E	99-19-006	479-510-500	REP-P	99-20-143	480-31-100	AMD-XA	99-14-079
479-416-016	REP-P	99-20-143	480-09-005	NEW	99-05-031	480-31-100	AMD	99-20-013
479-416-018	REP-E	99-19-006	480-09-010	AMD	99-05-031	480-31-120	AMD-XA	99-14-079
479-416-018	REP-P	99-20-143	480-09-012	AMD	99-05-031	480-31-120	AMD	99-20-013
479-416-020	REP-E	99-19-006	480-09-100	AMD	99-05-031	480-31-130	AMD-XA	99-14-079
479-416-020	REP-P	99-20-143	480-09-101	NEW	99-05-031	480-31-130	AMD	99-20-013
479-416-030	REP-E	99-19-006	480-09-115	AMD	99-05-031	480-31-140	AMD-XA	99-14-079
479-416-030	REP-P	99-20-143	480-09-120	AMD	99-05-031	480-31-140	AMD	99-20-013
479-416-035	REP-E	99-19-006	480-09-125	AMD	99-05-031	480-40-015	AMD-XA	99-14-079
479-416-035	REP-P	99-20-143	480-09-130	AMD	99-05-031	480-40-015	AMD	99-20-013
479-416-040	REP-E	99-19-006	480-09-135	AMD	99-05-031	480-60-010	AMD-P	99-15-083
479-416-040	REP-P	99-20-143	480-09-140	AMD	99-05-031	480-60-012	NEW-P	99-15-083
479-416-045	REP-E	99-19-006	480-09-150	AMD	99-05-031	480-60-014	NEW-P	99-15-083
479-416-045	REP-P	99-20-143	480-09-200	AMD	99-05-031	480-60-020	AMD-P	99-15-083
479-416-050	REP-E	99-19-006	480-09-210	AMD	99-05-031	480-60-030	AMD-P	99-15-083
479-416-050	REP-P	99-20-143	480-09-220	AMD	99-05-031	480-60-035	NEW-P	99-15-083
479-420-010	REP-E	99-19-006	480-09-230	AMD	99-05-031	480-60-040	AMD-P	99-15-083
479-420-010	REP-P	99-20-143	480-09-337	NEW-S	99-12-112	480-60-050	AMD-P	99-15-083
479-420-011	REP-E	99-19-006	480-09-340	AMD	99-05-031	480-60-060	AMD-P	99-15-083
479-420-011	REP-P	99-20-143	480-09-390	AMD	99-05-031	480-60-070	REP-P	99-15-083
479-420-013	REP-E	99-19-006	480-09-400	AMD	99-05-031	480-60-080	AMD-P	99-15-083
479-420-013	REP-P	99-20-143	480-09-410	AMD	99-05-031	480-60-090	AMD-P	99-15-083
479-420-016	REP-E	99-19-006	480-09-420	AMD	99-05-031	480-60-99002	REP-P	99-15-083
479-420-016	REP-P	99-20-143	480-09-425	AMD	99-05-031	480-60-99003	REP-P	99-15-083
479-420-020	REP-E	99-19-006	480-09-426	AMD	99-05-031	480-62	PREP	99-08-053
479-420-020	REP-P	99-20-143	480-09-430	AMD	99-05-031	480-62-090	AMD-XA	99-14-079
479-420-025	REP-E	99-19-006	480-09-440	AMD	99-05-031	480-62-090	AMD	99-20-013

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480-66-010	REP-P	99-15-083	480-110-018	REP-S	99-12-112	480-110-176	REP-W	99-07-053
480-66-020	REP-P	99-15-083	480-110-021	REP-W	99-07-053	480-110-176	REP-S	99-12-112
480-66-030	REP-P	99-15-083	480-110-021	REP-S	99-12-112	480-110-205	NEW-S	99-12-112
480-66-040	REP-P	99-15-083	480-110-023	REP-W	99-07-053	480-110-215	NEW-S	99-12-112
480-66-050	REP-P	99-15-083	480-110-023	REP-S	99-12-112	480-110-225	NEW-S	99-12-112
480-66-060	REP-P	99-15-083	480-110-026	REP-W	99-07-053	480-110-235	NEW-S	99-12-112
