

February 2, 2000

OLYMPIA, WASHINGTON

ISSUE 00-03



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## CITATION

Cite all material in the Washington State Register by its issue number and sequence within that issue, preceded by the acronym WSR. Example: the 37th item in the August 5, 1981, Register would be cited as WSR 81-15-037.

## PUBLIC INSPECTION OF DOCUMENTS

A copy of each document filed with the code reviser's office, pursuant to chapter 34.05 RCW, is available for public inspection during normal office hours. The code reviser's office is located on the ground floor of the Legislative Building in Olympia. Office hours are from 8 a.m. to 5 p.m., Monday through Friday, except legal holidays. Telephone inquiries concerning material in the Register or the Washington Administrative Code (WAC) may be made by calling (360) 786-6697.

## REPUBLICATION OF OFFICIAL DOCUMENTS

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

## CERTIFICATE

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

DENNIS W. COOPER  
Code Reviser

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## STATE MAXIMUM INTEREST RATE

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

The maximum allowable interest rate applicable for the month of February 2000 pursuant to RCW 19.52.020 is twelve point zero percent (12.00%).

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

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# WASHINGTON STATE REGISTER

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

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

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

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

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

<sup>4</sup> A minimum of forty-five days is required between the distribution date of the Register giving notice of the expedited adoption and the agency adoption date. No hearing is required, but the public may file written objections. See RCW 34.05.230 and 1.12.040.

## **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;

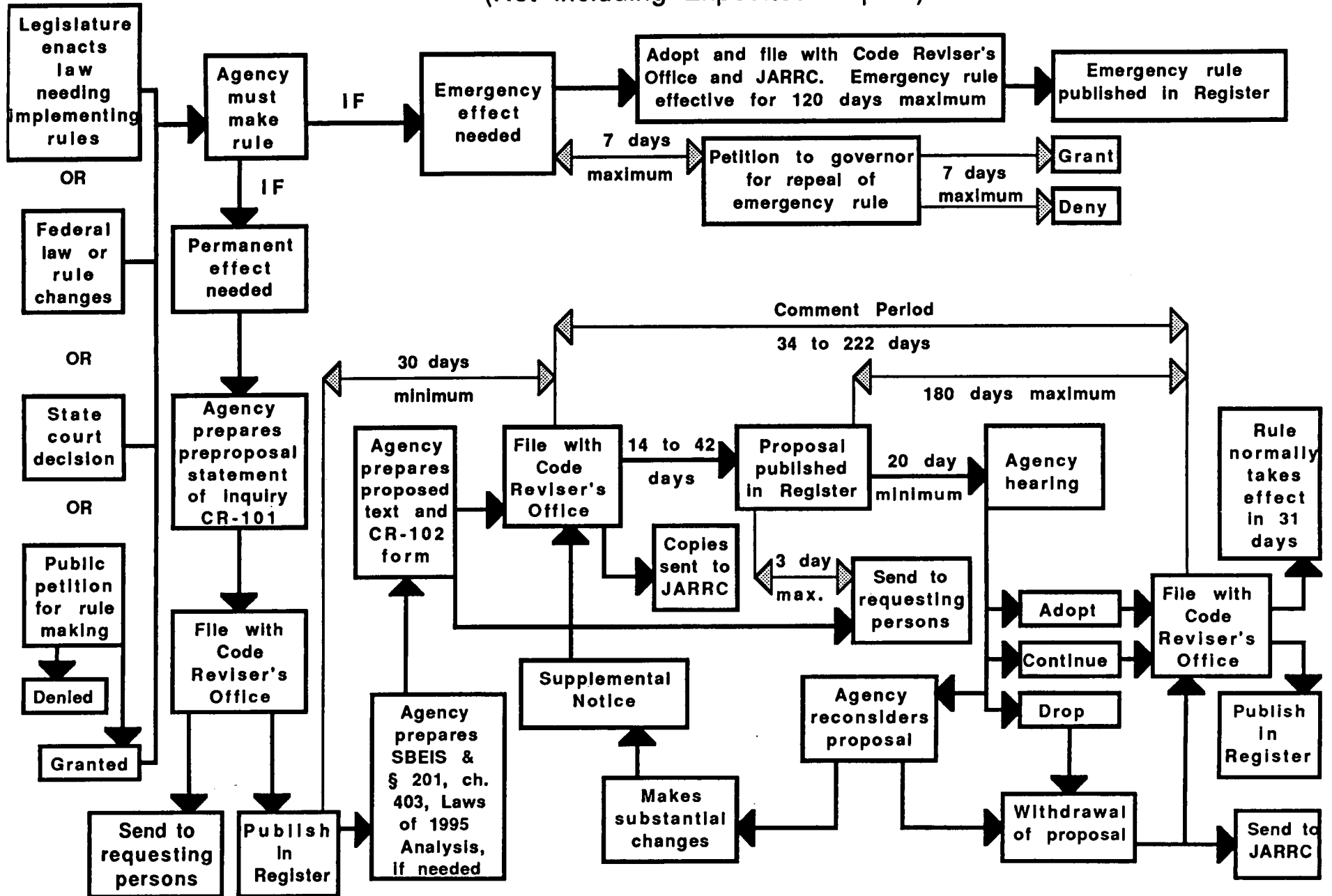
The rule **REDUCES** costs to business (although an SBEIS may be a useful tool for demonstrating this reduced impact);

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 00-03-010**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Medical Assistance Administration)  
[Filed January 7, 2000, 10:40 a.m.]

Subject of Possible Rule Making: New chapter 388-547 WAC, Ambulatory surgery centers.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.08.090, 74.09.520.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The department is establishing a new chapter to consolidate in one chapter the rules relating to this program, and to codify current department policy and practice.

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 interested public is invited to review and provide input on the draft language of this WAC. Draft material and information about how to participate are available by contacting the DSHS representative identified below.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Ann Myers, Medical Assistance Administration, Regulatory Improvement Program Manager, P.O. Box 45533, Olympia, WA 98504-5533, phone (360) 725-1345, fax (360) 586-9727, e-mail myersea@dshs.wa.gov.

January 6, 2000  
Marie Myerchin-Redifer, Manager  
Rules and Policies Assistance Unit

**WSR 00-03-011**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Medical Assistance Administration)  
[Filed January 7, 2000, 10:45 a.m.]

Subject of Possible Rule Making: WAC 388-86-012 Audiometric services, 388-86-019 Chiropractic services, 388-86-110 X-ray services, 388-86-115 Medical care provided out of state, 388-86-120 Medical care services, 388-86-300 Chemical dependency services, 388-87-027 Services requiring prior approval, 388-501-0125 Requirements of advance directives, and related rules in chapters 388-86 and 388-87 WAC and other chapters.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.08.090, 74.09.035.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The Medical Assistance Administration is establishing new chapters in WAC in order to concentrate the bulk of its rules in one area. The policies contained in existing rules are being written into the new chapters, necessitating the repeal of resulting duplicate rules.

At the same time, the proposed rules are being reviewed for the clear writing standards in 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 the WACs. Draft material and information about how to participate are available by contacting the DSHS representative identified below.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Ann Myers, Regulatory Improvement Program Manager, P.O. Box 45533, Olympia, WA 98504-5533, phone (360) 725-1345, fax (360) 586-9727, TTY 1-800-848-5429, e-mail myersea@dshs.wa.gov.

January 6, 2000  
Marie Myerchin-Redifer, Manager  
Rules and Policies Assistance Unit

**WSR 00-03-017**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**BUILDING CODE COUNCIL**  
[Filed January 10, 2000, 9:49 a.m.]

Subject of Possible Rule Making: Review and update of the Uniform Fire, Building, and Mechanical Codes, as adopted by the state Building Code Council. Review and update of the Uniform Plumbing Code, as adopted by the state Building Code Council, to the 2000 Edition published by the International Association of Plumbing and Mechanical Officials (IAPMO). Review and update of the Washington State Energy Code and the Washington State Ventilation and Indoor Air Quality Code.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 19.27.074, 19.27.190, 19.27A.045.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The state Building Code Council regularly reviews the Washington State Building Code, as outlined in chapter 51-04 WAC, to review revisions made to the codes by the national code committees, and to review and consider proposals for state-wide code amendments. All code change submittals must be received by March 1, 2000. The form for submitting code changes can be obtained by calling the number listed below, or downloaded from the council's web site.

Process for Developing New Rule: Technical advisory group (TAG) review.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. To be notified of proposed meeting dates to participate on the TAG, obtain draft information, or propose a code change, please contact Tim Nogler, Managing Director, Washington State Building Code Council, P.O. Box 48300,

Olympia, WA 98504-8300, (360) 753-5927, fax (360) 586-5880, e-mail sbcc@cted.wa.gov, www.sbcc.wa.gov.

Judy Wilson  
Council Chairman

**WSR 00-03-028**

**PREPROPOSAL STATEMENT OF INQUIRY  
DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES  
(Juvenile Rehabilitation Administration)**

[Filed January 11, 2000, 2:37 p.m.]

Subject of Possible Rule Making: Chapter 275-35 WAC, Consolidated juvenile services programs and related sections.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 13.06.030, 13.40.210, and 72.72.040.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: RCW 13.06.030 requires the Department of Social and Health Services to adopt rules prescribing minimum standards for the consolidated juvenile services programs. In compliance with the governor's and Department of Social and Health Services secretary's executive orders, chapter 275-35 WAC will be amended to simplify the rule by removing language which outlines the requirements that are already included in contract language and by eliminating language made obsolete by new program standards and consolidation.