480-66-070	REP-P	99-15-083	480-110-026	REP-S	99-12-112	480-110-245	NEW-S	99-12-112
480-66-100	NEW-P	99-15-083	480-110-028	REP-W	99-07-053	480-110-255	NEW-S	99-12-112
480-66-110	NEW-P	99-15-083	480-110-028	REP-S	99-12-112	480-110-265	NEW-S	99-12-112
480-66-120	NEW-P	99-15-083	480-110-031	REP-W	99-07-053	480-110-275	NEW-S	99-12-112
480-66-140	NEW-P	99-15-083	480-110-031	REP-S	99-12-112	480-110-285	NEW-S	99-12-112
480-66-150	NEW-P	99-15-083	480-110-032	REP-W	99-07-053	480-110-295	NEW-S	99-12-112
480-66-160	NEW-P	99-15-083	480-110-032	REP-S	99-12-112	480-110-305	NEW-S	99-12-112
480-66-170	NEW-P	99-15-083	480-110-036	REP-W	99-07-053	480-110-315	NEW-S	99-12-112
480-66-200	NEW-P	99-15-083	480-110-036	REP-S	99-12-112	480-110-325	NEW-S	99-12-112
480-66-210	NEW-P	99-15-083	480-110-041	REP-W	99-07-053	480-110-335	NEW-S	99-12-112
480-66-220	NEW-P	99-15-083	480-110-041	REP-S	99-12-112	480-110-345	NEW-S	99-12-112
480-66-230	NEW-P	99-15-083	480-110-046	REP-W	99-07-053	480-110-355	NEW-S	99-12-112
480-66-300	NEW-P	99-15-083	480-110-046	REP-S	99-12-112	480-110-365	NEW-S	99-12-112
480-66-310	NEW-P	99-15-083	480-110-051	REP-W	99-07-053	480-110-375	NEW-S	99-12-112
480-66-320	NEW-P	99-15-083	480-110-051	REP-S	99-12-112	480-110-385	NEW-S	99-12-112
480-66-330	NEW-P	99-15-083	480-110-056	REP-W	99-07-053	480-110-395	NEW-S	99-12-112
480-66-400	NEW-P	99-15-083	480-110-056	REP-S	99-12-112	480-110-405	NEW-S	99-12-112
480-66-410	NEW-P	99-15-083	480-110-061	REP-W	99-07-053	480-110-415	NEW-S	99-12-112
480-66-420	NEW-P	99-15-083	480-110-061	REP-S	99-12-112	480-110-425	NEW-S	99-12-112
480-66-430	NEW-P	99-15-083	480-110-066	REP-W	99-07-053	480-110-435	NEW-S	99-12-112
480-66-440	NEW-P	99-15-083	480-110-066	REP-S	99-12-112	480-110-445	NEW-S	99-12-112
480-66-450	NEW-P	99-15-083	480-110-071	REP-W	99-07-053	480-110-455	NEW-S	99-12-112
480-66-460	NEW-P	99-15-083	480-110-071	REP-S	99-12-112	480-110-465	NEW-S	99-12-112
480-66-470	NEW-P	99-15-083	480-110-076	REP-W	99-07-053	480-110-475	NEW-S	99-12-112
480-66-480	NEW-P	99-15-083	480-110-076	REP-S	99-12-112	480-110-485	NEW-S	99-12-112
480-66-490	NEW-P	99-15-083	480-110-081	REP-W	99-07-053	480-110-495	NEW-S	99-12-112
480-66-500	NEW-P	99-15-083	480-110-081	REP-S	99-12-112	480-110-500	NEW-W	99-07-053
480-66-510	NEW-P	99-15-083	480-110-086	REP-W	99-07-053	480-110-510	NEW-W	99-07-053
480-66-520	NEW-P	99-15-083	480-110-086	REP-S	99-12-112	480-110-520	NEW-W	99-07-053
480-66-600	NEW-P	99-15-083	480-110-091	REP-W	99-07-053	480-110-530	NEW-W	99-07-053
480-66-620	NEW-P	99-15-083	480-110-091	REP-S	99-12-112	480-110-540	NEW-W	99-07-053
480-70	PREP	99-08-012	480-110-096	REP-W	99-07-053	480-110-550	NEW-W	99-07-053