Process for Developing New Rule: DSHS will utilize the Juvenile Rehabilitation Administration (JRA) division of community programs staff and the JRA regional administrators to review proposed rule changes. DSHS will send the proposed rule changes to internal and external stakeholders. DSHS will work collaboratively with the county juvenile courts in amending the rules. DSHS welcomes the public to take part in developing the rule. Anyone interested in participating should contact the staff person indicated below. After the rule is drafted, DSHS will file a copy with the Office of the Code Reviser with a notice of proposed rule making, and send a copy to everyone currently on the mailing list and anyone else who requests a copy.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Kathleen McBride, Deputy Director, Division of Community Programs, P.O. Box 45720, Olympia, WA 98504, phone (360) 902-8092, fax (360) 902-8108, TTY (360) 902-7862, e-mail mcbridmk@dshs.wa.gov.

January 11, 2000

Marie Myerchin-Redifer, Manager  
Rules and Policies Assistance Unit

**WSR 00-03-032**

**PREPROPOSAL STATEMENT OF INQUIRY  
BOARD OF ACCOUNTANCY**

[Filed January 12, 2000, 11:24 a.m.]

Subject of Possible Rule Making: WAC 4-25-510 What is the board's meeting schedule and how are officers elected?

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 18.04.055.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Part of the agency's fiscal year 2000 rules review, reviewing the rule for effectiveness, clarity, cost fairness, and need.

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 writing to Dana M. McInturff, Executive Director, Washington State Board of Accountancy, P.O. Box 9131, Olympia, WA 98507-9131, (360) 664-9194, fax (360) 664-9190, e-mail cpaboard@compuserve.com.

January 10, 2000

Dana M. McInturff, CPA  
Executive Director

**WSR 00-03-033**

**PREPROPOSAL STATEMENT OF INQUIRY  
BOARD OF ACCOUNTANCY**

[Filed January 12, 2000, 11:25 a.m.]

Subject of Possible Rule Making: WAC 4-25-830 What are the CPE requirements?

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 18.04.055(7), 18.04.215(4) and 18.04.105(8).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To add a recent board policy to the rule for effectiveness and clarity.

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

Process for Developing New Rule: Agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by writing to Dana M. McInturff, Executive Director, Washington State Board of Accountancy, P.O. Box 9131, Olympia, WA 98507-9131, (360) 586-0163, fax (360) 664-9190, e-mail cpaboard@compuserve.com.

January 10, 2000

Dana M. McInturff, CPA  
Executive Director



**WSR 00-03-037**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF LICENSING**

[Filed January 13, 2000, 10:44 a.m.]

Subject of Possible Rule Making: Chapter 308-77 WAC, Special fuel tax rules and regulations, to include but not limited to WAC 308-77-045, 308-77-155, 308-77-165, 308-77-170, 308-77-180, 308-77-240, 308-77-265, 308-77-270, and 308-77-280.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 82.38 RCW.

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 Art Farley, Rules Coordinator, Prorate and Fuel Tax Services, Vehicle Services, Mailstop 48001, P.O. Box 2957, Olympia, WA 98507-2957, or by phone (360) 664-1812, fax (360) 664-0831, TDD (360) 664-8885.

January 12, 2000  
 Thao Pham-Mankihoth  
 Administrator  
 Prorate and Fuel Tax Services

**WSR 00-03-038**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF LICENSING**

[Filed January 13, 2000, 10:47 a.m.]

Subject of Possible Rule Making: Chapter 308-91 WAC, Reciprocity and proration to include but not limited to WAC 308-91-090.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 46.87.010.

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 Art Farley, Rules Coordinator, Prorate and Fuel Tax Services, Vehicle Services, Mailstop 48001,

P.O. Box 2957, Olympia, WA 98507-2957, or by phone (360) 664-1812, fax (360) 664-0831, TDD (360) 664-8885.

January 12, 2000  
 Thao Pham-Mankihoth  
 Administrator  
 Prorate and Fuel Tax Services

**WSR 00-03-052**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF AGRICULTURE**

[Filed January 14, 2000, 2:14 p.m.]

Subject of Possible Rule Making: Adoption of the 2000 edition of National Institute of Standards and Technology (NIST) Handbook 44, Specifications, Tolerances, and other Technical Requirements for Weighing and Measuring Devices. Adoption of portions of NIST Handbook 130, Uniform Laws and Regulations in the areas of legal metrology and engine fuel quality. Specifically, chapters in NIST Handbook 130 entitled "Uniform Regulation for the Method of Sale of Commodities," "Uniform Packaging and Labeling Regulation" and "Examination Procedure for Price Verification," as well as guidelines governing the method of sale of fresh fruits and vegetables.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 19.94.190 and 19.94.195.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The rules and regulations contained in NIST Handbook 44 provide for uniform testing procedures and tolerances of weighing and measuring devices. RCW 19.94.195 requires the director to adopt the most current version of NIST Handbook 44. NIST Handbook 130 provides for uniform rules and regulations governing labeling, method of sale and examination procedure for price verification. Both handbooks are developed by the National Conference on Weights and Measures and are adopted by nearly all fifty states.

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

Process for Developing New Rule: Agency study; and the agency will consult with the weights and measures advisory group.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Jerry Buendel, Program Manager, Washington State Department of Agriculture, Weights and Measures Program, P.O. Box 42560, Olympia, WA 98504-2560, (360) 902-1856, fax (360) 902-2086, e-mail jbuendel@agr.wa.gov.

January 6, 2000  
 Julie C. Sandberg  
 Assistant Director

**WSR 00-03-060**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
 (Economic Services Administration)  
 [Filed January 18, 2000, 1:58 p.m.]

**Subject of Possible Rule Making:** Excluding census income from temporary assistance to needy families (TANF), WAC 388-450-0015 Excluded and disregarded income subsection (1) and related sections need to be amended.

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

**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** This rule will exclude temporary census income in years in which there is a federal census from determining temporary assistance to needy families (TANF) benefits. This will allow TANF clients to gain valuable work skills that promote self-sufficiency in accordance with our welfare reform laws.

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

**Process for Developing New Rule:** DSHS welcomes the public to take part in developing this rule. Anyone interested in participating should contact the staff person indicated below. After the rule is drafted, DSHS will file a copy with the Office of the Code Reviser with a notice of proposed rule making, and send a copy to everyone currently on the mailing list and anyone else who requests a copy.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Lisa Yanagida, Program Manager, Division of Assistance Programs, P.O. Box 45470, Olympia, WA 98504-5470, phone (360) 413-3104, fax (360) 413-3493, e-mail yanagln@dshs.wa.gov.

January 18, 2000  
 Marie Myerchin-Redifer, Manager  
 Rules and Policies Assistance Unit

**WSR 00-03-071**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF HEALTH**  
 (Board of Pharmacy)  
 [Filed January 19, 2000, 9:46 a.m.]

**Subject of Possible Rule Making:** Distribution of needles and syringes. The board is examining the possibility of initiating rule making to clarify that the term "legal use" as used in RCW 70.115.050 includes the distribution of sterile hypodermic syringes and needles for the purpose of reducing the transmission of blood-borne diseases.

**Statutes Authorizing the Agency to Adopt Rules on this Subject:** RCW 18.64.005(7).

**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** Rules may be needed to permit the unrestricted sale or distribution of sterile needles and

syringes by or with knowledge of a pharmacist in an effort to reduce the transmission of blood-borne diseases.

**Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies:** The agency will coordinate rule-making efforts with local and state law enforcement agencies and local and state health departments.

**Process for Developing New Rule:** Collaborative rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Lisa A. Salmi, Board of Pharmacy, P.O. Box 47863, e-mail Lisa.Salmi@doh.wa.gov, Olympia, WA 98504-7863, phone (360) 236-4828, fax (360) 586-4359. Interested persons may contact the board office to obtain information on the dates and location of stakeholder meetings.

January 4, 2000  
 D. H. Williams  
 Executive Director

**WSR 00-03-072**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF HEALTH**  
 [Filed January 19, 2000, 9:48 a.m.]

**Subject of Possible Rule Making:** Amend WAC 246-841-400 Standards of practice, 246-841-410 Purpose of review and approval of certified nursing assistant training programs, 246-841-420 Requirements for nursing assistant education, 246-841-430 Denial of approval or withdrawal of approval for programs for which the board is approving authority, 246-841-440 - 246-841-460 Reinstatement of approval, appeal of board decisions, closing of an approved nursing assistant training program, 246-841-470 - 246-841-500 Program directors and instructors in approved training programs, students in approved training, core curriculum, physical resources for education programs, and 246-841-510 Administrative procedures for approved nursing assistant training programs.

**Statutes Authorizing the Agency to Adopt Rules on this Subject:** Chapter 18.88A RCW.

**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** During a mandatory rules review process these rules were identified as needing amendments. Some of the definitions need to be amended to be more clear and concise regarding competencies and minimum expectations of nursing assistants. Revisions and amendments are needed because of changes in the structure of the regulatory authority and the health care delivery system. Reformatting and rewriting the existing rules would allow for greater clarity and understanding.

**Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies:** Department of Social and Health Services has a role in training for certification of nursing assistants and registration to maintain compliance with the federal government via Omnibus Reconciliation Act (OBRA) rules.

Process for Developing New Rule: Collaborative rule making, public meetings with stakeholder groups to review these rules. Most all of the rules will need some degree of revision to reflect in part, changes in the structure of the regulatory authority and to improve alignment between the standards of practice for the licensee and the health care delivery system(s).

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Jeanne E. Vincent, Department of Health, P.O. Box 47864, Olympia, WA 98504, phone (360) 236-4725, fax (360) 236-4738.

December 29, 1999

Paula R. Meyer

Executive Director

### WSR 00-03-076

#### PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF AGRICULTURE

[Filed January 19, 2000, 10:03 a.m.]

Subject of Possible Rule Making: Application of pesticides and plant nutrients through irrigation systems, chapter 16-202 WAC, possible revisions to WAC 16-202-1000 Chemigation, 16-202-2000 Fertigation, and 16-200-695 Definitions.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapters 15.58, 17.21, 15.54 RCW.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Develop rules regarding the application of pesticides and/or plant nutrients through irrigation systems for the protection of water quality.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Federal - Environmental Protection Agency for application of pesticides through irrigation systems. Rules will be consistent with federal laws. EPA will be informed of state proposals. Washington State Department of Ecology will be kept informed of rule development as it may affect water quality.

Process for Developing New Rule: A rules review was conducted in accordance with the Governor's Executive Order 97-02. Results of this review was shared with representatives of the rule stakeholders for input.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Cindy Moore, Washington State Department of Agriculture, P.O. Box 42589, Olympia, WA 98404 [98504], (360) 902-2047, cmoore@agr.wa.gov; or Ann Wick, Washington State Department of Agriculture, P.O. Box 42589, Olympia, WA 98504, (360) 902-2051, fax (360) 902-2093.

January 19, 2000

Cliff Weed

for Bob Arrington

Assistant Director

### WSR 00-03-077

#### PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF AGRICULTURE

[Filed January 19, 2000, 10:05 a.m.]

Subject of Possible Rule Making: General pesticide regulations, chapter 16-228 WAC, possible revisions to WAC 16-228-1220 Restrictions, 16-228-1240 Signs, 16-228-1250 Phenoxy, 16-228-1300 Distribution records, 16-228-1320 Applicator requirements, and 16-228-2000 WDO.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapters 15.58, 17.21 RCW.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Regulatory rule review to update regulations and clarify wording and requirements.

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

Process for Developing New Rule: A rules review was conducted in accordance with the Governor's Executive Order 97-02. Results of this review was shared with representatives of the rule stakeholders for input.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Cliff Weed, Washington State Department of Agriculture, P.O. Box 42589, Olympia, WA 98504, (360) 902-2036, cweed@agr.wa.gov; or Laurie Mauerman, Washington State Department of Agriculture, P.O. Box 42589, Olympia, WA 98504, (360) 902-2012, fax (360) 902-2093.

January 19, 2000

Cliff Weed

for Bob Arrington

Assistant Director

### WSR 00-03-078

#### PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF AGRICULTURE

[Filed January 19, 2000, 10:07 a.m.]

Subject of Possible Rule Making: General pesticide regulations, possible revisions to WAC 16-228-1400 Pesticide labeling.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapters 15.58, 17.21 RCW.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Add regulatory authority and clarify wording currently in policy.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Delegated state authority from federal (Environmental Protection Agency).

Process for Developing New Rule: A rules review was conducted in accordance with the Governor's Executive Order 97-02. Results of this review was shared with representatives of the rule stakeholders for input.

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

lication by contacting Ted Maxwell, Washington State Department of Agriculture, P.O. Box 42589, Olympia, WA 98504, (360) 902-2026, tmaxwell@agr.wa.gov; or Laurie Mauerman, Washington State Department of Agriculture, P.O. Box 42589, Olympia, WA 98504, (360) 902-2012, fax (360) 902-2093.

January 19, 2000  
Cliff Weed  
for Bob Arrington  
Assistant Director

**WSR 00-03-079**

**PREPROPOSAL STATEMENT OF INQUIRY  
DEPARTMENT OF AGRICULTURE**

[Filed January 19, 2000, 10:08 a.m.]

Subject of Possible Rule Making: General pesticide regulations, chapter 16-228 WAC, possible revisions to WAC 16-228-1500 License, 16-228-1520 Insurance, and 16-228-1545 Pesticide exams.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapters 15.58, 17.21 RCW.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Regulatory rule review to update regulations and clarify wording and requirements. Add possible new section on categories and minimum passing score for pesticide license examinations.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Federal - Environmental Protection Agency (EPA) laws. Rules will remain consistent with federal laws. EPA will be informed of proposals.

Process for Developing New Rule: A rules review was conducted in accordance with the Governor's Executive Order 97-02. Results of this review was shared with representatives of the rule stakeholders for input.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Margaret Tucker, Washington State Department of Agriculture, P.O. Box 42589, Olympia, WA 98504, (360) 902-2015, mtucker@agr.wa.gov; or Laurie Mauerman, Washington State Department of Agriculture, P.O. Box 42589, Olympia, WA 98584 [98504], (360) 902-2012, fax (360) 902-2093.

January 19, 2000  
Cliff Weed  
for Bob Arrington  
Assistant Director

**WSR 00-03-080**

**PREPROPOSAL STATEMENT OF INQUIRY  
DEPARTMENT OF AGRICULTURE**

[Filed January 19, 2000, 10:10 a.m.]

Subject of Possible Rule Making: General pesticide regulations, chapter 16-228 WAC, possible revisions to WAC

16-228-1010 Definitions, 16-228-1040 Response time, 16-228-1150 Dispositions, 16-228-1200 Restrictions, 16-228-1230 RUPs, 16-228-1270 Seed crops, 16-228-1380 Vertebrate control, 16-228-1385 Compounds 1080, 16-228-1540 Exams, and 16-228-1580 Exemptions.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapters 15.58, 17.21 RCW.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Regulatory rule review to update regulations and clarify wording and requirements.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Federal - Environmental Protection Agency (EPA) laws. Rules will remain consistent with federal laws. EPA will be informed of proposals.

Process for Developing New Rule: A rules review was conducted in accordance with the Governor's Executive Order 97-02. Results of this review was shared with representatives of the rule stakeholders for input.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Ann Wick, Washington State Department of Agriculture, P.O. Box 42589, Olympia, WA 98404 [98504], (360) 902-2051, awick@agr.wa.gov; or Laurie Mauerman, Washington State Department of Agriculture, P.O. Box 42589, Olympia, WA 98504, (360) 902-2012, fax (360) 902-2093.

January 19, 2000  
Cliff Weed  
for Bob Arrington  
Assistant Director

**WSR 00-03-083**

**PREPROPOSAL STATEMENT OF INQUIRY  
DEPARTMENT OF AGRICULTURE**

[Filed January 19, 2000, 10:19 a.m.]

Subject of Possible Rule Making: The entire chapter 16-404 WAC, Standards for summer apples marketed within Washington.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 15.17 RCW, Standards of grades and packs.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The department has conducted a review of entire chapter 16-404 WAC, Standards for summer apples marketed within Washington, under the provisions of the Governor's Executive Order 97-02, and has determined that the rule is necessary and should be retained. This rule currently meets the needs of the industry.

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

Process for Developing New Rule: A rule review was conducted in accordance with the Governor's Executive Order 97-02.

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

lication. The department is seeking input on its decision to retain the rule. You may comment by writing to Washington State Department of Agriculture, Administrative Regulations Unit, P.O. Box 42560, Olympia, WA 98504-2560, fax (360) 902-2092. Comments should be made by March 3, 2000.

For questions regarding this rule, call Jim Quigley, Program Manager, Fruit and Vegetable Inspection Program, phone (360) 902-1833.

January 18, 2000

Robert W. Gore  
Assistant Director

#### WSR 00-03-084

#### PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF AGRICULTURE

[Filed January 19, 2000, 10:21 a.m.]

Subject of Possible Rule Making: The entire chapter 16-445 WAC, Standards for Italian prunes.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 15.17 RCW, Standards of grades and packs.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The department has conducted a review of entire chapter 16-445 WAC, Standards for Italian prunes, under the provisions of the Governor's Executive Order 97-02, and has determined that the rule is necessary and should be retained. This rule currently meets the needs of the industry.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: USDA Federal Marketing Order Number 924 coordinates the implementation of state and federal requirements in the marketing of Italian prunes.

Process for Developing New Rule: A rule review was conducted in accordance with Governor's Executive Order 97-02.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. The department is seeking input on its decision to retain the rule. You may comment by writing to Washington State Department of Agriculture, Administrative Regulations Unit, P.O. Box 42560, Olympia, WA 98504-2560, fax (360) 902-2092. Comments should be made by March 3, 2000.

For questions regarding this rule, call Jim Quigley, Program Manager, Fruit and Vegetable Inspection Program, phone (360) 902-1833.

January 18, 2000

Robert W. Gore  
Assistant Director

#### WSR 00-03-085

#### PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF AGRICULTURE

[Filed January 19, 2000, 10:22 a.m.]

Subject of Possible Rule Making: The entire chapter 16-409 WAC, Standards for asparagus.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 15.17 RCW, Standards of grades and packs.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The department has conducted a review of entire chapter 16-409 WAC, Standards for asparagus, under the provisions of the Governor's Executive Order 97-02, and has determined that the rule is necessary and should be retained. The rule meets the current needs of the industry.