480-70-055	AMD-XA	99-14-079	480-110-096	REP-S	99-12-112	480-110-560	NEW-W	99-07-053
480-70-055	AMD	99-20-013	480-110-101	REP-W	99-07-053	480-110-570	NEW-W	99-07-053
480-75-005	AMD-XA	99-14-079	480-110-101	REP-S	99-12-112	480-110-580	NEW-W	99-07-053
480-75-005	AMD	99-20-013	480-110-111	REP-W	99-07-053	480-110-590	NEW-W	99-07-053
480-80	PREP	99-19-086	480-110-111	REP-S	99-12-112	480-110-600	NEW-W	99-07-053
480-90	PREP	99-08-052	480-110-116	REP-W	99-07-053	480-110-610	NEW-W	99-07-053
480-92-011	AMD	99-05-016	480-110-116	REP-S	99-12-112	480-110-620	NEW-W	99-07-053
480-92-016	NEW	99-05-016	480-110-121	REP-W	99-07-053	480-110-630	NEW-W	99-07-053
480-92-021	AMD	99-05-016	480-110-121	REP-S	99-12-112	480-110-640	NEW-W	99-07-053
480-92-031	AMD	99-05-016	480-110-126	REP-W	99-07-053	480-110-650	NEW-W	99-07-053
480-92-041	NEW	99-05-016	480-110-126	REP-S	99-12-112	480-110-660	NEW-W	99-07-053
480-92-050	AMD	99-05-016	480-110-131	REP-W	99-07-053	480-110-670	NEW-W	99-07-053
480-92-060	AMD	99-05-016	480-110-131	REP-S	99-12-112	480-110-680	NEW-W	99-07-053
480-92-070	AMD	99-05-016	480-110-136	REP-W	99-07-053	480-110-690	NEW-W	99-07-053
480-92-080	AMD	99-05-016	480-110-136	REP-S	99-12-112	480-110-700	NEW-W	99-07-053
480-92-090	AMD	99-05-016	480-110-141	REP-W	99-07-053	480-110-710	NEW-W	99-07-053
480-92-100	AMD	99-05-016	480-110-141	REP-S	99-12-112	480-110-720	NEW-W	99-07-053
480-92-110	AMD	99-05-016	480-110-146	REP-W	99-07-053	480-110-730	NEW-W	99-07-053
480-93-010	AMD-XA	99-14-079	480-110-146	REP-S	99-12-112	480-110-740	NEW-W	99-07-053
480-93-010	AMD	99-20-013	480-110-151	REP-W	99-07-053	480-110-750	NEW-W	99-07-053
480-100	PREP	99-08-105	480-110-151	REP-S	99-12-112	480-110-760	NEW-W	99-07-053
480-100-076	PREP	99-19-155	480-110-156	REP-W	99-07-053	480-110-770	NEW-W	99-07-053
480-100-186	PREP	99-19-155	480-110-156	REP-S	99-12-112	480-110-780	NEW-W	99-07-053
480-100-191	PREP	99-19-155	480-110-161	REP-W	99-07-053	480-110-790	NEW-W	99-07-053
480-110-011	REP-W	99-07-053	480-110-161	REP-S	99-12-112	480-120	PREP	99-09-027
480-110-011	REP-S	99-12-112	480-110-166	REP-W	99-07-053	480-120-052	NEW	99-10-013
480-110-016	REP-W	99-07-053	480-110-166	REP-S	99-12-112	480-120-058	NEW	99-10-013
480-110-016	REP-S	99-12-112	480-110-171	REP-W	99-07-053	480-120-139	AMD-P	99-07-107
480-110-018	REP-W	99-07-053	480-110-171	REP-S	99-12-112	480-120-139	AMD	99-11-070

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
480-120-144	NEW	99-05-015	480-123-370	NEW-W	99-13-095	480-143-150	NEW	99-08-055
480-120-151	NEW	99-05-015	480-123-380	NEW-W	99-13-095	480-143-160	NEW-P	99-03-074
480-120-152	NEW	99-05-015	480-123-390	NEW-W	99-13-095	480-143-160	NEW	99-08-055