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

Process for Developing New Rule: A rule review was conducted in accordance with the Governor's Executive Order 97-02.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. The department is seeking input on its decision to retain the rule. You may comment by writing to Washington State Department of Agriculture, Administrative Regulations Unit, P.O. Box 42560, Olympia, WA 98504-2560, fax (360) 902-2092. Comments should be made by March 3, 2000.

For questions regarding this rule, call Jim Quigley, Program Manager, Fruit and Vegetable Inspection Program, phone (360) 902-1833.

January 18, 2000

Robert W. Gore  
Assistant Director



**NO EXPEDITED REPEALS FILED IN THIS ISSUE**

**EXPEDITED REPEAL**





**WSR 00-03-040**  
**PROPOSED RULES**  
**OFFICE OF THE**  
**STATE TREASURER**

[Filed January 13, 2000, 1:17 p.m.]

Original Notice.

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

Title of Rule: Chapter 210-01 WAC, Local government investment pool (LGIP).

Purpose: To align rule with RCW 43.250.060 and to provide added clarity on the rule that requires reimbursement for the administration and recovery of costs associated with the operation of the local government investment pool.

Statutory Authority for Adoption: RCW 43.250.090.

Statute Being Implemented: Chapter 43.250 RCW.

Summary: To align rule with RCW 43.250.060 and to provide added clarity on the rule that requires reimbursement for the administration and recovery of costs associated with the operation of the local government investment pool.

Reasons Supporting Proposal: To align rule with RCW 43.250.060 and make rule more clear regarding the reimbursement for the administration of the LGIP.

Name of Agency Personnel Responsible for Drafting: Cristin E. Wilson, P.O. Box 40200, (360) 902-9010; Implementation and Enforcement: Douglas D. Extine, P.O. Box 40200, (360) 902-9012.

Name of Proponent: Washington State Treasurer, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The rules govern the operation of the local government investment pool (LGIP). The rules specify who can participate in this public funds investment account and sets forth the reporting requirements and operational procedures. The rules give direction to LGIP members and allows the state treasurer to maintain the viability and success of the LGIP's investment program.

Proposal does not change existing rules.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rule does not regulate or have an economic impact on any small business. The rule impacts only participants of the LGIP.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The agency does not elect to have section 201, chapter 403, Laws of 1995, apply to this rule adoption.

Hearing Location: Office of the State Treasurer, 416 14th Avenue S.W., Second Floor, Room 240, Olympia, WA 98504, on March 2, 2000, at 1 p.m.

Assistance for Persons with Disabilities: Contact Cristin Wilson by February 17, 2000, TDD (360) 902-8963, or (360) 902-9010.

Submit Written Comments to: cristin@tre.wa.gov, fax (360) 902-9044, by February 17, 2000.

Date of Intended Adoption: March 2, 2000.

January 13, 2000

Douglas D. Extine

Deputy Treasurer

AMENDATORY SECTION (Amending WSR 96-18-029, filed 8/28/96)

**WAC 210-01-120 Administrative ((fees)) deductions.**  
 As authorized in RCW 43.250.060, the ((The)) state treasurer will ((charge a fee)) require reimbursement for the administration and recovery of costs associated with the operation of the local government investment pool. ~~((This fee will be set in a manner that will allow the state treasurer to recover costs associated with the pool. The fee))~~ The deduction for the amount to reimburse the office of the state treasurer will be based on the average daily balance of the funds deposited in the pool. Each participant will ((pay a proportionate share of the pool's expenses)) reimburse based upon its share of the total pool's assets. The ((fee)) deduction will be expressed as a percentage of the average daily funds on deposit in the pool for a specified period. ((This fee will be charged against)) This reimbursement will be deducted from each participants earnings prior to the credit of those earnings. The administrative ((fee)) deduction will be adjusted to reflect actual experience.

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

**WSR 00-03-051**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
 (Economic Services Administration)

[Filed January 14, 2000, 1:52 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-14-024.

Title of Rule: WAC 388-310-0200 WorkFirst activities, 388-310-0300 WorkFirst—Exemptions for mandatory exemptions, 388-310-0400 WorkFirst—Entering the WorkFirst program as a mandatory participant, 388-310-0700 WorkFirst—Employability evaluation, 388-310-1400 WorkFirst—Community service, and 388-310-1450 WorkFirst—Pregnancy to employment.

Purpose: To comply with legislative intent to reduce exemption for parents with infants from twelve months to three months.

Statutory Authority for Adoption: RCW 74.08.090, 74.04.050.

Statute Being Implemented: Chapter 74.08A RCW.

Summary: Reduces the exemption period of WorkFirst participants with infants from twelve months of age to three months of age. Enhances WorkFirst support services for

PROPOSED

WorkFirst participants who have infants up to twelve months of age.

Reasons Supporting Proposal: Comply with legislative intent.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Debbie Miller, WorkFirst Division, P.O. Box 45480, Olympia, WA 98504-5480, (360) 413-3101, fax (360) 413-3428.

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: Reduces exemptions for WorkFirst participants with infants from twelve months to three months. Requires parents in WorkFirst to begin participation in WorkFirst activities when the participant's infant reaches the age of three months old. Enhances services to WorkFirst parents who have infants under the age of twelve months.

Proposal Changes the Following Existing Rules: See above explanation, amends WAC 388-310-0200 WorkFirst activities, 388-310-0300 WorkFirst—Exemptions for mandatory exemptions, 388-310-0400 WorkFirst—Entering the WorkFirst program as a mandatory participant, 388-310-0700 WorkFirst—Employability evaluation, 388-310-1400 WorkFirst—Community service, and 388-310-1450 WorkFirst—Pregnancy to employment.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These rules do not regulate small business.

RCW 34.05.328 applies to this rule adoption. These do meet the definition of significant legislative rule but the Department of Social and Health Services is exempt from preparing further analysis according to RCW 34.05.328 (5)(b)(vii) which applies only to client medical or financial eligibility.

Hearing Location: Lacey Government Center (behind Tokyo Bento Restaurant), 1009 College Street S.E., Room 104-B, Lacey, WA 98503, on February 22, 2000, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Paige Wall by February 11, 2000, 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 February 22, 2000.

Date of Intended Adoption: February 23, 2000.

January 10, 2000

Marie Myerchin-Redifer, Manager  
Rules and Policies Assistance Unit

**AMENDATORY SECTION** (Amending WSR 99-08-051, filed 4/1/99, effective 5/2/99)

**WAC 388-310-0200 WorkFirst—Activities.** (1) Who is required to participate in WorkFirst activities?

(a) You are required to participate in WorkFirst activities, and become what is called a "mandatory participant," if you:

(i) Receive TANF(~~(-GAS)~~) or SFA cash assistance; and  
(ii) Are a custodial parent or age sixteen or older; and  
(iii) Are not exempt. (You can only get this exemption if you are caring for ~~((a))~~ your child under ~~((twelve))~~ three months of age. See WAC 388-310-0300 for more details).

(b) Participation is voluntary for all other WorkFirst participants (those who no longer receive or have never received TANF(~~(-GAS)~~) or SFA cash assistance).

**(2) What activities do I participate in when I enter the WorkFirst program?**

When you enter the WorkFirst program, you will participate in one or more of the following activities (which are described in more detail in other sections of this chapter):

(a) Paid employment (see WAC 388-310-0400 (1)(a) and 388-310-1500);

(b) Self employment (see WAC 388-310-1700);

(c) Job search (see WAC 388-310-0600);

(d) Community jobs (see WAC 388-310-1300)

(e) Work experience (see WAC 388-310-1100);

(f) On-the-job training (see WAC 388-310-1200);

(g) Vocational educational training (see WAC 388-310-1000);

(h) Basic education activities (see WAC 388-310-0900);

(i) Job skills training (see WAC 388-310-1050);

(j) Community service (see WAC 388-310-1400); and/or

(k) Activities provided by tribal governments for tribal members and other American Indians (see WAC 388-310-1400(1) and 388-310-1900).

**(3) If I am a mandatory participant, how much time must I spend doing WorkFirst activities?**

If you are a mandatory participant, you will be required to spend up to forty hours a week working, looking for work or preparing for work. You will have an individual responsibility plan (described in WAC 388-310-0500) that includes the number of hours a week that you are required to participate.

**(4) What activities do I participate in after I get a job?**

You may participate in other activities, which are called "post employment services" (described in WAC 388-310-1800) once you are working twenty hours or more a week. Work can include a paid, unsubsidized job, self-employment, college work study or a subsidized job like a community jobs placement. Post employment services include:

(a) Activities that help you keep a job (called an "employment retention" service); and/or

(b) Activities that help you get a better job (called a "wage and skill progression" service).

**AMENDATORY SECTION** (Amending WSR 99-10-027, filed 4/28/99, effective 5/29/99)

**WAC 388-310-0300 WorkFirst—Infant care exemptions for mandatory participants.** (1) If I am a mandatory participant, when can I be exempted from participating in WorkFirst activities?

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

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

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

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

An exemption from participation does not affect your sixty-month time limit for receiving TANF or SFA benefits (described in WAC 388-484-0005). Even if exempt from participation, ~~((you will use up one of your sixty months of))~~ each month you receive a TANF/SFA ((benefits)) grant counts toward your sixty-month limit.

**AMENDATORY SECTION** (Amending WSR 99-10-027, filed 4/28/99, effective 5/29/99)

**WAC 388-310-0400 WorkFirst—Entering the WorkFirst program as a mandatory participant. (1) What happens when I enter the WorkFirst program as a mandatory participant?**

If you are a mandatory participant, WorkFirst requires you to look for a job as your first activity unless you are temporarily deferred from job search. You must follow instructions as written in your individual responsibility plan (see WAC 388-310-0500) while you are in job search.

**(2) ~~((May))~~ Are there any reasons why I might be temporarily deferred from looking for a job?**

If you are a mandatory participant, your case manager will ask ~~((you))~~ if you ~~((are exempt or))~~ have any reasons why you cannot go to job search. You may be temporarily deferred from looking for a job for any of the following reasons:

(a) You work twenty or more hours a week. "Work" means to engage in any legal, income generating activity which is taxable under the United States Tax Code or which would be taxable with or without a treaty between an Indian Nation and the United States; or

(b) You work sixteen or more hours a week in the federal or state work study program and you attend a Washington state community or technical college at least half-time; or

(c) You are under the age of eighteen, have not completed high school, GED or its equivalent and are in school full-time; or

(d) You are eighteen or nineteen years of age and are attending high school or an equivalent full-time; or

(e) You are pregnant or have a child under the age of twelve months, and are participating in other pregnancy to employment activities. See WAC 388-310-1450; or

(f) You are fifty-five years old or older and caring for a child you are related to (and you are not the child's parent), you may go into community service (described in WAC 388-310-1400 (2)(b)); or

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

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

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

(b) If you enter the pregnancy to employment pathway (described in WAC 388-310-1450(2)), you must take part in an assessment.

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

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

**AMENDATORY SECTION** (Amending WSR 99-10-027, filed 4/28/99, effective 5/29/99)

**WAC 388-310-0700 WorkFirst—Employability evaluation. (1) Why do I receive an employability evaluation?**

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

(a) Why you are unable to look for work (if you are temporarily deferred from job search) or why you have been unable to find work in your local labor market; and

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

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

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

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

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

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

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

(iii) Been temporarily deferred from job search.

(d) After your employability evaluation, you may receive more assessments to find out if you need additional services.

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**AMENDATORY SECTION** (Amending WSR 99-10-027, filed 4/28/99, effective 5/29/99)

**WAC 388-310-1400 WorkFirst—Community service. (1) What is community service?**

Community service includes two types of activities for mandatory participants:

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

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

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

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

(a) Caring for a disabled family member;

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

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

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

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

(f) Participating in the pregnancy to employment pathway.

**NEW SECTION**

**WAC 388-310-1450 Pregnancy to employment (1) How do I know if I am eligible to participate in the pregnancy to employment pathway?**

If you are pregnant or have a child under the age of twelve months, you are a participant in the pregnancy to employment pathway.

**(2) What am I required to do while I am in the pregnancy to employment pathway?**

Based on the results of the assessment you receive as a pregnancy to employment participant you will be required to:

(1) Work; or

(2) Look for work; and/or

(3) Participate in a combination of pregnancy to employment services.

**(3) What services are provided in the pregnancy to employment pathway?**

This pathway provides you with services, as available within your community, to help you learn how to work while still meeting your child's needs. You may receive a variety of services, such as help finding:

(a) Parenting classes;

(b) Safe and appropriate child care;

(c) Good health care for yourself and your child; and/or

(d) Employment services.

**(4) What determines which services I will receive and what my participation will be?**

As a participant in the pregnancy to employment pathway you will receive:

(a) An assessment (see WAC 388-310-0700);

(b) Services (as available within your community) based on the results of the assessment;

(c) An individual responsibility plan that reflects participation and services designed to meet your needs and the needs of your child; and

(d) Follow up contact every three months to reassess your needs and the services and activities you are participating in, until your child reaches age twelve months.

**(5) How much do I have to participate?**

(a) During the first two trimesters of pregnancy, you will be required to participate up to forty hours per week. Your participation activity will be determined by the results of your assessment.

(b) During the third trimester of pregnancy your participation is voluntary and may include meeting your medical needs.

(c) From the birth of your child, until your child reaches three months, you are exempt from participation. You may volunteer to participate.

(d) From the third month forward, you will be required to participate part-time, twenty hours per week or more, and transition into full time participation, up to forty hours per week, in work, looking for work or preparing for work by the time your child reaches age twelve months. Your participation activity will be determined by the results of your assessment.

**(6) Will I be sanctioned if I refuse to participate in pregnancy to employment pathway?**

(a) If you are a pregnant woman in your third trimester of pregnancy or if you have an infant less than three months old you will not be sanctioned for not participating.

(b) If you are in the first two trimesters of your pregnancy or have a child three months of age or older, you are required to participate and are subject to the WorkFirst sanction rules (see WAC 388-310-1600).

**WSR 00-03-061**

**PROPOSED RULES**

**DEPARTMENT OF**

**SOCIAL AND HEALTH SERVICES**

(Medical Assistance Administration)

[Filed January 18, 2000, 2:00 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-18-102.

Title of Rule: New chapter 388-542 WAC, Children's health insurance program (CHIP).

**Purpose:** To codify policies regulating the new children's federal/state health insurance program known as CHIP. This program is authorized under Title XXI of the Social Security Act, and is intended to cover children under the age of nineteen whose family income is from 200% to 250% of the federal poverty level (FPL).

**Statutory Authority for Adoption:** RCW 74.08.090.

**Statute Being Implemented:** RCW 74.09.450.

**Summary:** The federal government authorized states to implement a new children's health insurance program (SCHIP or CHIP) under Title XXI of the Social Security Act. The state legislature dedicated funding to cover children under the age of nineteen whose family income is from 200% to 250% of the federal poverty level. The proposed rules codify client eligibility, provider requirements, program coverage, and payment methodology. The proposed rules are written to comply with the Governor's Executive Order 97-02 on regulatory reform.

**Reasons Supporting Proposal:** To codify policies regulating the new federal/state children's health insurance program (CHIP). The proposed rule has been written to comply with the Governor's Executive Order 97-02 on regulatory reform.

**Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement:** William (Bill) Stoner, P.O. Box 45534, Olympia, WA 98504, (360) 725-1323.

**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 proposed rule codifies policies regulating the new federal/state children's health insurance program. It regulates client eligibility, provider requirements, program coverage, and payment methodology.

The purpose is to set in rule the requirements of this new program.

The anticipated effects are to allow eligible children to enroll in a new medical program.

Proposal does not change existing rules. The proposed rule is to regulate a brand new program; there are no existing rules.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The department has analyzed this rule and concludes that no new costs will be imposed on the small businesses affected by it.

RCW 34.05.328 applies to this rule adoption. The department has analyzed this rule and concluded that it is a "significant legislative rule." An analysis of the probable costs and probable benefits is available from the person listed above.

**Hearing Location:** Lacey Government Center (behind Tokyo Bento Restaurant), 1009 College Street S.E., Room 104-B, Lacey, WA 98503, on February 22, 2000, at 10:00 a.m.

**Assistance for Persons with Disabilities:** Contact Paige Wall by February 11, 2000, 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 February 22, 2000.

**Date of Intended Adoption:** February 23, 2000.

January 12, 2000

Marie Myerchin-Redifer, Manager  
Rules and Policies Assistance Unit

## Chapter 388-542 WAC

### CHILDREN'S HEALTH INSURANCE PLAN (CHIP)

#### NEW SECTION

**WAC 388-542-0050 Definitions for children's health insurance program (CHIP) terms.** The following definitions and abbreviations and those found in WAC 388-500-0005, Medical definitions apply to this chapter. Defined words and phrases are bolded the first time they are used in the text.

**"Age appropriate immunizations"** means the recommended childhood immunization schedule as approved by the Advisory Committee on Immunization Practices (ACIP), the American Academy of Pediatrics (AAP), and the American Academy of Family Physicians (AAFP).

**"Children's health insurance program (CHIP)"** means the health insurance program authorized by Title XXI of the Social Security Act and administered by the department of social and health services (DSHS). Also referred to as state children's health insurance program (S-CHIP).

**"Client copay" or "copay"** means an amount a CHIP client pays to health care providers for specific services.

**"Client premium"** means a monthly payment a client must make to DSHS for CHIP coverage.

**"Creditable coverage"** means most types of public and private health coverage, except Indian health services, that provides access to doctors, hospitals, laboratory services, and radiology services. This applies whether or not the coverage is equivalent to that offered under CHIP. "Creditable coverage" is described in 42 U.S.C. Sec. 1397jj.

**"Employer-sponsored dependent coverage"** means creditable health coverage for dependents offered by a family member's employer or union, for which the employer or union contributes in whole or part towards the premium.

**"Finance division"** means the division of the department of social and health services that sends out, monitors, and collects the CHIP client premiums.

#### NEW SECTION

**WAC 388-542-0100 CHIP scope of care.** (1) CHIP clients are eligible for the same scope of medical care as Medicaid categorically needy clients as described in WAC 388-529-0100.

(2) The following WACs apply to CHIP clients enrolled in managed care:

(a) WAC 388-538-095; and

(b) WAC 388-538-100.

(3) Except for American Indian/Alaska Native (AI/AN) clients who have chosen primary care case management

PROPOSED

(PCCM) or fee-for-service as described in WAC 388-542-0200(3), CHIP clients must receive medical services from managed care plans in counties where two or more managed care plans are available.

#### NEW SECTION

**WAC 388-542-0125 Access to care.** (1) MAA provides fee-for-service coverage between the time a client becomes eligible for CHIP services and the time the client is enrolled in managed care.

(2) Not all CHIP clients are required to enroll in managed care. See WAC 388-542-0150 (1)(c).