480-120-153	NEW	99-05-015	480-123-400	NEW-W	99-13-095	480-143-170	NEW-P	99-03-074
480-120-154	NEW	99-05-015	480-123-410	NEW-W	99-13-095	480-143-170	NEW	99-08-055
480-121	AMD-P	99-07-106	480-123-420	NEW-W	99-13-095	480-143-180	NEW-P	99-03-074
480-121	AMD	99-13-097	480-123-430	NEW-W	99-13-095	480-143-180	NEW	99-08-055
480-121-010	AMD-P	99-07-106	480-123-440	NEW-W	99-13-095	480-143-190	NEW-P	99-03-074
480-121-010	AMD	99-13-097	480-123-450	NEW-W	99-13-095	480-143-190	NEW	99-08-055
480-121-015	NEW	99-13-097	480-123-460	NEW-W	99-13-095	480-143-200	NEW-P	99-03-074
480-121-020	AMD-P	99-07-106	480-123-470	NEW-W	99-13-095	480-143-200	NEW	99-08-055
480-121-020	AMD	99-13-097	480-123-480	NEW-W	99-13-095	480-143-210	NEW-P	99-03-074
480-121-023	NEW	99-13-097	480-123-490	NEW-W	99-13-095	480-143-210	NEW	99-08-055
480-121-026	NEW	99-13-097	480-123-500	NEW-W	99-13-095	480-143-990	REP-P	99-03-074
480-121-030	AMD-P	99-07-106	480-123-510	NEW-W	99-13-095	480-143-990	REP	99-08-055
480-121-030	AMD	99-13-097	480-123-520	NEW-W	99-13-095	480-146-010	REP-P	99-03-073
480-121-040	AMD-P	99-07-106	480-123-530	NEW-W	99-13-095	480-146-010	REP	99-08-054
480-121-040	AMD	99-13-097	480-123-540	NEW-W	99-13-095	480-146-020	REP-P	99-03-073
480-121-050	REP-P	99-07-106	480-123-550	NEW-W	99-13-095	480-146-020	REP	99-08-054
480-121-050	AMD	99-13-097	480-123-560	NEW-W	99-13-095	480-146-030	REP-P	99-03-073
480-121-060	NEW-P	99-07-106	480-123-570	NEW-W	99-13-095	480-146-030	REP	99-08-054
480-121-060	NEW	99-13-097	480-140	PREP	99-09-028	480-146-040	REP-P	99-03-073
480-121-070	NEW-P	99-07-106	480-140-010	AMD-P	99-17-044	480-146-040	REP	99-08-054
480-121-070	NEW	99-13-097	480-140-015	NEW-P	99-17-044	480-146-050	REP-P	99-03-073
480-121-080	NEW-P	99-07-106	480-140-020	AMD-P	99-17-044	480-146-050	REP	99-08-054
480-121-080	NEW-W	99-20-088	480-140-030	AMD-P	99-17-044	480-146-060	REP-P	99-03-073
480-121-090	NEW-P	99-07-106	480-140-040	AMD-P	99-17-044	480-146-060	REP	99-08-054
480-121-090	NEW-W	99-20-088	480-140-050	REP-P	99-17-044	480-146-070	REP-P	99-03-073
480-121-100	NEW-P	99-07-106	480-140-060	REP-P	99-17-044	480-146-070	REP	99-08-054
480-121-100	NEW-W	99-20-088	480-140-070	REP-P	99-17-044	480-146-080	REP-P	99-03-073
480-123-015	NEW-W	99-13-095	480-140-080	AMD-P	99-17-044	480-146-080	REP	99-08-054
480-123-020	NEW-W	99-13-095	480-140-090	REP-P	99-17-044	480-146-090	REP-P	99-03-073
480-123-030	NEW-W	99-13-095	480-140-100	REP-P	99-17-044	480-146-090	REP	99-08-054
480-123-040	NEW-W	99-13-095	480-140-110	REP-P	99-17-044	480-146-091	REP-P	99-03-073
480-123-050	NEW-W	99-13-095	480-140-120	REP-P	99-17-044	480-146-091	REP	99-08-054
480-123-060	NEW-W	99-13-095	480-140-130	REP-P	99-17-044	480-146-095	REP-P	99-03-073
480-123-070	NEW-W	99-13-095	480-140-140	REP-P	99-17-044	480-146-095	REP	99-08-054
480-123-080	NEW-W	99-13-095	480-140-150	REP-P	99-17-044	480-146-200	REP-P	99-03-073
480-123-085	NEW-W	99-13-095	480-140-160	REP-P	99-17-044	480-146-200	REP	99-08-054
480-123-090	NEW-W	99-13-095	480-140-170	REP-P	99-17-044	480-146-210	REP-P	99-03-073
480-123-100	NEW-W	99-13-095	480-143-010	REP-P	99-03-074	480-146-210	REP	99-08-054
480-123-110	NEW-W	99-13-095	480-143-010	REP	99-08-055	480-146-220	REP-P	99-03-073
480-123-120	NEW-W	99-13-095	480-143-020	REP-P	99-03-074	480-146-220	REP	99-08-054
480-123-130	NEW-W	99-13-095	480-143-020	REP	99-08-055	480-146-230	REP-P	99-03-073
480-123-140	NEW-W	99-13-095	480-143-030	REP-P	99-03-074	480-146-230	REP	99-08-054
480-123-150	NEW-W	99-13-095	480-143-030	REP	99-08-055	480-146-240	NEW-P	99-03-073
480-123-160	NEW-W	99-13-095	480-143-040	REP-P	99-03-074	480-146-240	NEW	99-08-054
480-123-170	NEW-W	99-13-095	480-143-040	REP	99-08-055	480-146-250	NEW-P	99-03-073
480-123-180	NEW-W	99-13-095	480-143-050	REP-P	99-03-074	480-146-250	NEW	99-08-054
480-123-190	NEW-W	99-13-095	480-143-050	REP	99-08-055	480-146-260	NEW-P	99-03-073
480-123-200	NEW-W	99-13-095	480-143-060	REP-P	99-03-074	480-146-260	NEW	99-08-054
480-123-210	NEW-W	99-13-095	480-143-060	REP	99-08-055	480-146-270	NEW-P	99-03-073
480-123-220	NEW-W	99-13-095	480-143-070	REP-P	99-03-074	480-146-270	NEW	99-08-054
480-123-230	NEW-W	99-13-095	480-143-070	REP	99-08-055	480-146-280	NEW-P	99-03-073
480-123-240	NEW-W	99-13-095	480-143-080	REP-P	99-03-074	480-146-280	NEW	99-08-054
480-123-250	NEW-W	99-13-095	480-143-080	REP	99-08-055	480-146-290	NEW-P	99-03-073
480-123-260	NEW-W	99-13-095	480-143-100	NEW-P	99-03-074	480-146-290	NEW	99-08-054
480-123-270	NEW-W	99-13-095	480-143-100	NEW	99-08-055	480-146-300	NEW-P	99-03-073
480-123-280	NEW-W	99-13-095	480-143-110	NEW-P	99-03-074	480-146-300	NEW	99-08-054
480-123-290	NEW-W	99-13-095	480-143-110	NEW	99-08-055	480-146-310	NEW-P	99-03-073
480-123-300	NEW-W	99-13-095	480-143-120	NEW-P	99-03-074	480-146-310	NEW	99-08-054
480-123-310	NEW-W	99-13-095	480-143-120	NEW	99-08-055	480-146-320	NEW-P	99-03-073
480-123-320	NEW-W	99-13-095	480-143-130	NEW-P	99-03-074	480-146-320	NEW	99-08-054
480-123-330	NEW-W	99-13-095	480-143-130	NEW	99-08-055	480-146-330	NEW-P	99-03-073
480-123-340	NEW-W	99-13-095	480-143-140	NEW-P	99-03-074	480-146-330	NEW	99-08-054
480-123-350	NEW-W	99-13-095	480-143-140	NEW	99-08-055	480-146-340	NEW-P	99-03-073
480-123-360	NEW-W	99-13-095	480-143-150	NEW-P	99-03-074	480-146-340	NEW	99-08-054

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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