**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 388-542-0150 Client eligibility requirements for CHIP.** (1) To be eligible for CHIP a client must meet all of the following. The client:

(a) Cannot have other creditable coverage. If MAA finds out after eligibility determination that a CHIP client had **creditable coverage** at the time of application, MAA ends the client's eligibility the first of the following month.

(b) Must agree to pay both of the following:

(i) A monthly **client premium** as described in WAC 388-542-250(1); and

(ii) A service **copay** as described in WAC 388-542-250(3).

(c) Must make a choice concerning how to receive services. The choices vary depending on where the client lives (except as provided for AI/AN in WAC 388-542-0200). In counties with:

(i) Two or more managed care plans, the client must choose a managed care plan;

(ii) One managed care plan, the client must choose between a managed care plan and MAA's fee-for-service program; or

(iii) No managed care plan, the only option is MAA's fee-for-service program.

(2) The following WACs describe additional eligibility requirements and conditions for a CHIP client:

(a) WAC 388-505-0210 describes requirements related to children's medical eligibility;

(b) WACs 388-424-0005 and 388-424-0010 describe requirements related to citizenship and alien status;

(c) WAC 388-478-0075 describes monthly income standards;

(d) WAC 388-416-0015 describes eligibility certification periods; and

(e) WAC 388-418-0025 describes effects of changes on eligibility.

(3) MAA does not require a client to pay the client premium in advance to be eligible for CHIP.

(4) MAA ends a client's eligibility for CHIP when the client owes four months of premiums, based on the due dates listed on the bill for the client premium.

(5) When MAA ends a client's eligibility according to subsection (3) of this section, to become eligible for CHIP again, the client must meet both of the following:

(a) Pay all unforgiven past due premiums; and

(b) Serve a waiting period of four consecutive months as described in WAC 388-542-0300. The client does not have CHIP coverage during the waiting period.

(6) MAA forgives client premiums that are more than twelve months overdue. MAA does not require clients to pay overdue premiums that it has forgiven.

(7) Unless specifically stated in chapter 388-542 WAC, the **department's** administrative rules covering children's medical programs apply to CHIP.

#### NEW SECTION

**WAC 388-542-0200 CHIP managed care enrollment.**

(1) MAA enrolls clients in managed care prospectively only.

(2) American Indian/Alaska Native (AI/AN) clients who meet the provisions of 25 U.S.C. 1603 (c)-(d) for federally-recognized tribal members and their descendants, may choose one of the following:

(a) Enroll with a CHIP plan available in their area;

(b) Enroll with a CHIP Indian or tribal PCCM provider by calling MAA's toll-free enrollment line, or sending a completed CHIP enrollment form to MAA; or

(c) MAA's fee-for-service program.

(3) Clients who are required to enroll in managed care may change plans during the two-month period after enrollment and during an annual open enrollment period. Clients may not change plans otherwise, unless they have "good cause." The "good cause" reasons are any of the following:

(a) The client is American Indian/Alaska Native (AI/AN);

(b) The client moves out of the plan's service area;

(c) To assure all family members are in the same plan;

(d) To protect the client from a perpetrator of domestic violence, abuse or neglect;

(e) To rectify a documented department error;

(f) An administrative law judge orders MAA to disenroll the client; or

(g) The client's plan stops offering service in the client's county.

#### NEW SECTION

**WAC 388-542-0250 CHIP client costs.** (1) The finance division charges ten dollars per covered child, per month, for the client premium. The family maximum is thirty dollars per month.

(2) The finance division sends bills for client premiums at the beginning of each month of coverage. Client premiums begin the first of the month in which the bill was sent, not the date that the client became eligible for services.

(3) MAA requires a copay for certain services, as follows:

(a) Five dollars for office visits with **physicians**, **physician assistants**, or **advanced registered nurse practitioners (ARNP)** (i.e., CPT codes 99201 - 99215);

(b) Five dollars for nongeneric (i.e., brand name, whether single or multiple source) drugs; and

(c) Twenty-five dollars for emergency department visits that do not result in **hospital** admission.

(4) MAA does not require a copay for the following services:

(a) Consultations (i.e., CPT codes 99241 - 99275);

(b) Deliveries (births);

(c) Dental;

(d) Drug and alcohol treatment;

(e) Generic drugs;

(f) Inpatient and **outpatient** surgery;

(g) Mental health services (including services with psychiatrists or psychologists);

(h) Office visits with age appropriate immunizations or exams for an **EPSDT** (well-child check) screening;

(i) Radiology; or

(j) Visits to the emergency room that result in an inpatient hospital admission.

(5) Clients are responsible for client copays from the first day the client is eligible for CHIP.

(6) Clients make copays to the health care provider, not MAA. A provider may refuse service to CHIP clients when the copay is not paid at the time of service.

(7) Client out-of-pocket expenses are subject to a twelve-month maximum. All of the following apply to twelve-month, out-of-pocket expenses for CHIP clients:

(a) Only client premiums and copays for covered services count towards the twelve-month maximum;

(b) For those children who incur client premiums and copays, the twelve-month maximums are as follows:

(i) For one child, three hundred dollars;

(ii) For two children, six hundred dollars; and

(iii) For three or more children, nine hundred dollars.

The family maximum is nine hundred dollars.

(c) The client and/or family must do the following:

(i) Track and document out-of-pocket expenses;

(ii) Notify MAA when the maximum has been reached;

and

(iii) Provide receipts as proof or payment.

(8) MAA's starting date for determining twelve-month, out-of-pocket maximum expenses is the date that the first child in a family became eligible for CHIP services. For example, if a family has:

(a) One child, and that child became eligible for services on April first, the twelve-month period starts on April first;

(b) Two children, and first child became eligible for services on April first and the second child started three months later on July first, the twelve-month period for both children starts on April first;

(c) Three or more children, and the first child became eligible for services on April first, and the last child became eligible on November first (within the same twelve-month period), the twelve-month period starts on April first for all the children.

(9) MAA exempts American Indian/Alaska Native (AI/AN) clients from paying client premiums or service copays.

#### NEW SECTION

**WAC 388-542-0275 Reimbursement.** (1) MAA deducts the twenty-five dollar copay from hospitals' outpatient reimbursement for emergency services provided to CHIP clients, unless the emergency department visit results in a hospital admission.

(2) MAA does not deduct the five dollar copay from providers' reimbursement.

#### NEW SECTION

**WAC 388-542-0300 Waiting period for CHIP coverage following employer coverage.** (1) If the client or family chooses to end employer sponsored dependent coverage, the client must serve a waiting period of four, full, consecutive months before becoming eligible to enroll in CHIP. The waiting period begins the day after the coverage ends, and ends on the last day of the fourth full month of noncoverage by the employer.

(2) MAA does not require a waiting period prior to CHIP coverage when:

(a) The client or family member has a medical condition that, without treatment would be life-threatening or cause serious disability or loss of function; or

(b) The loss of employer sponsored dependent coverage is due to any of the following;

(i) Loss of employment;

(ii) Death of the employee;

(iii) The employer discontinues employer-sponsored dependent coverage;

(iv) The family's total out-of-pocket maximum for employer-sponsored dependent coverage is fifty dollars per month or more;

(v) The plan terminates employer-sponsored dependent coverage for the client because the client reached the maximum lifetime coverage amount;

(vi) Coverage under a COBRA extension period expired;

(vii) Employer-sponsored dependent coverage is not reasonably available (e.g., client would have to travel to another city or state to access care); or

(viii) Domestic violence that leads to loss of coverage for the victim.

**WSR 00-03-062**

**PROPOSED RULES**

**DEPARTMENT OF**

**SOCIAL AND HEALTH SERVICES**

(Economic Services Administration)

[Filed January 18, 2000, 2:02 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-22-056.

Title of Rule: Repeal WAC 388-418-0012 Prospective eligibility for food assistance.

Purpose: This rule is no longer necessary because all benefits are based on prospective budgeting.

Statutory Authority for Adoption: RCW 74.08.090 and 74.04.510.

Statute Being Implemented: RCW 74.08.090 and 74.04.510.

Summary: DSHS has adopted rules that cause all benefits to be calculated using prospective budgeting. This eliminates the need for the separate prospective eligibility determination step covered in this rule.

Reasons Supporting Proposal: The implementation of prospective budgeting rules to calculate assistance benefits beginning with benefits issued for January 2000 and later eliminates the need for this rule.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Michael Thomas, Division of Assistance Programs, P.O. Box 45470, Olympia, WA 98504-5470, (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: There are no changes anticipated as a result of repealing this rule.

Proposal Changes the Following Existing Rules: This proposal repeals WAC 388-418-0012 Prospective eligibility for food assistance. Prior to January 2000, DSHS calculated food assistance benefits using retrospective budgeting when clients remained prospectively eligible. Now, all benefits are calculated using prospective budgeting which eliminates the need for a separate prospective eligibility determination before a retrospective benefit calculation.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Small businesses are not affected by this proposal.

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 February 22, 2000, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Paige Wall by February 11, 2000, 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 February 22, 2000.

Date of Intended Adoption: No sooner than February 23, 2000.

January 12, 2000

Marie Myerchin-Redifer, Manager  
Rules and Policies Assistance Unit

WAC 388-418-0012

Prospective eligibility for food assistance.

**WSR 00-03-063**

**PROPOSED RULES**

**DEPARTMENT OF LICENSING**

(Real Estate Commission)

[Filed January 18, 2000, 3:10 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-18-101.