480-146-350	NEW-P	99-03-073	490-500-270	REP	99-18-053	490-500-485	PREP	99-06-081
480-146-350	NEW	99-08-054	490-500-275	PREP	99-06-081	490-500-485	REP-P	99-12-030
480-146-360	NEW-P	99-03-073	490-500-275	REP-P	99-12-030	490-500-485	REP	99-18-053
480-146-360	NEW	99-08-054	490-500-275	REP	99-18-053	490-500-500	PREP	99-06-081
480-146-370	NEW-P	99-03-073	490-500-300	PREP	99-06-081	490-500-500	REP-P	99-12-030
480-146-370	NEW	99-08-054	490-500-300	REP-P	99-12-030	490-500-500	REP	99-18-053
480-146-380	NEW-P	99-03-073	490-500-300	REP	99-18-053	490-500-505	PREP	99-06-081
480-146-380	NEW	99-08-054	490-500-325	PREP	99-06-081	490-500-505	REP-P	99-12-030
490-500-005	PREP	99-06-081	490-500-325	REP-P	99-12-030	490-500-505	REP	99-18-053
490-500-005	REP-P	99-12-030	490-500-325	REP	99-18-053	490-500-510	PREP	99-06-081
490-500-005	REP	99-18-053	490-500-350	PREP	99-06-081	490-500-510	REP-P	99-12-030
490-500-010	PREP	99-06-081	490-500-350	REP-P	99-12-030	490-500-510	REP	99-18-053
490-500-010	REP-P	99-12-030	490-500-350	REP	99-18-053	490-500-525	PREP	99-06-081
490-500-010	REP	99-18-053	490-500-380	PREP	99-06-081	490-500-525	REP-P	99-12-030
490-500-015	PREP	99-06-081	490-500-380	REP-P	99-12-030	490-500-525	REP	99-18-053
490-500-015	REP-P	99-12-030	490-500-380	REP	99-18-053	490-500-530	PREP	99-06-081
490-500-015	REP	99-18-053	490-500-385	PREP	99-06-081	490-500-530	REP-P	99-12-030
490-500-022	PREP	99-06-081	490-500-385	REP-P	99-12-030	490-500-530	REP	99-18-053
490-500-022	REP-P	99-12-030	490-500-385	REP	99-18-053	490-500-542	PREP	99-06-081
490-500-022	REP	99-18-053	490-500-389	PREP	99-06-081	490-500-542	REP-P	99-12-030
490-500-025	PREP	99-06-081	490-500-389	REP-P	99-12-030	490-500-542	REP	99-18-053
490-500-025	REP-P	99-12-030	490-500-389	REP	99-18-053	490-500-545	PREP	99-06-081
490-500-025	REP	99-18-053	490-500-390	PREP	99-06-081	490-500-545	REP-P	99-12-030
490-500-030	PREP	99-06-081	490-500-390	REP-P	99-12-030	490-500-545	REP	99-18-053
490-500-030	REP-P	99-12-030	490-500-390	REP	99-18-053	490-500-555	PREP	99-06-081
490-500-030	REP	99-18-053	490-500-418	PREP	99-06-081	490-500-555	REP-P	99-12-030
490-500-050	PREP	99-06-081	490-500-418	REP-P	99-12-030	490-500-555	REP	99-18-053
490-500-050	REP-P	99-12-030	490-500-418	REP	99-18-053	490-500-560	PREP	99-06-081
490-500-050	REP	99-18-053	490-500-420	PREP	99-06-081	490-500-560	REP-P	99-12-030
490-500-055	PREP	99-06-081	490-500-420	REP-P	99-12-030	490-500-560	REP	99-18-053
490-500-055	REP-P	99-12-030	490-500-420	REP	99-18-053	490-500-580	PREP	99-06-081
490-500-055	REP	99-18-053	490-500-430	PREP	99-06-081	490-500-580	REP-P	99-12-030
490-500-065	PREP	99-06-081	490-500-430	REP-P	99-12-030	490-500-580	REP	99-18-053
490-500-065	REP-P	99-12-030	490-500-430	REP	99-18-053	490-500-590	PREP	99-06-081