Title of Rule: See Purpose below.

Purpose: Amend WAC 308-124-021 Definitions, adds new subsection to define statutory term "prospect procurement" as it relates to real estate licensees standards of practice.

Amend WAC 308-124E-013 Administration of funds held in trust—Real estate and business opportunity transactions, revises broker's "pooled interest bearing" trust account deposit threshold to conform with 1999 legislative action enacted under SB 5442.

Amend WAC 308-124H-011 Course approval required, proposed changes reflect streamlining, reformatting, and modernizing to address regulatory improvement rule review plan recommendations.

New WAC 308-124H-012 Course titles reserved for prescribed curriculum courses, this section has been moved and proposed as a new section to enhance understanding of process.

New WAC 308-124H-013 Application process for previously approved courses, this section is proposed to address department's need for processing renewal applications.

Amend title and WAC 308-124H-025 General requirements for course approval, proposed changes reflect streamlining, reformatting, and modernizing to address regulatory improvement rule review plan recommendations, and changing educational standards.

New WAC 308-124H-026 Secondary education provider course content approval application, proposed rule needed to address and clarify current department operating policies and procedures.

New WAC 308-124H-027 Distance education delivery methods—Defined, this section is needed to address new education course delivery technologies and changing education standards and practices.

New WAC 308-124H-028 Interactive—Defined, this section is needed to address and define new education course delivery standards and practices.

New WAC 308-124H-029 Distance education delivery method approval required, this section is needed to describe course requirements for new education course delivery technologies and changing education standards and practices.

New WAC 308-124H-031 Distance education delivery methods certified by the Association of Real Estate License Law Officials (ARELLO), this section provides a course approval alternative for interested education providers and course developers.

PROPOSED

**REPEALER**

The following section of the Washington Administrative Code is repealed:



New WAC 308-124H-034 Courses completed in other jurisdictions, this section has been moved and proposed as a new section to enhance understanding of process, and to address changing educational and regulatory standards.

New WAC 308-124H-039 Changes and updates in approved courses, portions of this new section contain language moved from previous sections, and also reflect amendatory changes to address changing department policy considerations.

Amend title and WAC 308-124H-041 Certificate of course completion, proposed changes reflect streamlining, reformatting, and modernizing to address regulatory improvement rule review plan recommendations, and changing educational standards.

New WAC 308-124H-042 Courses offered in symposium or conference format, proposed rule needed to address and clarify department's policies regarding changing industry standards and practices.

Amend WAC 308-124H-051 Disciplinary action—Procedures—Investigation, proposed change deletes subsection (3) as it is duplicative of provisions in WAC 308-124H-300.

Amend WAC 308-124H-061 Grounds for denial or withdrawal of course approval, proposed changes reflect streamlining, reformatting, and modernizing to address regulatory improvement rule review plan recommendations, and changing educational standards.

Amend WAC 308-124H-062 Hearing procedures, proposed changes reflect streamlining, reformatting, and modernizing to address regulatory improvement rule review plan recommendations, and changes necessitated by previous rule adoptions.

Amend title and WAC 308-124H-210 School and school administrator approval required, proposed changes reflect streamlining, reformatting, and modernizing to address regulatory improvement rule review plan recommendations.

New WAC 308-124H-221 Application process for previously approved schools, this section is proposed to address department's need for processing renewal applications.

Amend WAC 308-124H-230 Application for school approval, proposed changes reflect streamlining, reformatting, and modernizing to address regulatory improvement rule review plan recommendations, and changes necessitated by previous rule adoptions.

New WAC 308-124H-245 Administrator responsibilities, this section has been moved and proposed as a new section to address enhanced requirements reflecting changing industry and regulatory standards.

New WAC 308-124H-246 Affiliated representative of an approved school—Defined—Tasks and duties described, this proposed section addresses enhanced requirements reflecting changing industry and regulatory standards.

Amend WAC 308-124H-260 Required publication, proposed changes reflect streamlining, reformatting, modernizing, and eliminating changes to address regulatory improvement rule review plan recommendations.

Amend WAC 308-124H-270 Course description, proposed changes reflect streamlining, reformatting, modernizing, and eliminating changes to address regulatory improvement rule review plan recommendations.

Amend WAC 308-124H-290 Change of ownership or circumstances, proposed changes reflect streamlining, reformatting, modernizing, and eliminating changes to address regulatory improvement rule review plan recommendations.

Amend WAC 308-124H-300 Disciplinary action—Procedures—Investigation, proposed changes reflect the addition of distance education delivered courses to the requirements.

Amend title and WAC 308-124H-310 Grounds for denial or withdrawal of school or school administrator approval, proposed changes reflect regulatory improvement rule review plan recommendations.

Amend WAC 308-124H-320 Hearing procedure, proposed change necessitated by previous rule adoptions.

Amend WAC 308-124H-510 Instructor approval required, proposed changes reflect streamlining, reformatting, and modernizing to address regulatory improvement rule review plan recommendations.

New WAC 308-124H-525 Application process for previously approved instructors, this section is proposed to address department's need for processing renewal applications.

Amend WAC 308-124H-530 Certificate of instructor approval, proposed change needed to address and clarify department's current policies and practices.

New WAC 308-124H-551 Guest lecturer—Defined, this section is proposed to address department's current policies and procedures.

Amend WAC 308-124H-580 Hearing procedure, proposed change necessitated by previous rule adoptions.

Amend WAC 308-124H-800 Real estate course, school, and instructor approval fees, proposed changes reflect streamlining, reformatting, modernizing, and eliminating changes to address regulatory improvement rule review plan recommendations.

Repealing WAC 308-124H-021 Approval of courses, 308-124H-220 Approval of schools, 308-124H-240 Administrator qualifications, and 308-124H-520 Approval of instructors, these sections have been moved to other sections and are no longer needed.

Statutory Authority for Adoption: RCW 18.85.040.

Statute Being Implemented: Governor's Executive Order on Regulatory Improvement 97-02.

Summary: See Purpose above.

Reasons Supporting Proposal: Most of the proposed rules are designed to streamline, eliminate, modernize or reformat rules that need attention in accordance with the department's regulatory improvement rule review plan. Revisions to the broker's "pooled interest bearing" trust account rule is needed to conform with 1999 legislative action enacted under SB 5442. An additional rule is needed to define the statutory term "prospect procurement" as it relates to real estate licensee standards of practice.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Bob Mitchell, Real Estate Program Manager, P.O. Box 9015, Olympia, WA 98507-9015, e-mail bmittell@dol.wa.gov, (360) 586-6102, (360) 586-0998.

Name of Proponent: Department of Licensing, Washington Real Estate Commission, governmental.

PROPOSED

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

Explanation of Rule, its Purpose, and Anticipated Effects: See Purpose above.

Proposal Changes the Following Existing Rules: See Purpose above.

A small business economic impact statement has been prepared under chapter 19.85 RCW.

#### Small Business Economic Impact Statement

**BACKGROUND:** On October 20, 1999, the Washington Real Estate Commission and the real estate program of the Department of Licensing distributed a five-item questionnaire to approximately one hundred fifty private real estate education providers. The providers were asked to identify and describe the compliance costs and significant impacts of the proposed amendatory rules and new sections regarding school, course, instructor, and distance education approval rules addressed in chapter 308-124H WAC.

The Education Committee of the Washington Real Estate Commission met on November 17, 1999, to review the findings and develop recommendations to the Washington Real Estate Commission. Responses were received from nine education providers.

**FINDINGS:** Four of the providers responded that no significant economic or compliance impacts would be felt by their organizations. The responses from the other five providers indicated a significant impact would be incurred if the proposed fees for distance education delivery method approval and revised fees for instructor approval were implemented.

**CONCLUSIONS:** The Washington Real Estate Commission discussed the finding and considered the recommendations of the education stakeholders and the Education Committee on December 3, 1999. In addition, the commission considered the financial and procedural ramifications of the recently passed Initiative 695. The commission further acknowledged the likelihood of not receiving legislative authority to raise fees in excess of the Initiative 601 "fiscal growth limits."

The Real Estate Commission concluded that the final proposed amendatory sections of chapter 308-124H WAC dealing with fee increases or the imposition of new fees be eliminated from the proposal.

A copy of the statement may be obtained by writing to Real Estate Program, Department of Licensing, P.O. Box 9015, Olympia, WA 98507-9015, phone (360) 586-6102, fax (360) 586-0998.

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

Hearing Location: Department of Labor and Industries Auditorium, 7273 Linderson Way S.W., Tumwater, WA 98501, on Thursday, March 16, 2000, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Bob Mitchell by Monday, March 13, 2000, TDD (360) 753-1966, or (360) 586-6102.

Submit Written Comments to: Bob Mitchell, Real Estate Program, Department of Licensing, P.O. Box 9015, Olympia,

WA 98507-9015, fax (360) 586-0998, by Friday, March 10, 2000.

Date of Intended Adoption: March 16, 2000.

January 18, 2000

Fred Stephens

Director, Department of Licensing

Chairman, Washington Real Estate Commission

AMENDATORY SECTION (Amending WSR 99-03-042, filed 1/14/99, effective 2/14/99)

**WAC 308-124-021 Definitions.** Words and terms used in these rules shall have the same meaning as each has under chapter 18.85 RCW unless otherwise clearly provided in these rules, or the context in which they are used in these rules clearly indicates that they be given some other meaning.