490-500-065	REP	99-18-053	490-500-435	PREP	99-06-081	490-500-590	REP-P	99-12-030
490-500-070	PREP	99-06-081	490-500-435	REP-P	99-12-030	490-500-590	REP	99-18-053
490-500-070	REP-P	99-12-030	490-500-435	REP	99-18-053	490-500-600	PREP	99-06-081
490-500-070	REP	99-18-053	490-500-437	PREP	99-06-081	490-500-600	REP-P	99-12-030
490-500-080	PREP	99-06-081	490-500-437	REP-P	99-12-030	490-500-600	REP	99-18-053
490-500-080	REP-P	99-12-030	490-500-437	REP	99-18-053	490-500-605	PREP	99-06-081
490-500-080	REP	99-18-053	490-500-445	PREP	99-06-081	490-500-605	REP-P	99-12-030
490-500-170	PREP	99-06-081	490-500-445	REP-P	99-12-030	490-500-605	REP	99-18-053
490-500-170	REP-P	99-12-030	490-500-445	REP	99-18-053	490-500-615	PREP	99-06-081
490-500-170	REP	99-18-053	490-500-450	PREP	99-06-081	490-500-615	REP-P	99-12-030
490-500-180	PREP	99-06-081	490-500-450	REP-P	99-12-030	490-500-615	REP	99-18-053
490-500-180	REP-P	99-12-030	490-500-450	REP	99-18-053	490-500-620	PREP	99-06-081
490-500-180	REP	99-18-053	490-500-455	PREP	99-06-081	490-500-620	REP-P	99-12-030
490-500-185	PREP	99-06-081	490-500-455	REP-P	99-12-030	490-500-620	REP	99-18-053
490-500-185	REP-P	99-12-030	490-500-455	REP	99-18-053	490-500-622	PREP	99-06-081
490-500-185	REP	99-18-053	490-500-460	PREP	99-06-081	490-500-622	REP-P	99-12-030
490-500-190	PREP	99-06-081	490-500-460	REP-P	99-12-030	490-500-622	REP	99-18-053
490-500-190	REP-P	99-12-030	490-500-460	REP	99-18-053	490-500-625	PREP	99-06-081
490-500-190	REP	99-18-053	490-500-465	PREP	99-06-081	490-500-625	REP-P	99-12-030
490-500-200	PREP	99-06-081	490-500-465	REP-P	99-12-030	490-500-625	REP	99-18-053
490-500-200	REP-P	99-12-030	490-500-465	REP	99-18-053	490-500-627	PREP	99-06-081
490-500-200	REP	99-18-053	490-500-470	PREP	99-06-081	490-500-627	REP-P	99-12-030
490-500-205	PREP	99-06-081	490-500-470	REP-P	99-12-030	490-500-627	REP	99-18-053
490-500-205	REP-P	99-12-030	490-500-470	REP	99-18-053	490-500-630	PREP	99-06-081
490-500-205	REP	99-18-053	490-500-475	PREP	99-06-081	490-500-630	REP-P	99-12-030
490-500-257	PREP	99-06-081	490-500-475	REP-P	99-12-030	490-500-630	REP	99-18-053
490-500-257	REP-P	99-12-030	490-500-475	REP	99-18-053	490-500-635	PREP	99-06-081
490-500-257	REP	99-18-053	490-500-477	PREP	99-06-081	490-500-635	REP-P	99-12-030
490-500-260	PREP	99-06-081	490-500-477	REP-P	99-12-030	490-500-635	REP	99-18-053
490-500-260	REP-P	99-12-030	490-500-477	REP	99-18-053	491-02	PREP	99-13-170
490-500-260	REP	99-18-053	490-500-480	PREP	99-06-081	491-02-095	AMD-P	99-18-021
490-500-270	PREP	99-06-081	490-500-480	REP-P	99-12-030	495A-141-165	AMD-XA	99-19-030
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