(1) "Designated broker" is the natural person designated by a corporation, limited liability company, limited liability partnership or partnership to act as a broker on behalf of the corporation, limited liability company, limited liability partnership or partnership. The designated broker must be an officer of the corporation, manager or member of the limited liability company, partner of the limited liability partnership or a general partner of the partnership and must be separately qualified for licensure as a real estate broker.

(2) "Principal owner" is a person who owns or controls, directly or indirectly, ten percent or more of a real estate brokerage, regardless of whether such interest stands in the person's true name or in the name of a nominee.

(3) "Individual broker" is the natural person who owns a sole proprietorship brokerage company and is the licensed broker of the firm.

(4) "Affiliated licensees" are the natural persons licensed as salespersons, associate brokers, and/or branch managers employed by a real estate broker and who are licensed to represent a broker in the performance of any of the acts specified in chapter 18.85 RCW.

(5) "Prospect procurement" is initiating contact with a prospective buyer, seller, landlord or tenant for the purpose of engaging in a sale, lease or rental of real estate or a business opportunity, and the contact is initiated under a promise of compensation.

AMENDATORY SECTION (Amending WSR 91-23-006, filed 11/7/91, effective 12/8/91)

**WAC 308-124E-013 Administration of funds held in trust—Real estate and business opportunity transactions.**

The procedures in this section are applicable to funds received by the broker in connection with real estate sales or business opportunity transactions or options thereon. These procedures are in addition to the requirements of the general trust account procedures contained in WAC 308-124E-012.

(1) Bank accounts shall be designated as trust accounts in the firm or DBA name of the real estate broker as licensed. Trust bank accounts for real estate sales or business opportunity transactions shall be interest bearing demand deposit accounts. These accounts shall be established as described in RCW 18.85.310 and this section.

(a) The broker shall maintain a pooled interest bearing trust account identified as housing trust fund account for deposit of trust funds which are ~~((five))~~ ten thousand dollars or less.

Interest income from this account will be paid to the department by the depository institution in accordance with RCW 18.85.310(7) after deduction of reasonable bank service charges and fees, which shall not include check printing fees or fees for bookkeeping systems. The department shall remit the funds to the state treasurer.

(b) The agent shall disclose in writing to the party depositing more than ~~((five))~~ ten thousand dollars that the party has an option between (i) and (ii) below;

(i) All trust funds not required to be deposited in the account specified in (a) of this subsection shall be deposited in a separate interest-bearing trust account for the particular party or party's matter on which the interest will be paid to the party(ies); or

(ii) In the pooled interest-bearing account specified in (a) of this subsection if the parties to the transaction agree in writing.

(c)(i) For accounts established as specified in (a) of this subsection, the broker will maintain an additional ledger card with the heading identified as "Housing trust account interest." As the monthly bank statements are received, indicating interest credited, the broker will post the amount to the pooled interest ledger card. When the bank statement indicates that the interest was paid to the state or bank fees were charged, the broker will debit the ledger card accordingly.

(ii) For accounts established as specified in (b)(i) of this subsection, the interest earned or bank fees charged will be posted to the individual ledger card.

(d) When the bank charges/fees exceed the interest earned, causing the balance to be less than trust account liability, the broker shall within one banking day after receipt of such notice, deposit funds from the brokers business account or other non-trust account to bring the trust account into balance with outstanding liability. The broker may be reimbursed by the party depositing the funds for these charges for accounts established as specified in (b)(i) of this subsection, if the reimbursement is authorized in writing by the party depositing the funds. For accounts established under (a) of this subsection, the broker will absorb the excess bank charges/fees as a business expense.

(2) A separate check shall be drawn on the real estate trust bank account, payable to the broker as licensed, for each commission earned, after the final closing of the real estate or business opportunity transaction. Each commission check shall be identified to the transaction to which it applies.

(3) No disbursements from the real estate trust bank account shall be made in advance of closing of a real estate or business opportunity transaction or before the happening of a condition set forth in the earnest money agreement, to any person or for any reason, without a written release from both the purchaser and seller; except that

(i) If the agreement terminates according to its own terms prior to closing, disbursement of funds shall be made as provided by the agreement without a written release; and

(ii) Funds may be disbursed to the escrow agent designated in writing by the purchaser and seller to close the trans-

action, reasonably prior to the date of closing in order to permit checks to clear.

(4) When a transaction provides for the earnest money deposit/note or other instrument to be held by a party other than the broker, the broker shall deliver the deposit to the party designated to hold the funds, unless the parties to the transaction instruct otherwise in writing. The delivery shall be made within one banking day after all parties to the transaction have signed the agreement. A dated receipt will be obtained and placed in the transaction file.

AMENDATORY SECTION (Amending WSR 95-03-012, filed 1/5/95, effective 7/1/95)

**WAC 308-124H-011 Course approval required.** (1) Any ~~((approved school or approved instructor desiring to offer clock hour courses must receive))~~ education provider or course developer may submit a course to the department for approval.

(2) Course approval by the department is required prior to the date on which ~~((it first offers))~~ the course~~((s))~~ is offered for clock hour credit.

~~((2) Any approved school or approved instructor desiring to offer fundamentals, business management, broker management, real estate law, and/or practices shall utilize the most recent course curriculum or course content prescribed by the department. Approved school administrators shall ensure each student receives the course curriculum or course content and completes a course evaluation form approved by the department.))~~ (3) Each application for approval of a course shall be submitted to the department on the appropriate application form provided by the department.

(4) The director or designee shall approve, disapprove, or conditionally approve applications based upon criteria established by the commission.

(5) Upon approval, disapproval or conditional approval, the applicant will be so advised in writing by the department. Notification of disapproval shall include the reasons therefor.

(6) Approval shall expire two years after the effective date of approval.

NEW SECTION

**WAC 308-124H-012 Course titles reserved for prescribed curriculum courses.** Any approved school desiring to offer fundamentals, business management, broker management, real estate law, and/or real estate practices shall utilize the most recent course curriculum prescribed by the department, and shall include in its title the phrase "real estate fundamentals," "real estate brokerage management," "real estate law," "business management," or "real estate practices" if submitted for approval for clock hours. No other courses shall use these phrases in their titles.

NEW SECTION

**WAC 308-124H-013 Application process for previously approved courses.** (1) If there are no changes in course content or in the original course approval application for a previously approved course, the course will be approved

upon receipt of a course renewal application and payment of the required fee.

(2) If there are changes in course content or in the original course approval application for a previously approved course, other than updating for changes required by WAC 308-124H-039, the application will not be processed as a renewal, and will require completion of a course approval application and payment of the required fee.

(3) If a course renewal application or a course approval application is submitted at least thirty days prior to the current course expiration date, the previous course approval shall remain in effect until action is taken by the director.

**AMENDATORY SECTION** (Amending WSR 97-01-027, filed 12/10/96, effective 1/10/97)

**WAC 308-124H-025 ((Application)) General requirements for course approval.** Courses shall meet the following requirements: (1) Be offered by a private entity approved by the director to operate as a school;

(2) Be offered by a tax-supported, public technical or community college or other institution of higher learning that certifies clock hours as indicated in RCW 18.85.010(9), consistent with the approval standards prescribed by the director and this chapter;

(3) Have a minimum of three hours of ((classroom)) course work or instruction for the student. A ((classroom)) clock-hour is a period of fifty minutes of actual ((classroom or workshop)) instruction ((, exclusive of examination time));

~~((2))~~ (4) Provide practical information related to the practice of real estate in any of the following real estate topic areas: Fundamentals, practices, principles/essentials, real estate law, legal aspects, brokerage management, business management, taxation, appraisal, evaluating real estate and business opportunities, property management and leasing, construction and land development, ethics and standards of practice, ((eserow closing/settlement)) real estate closing practices, current trends and issues, finance, hazardous waste and other environmental issues, commercial, ((advertising (Regulation Z), agent supervision and broker responsibility, selling, listing, and marketing of)) real estate sales and marketing, ((theory and practices of relocation, or)) instructor development or the use of computers and/or other technologies as applied to the practice of real estate;

~~((3))~~ (5) Be under the supervision of an ((approved)) instructor approved to teach the ((course in the classroom at all sessions and offered by an approved school provided that, if the instructional methods include the use of prerecorded audio and/or visual instructional materials, presentation shall be under the supervision of a monitor at all times and an approved instructor who shall, at a minimum, be available to respond to specific questions from students;

(4) ~~Shall not include the following topics for clock hours: Product marketing, personal motivation, sales motivation, personal promotion, stress management, personal improvement, personality profiles, office and personal skills, or sales promotion.~~ topic area, who shall, at a minimum, be available to respond to specific questions from students on an immediate or reasonably delayed basis;

(6) The following types of courses will not be approved for clock hours: Course offerings in mechanical office and business skills, such as, keyboarding, speed-reading, memory improvement, language, and report writing; orientation courses for licensees, such as those offered by trade associations; and personal and sales motivation courses or sales meetings held in conjunction with a licensee's general business. Clock hours will not be awarded for any course time devoted to ((staff meetings, examinations,)) meals or transportation((-);

~~((5))~~ (7) Courses of thirty clock hours or more which are submitted for approval shall include a comprehensive examination(s) and answer key(s) of no fewer than three questions per clock hour with a minimum of ninety questions, and a requirement of passing course grade of at least seventy percent; essay question examination keys shall identify the material to be tested and the points assigned for each question;

~~((6))~~ (8) Include textbook or instructional materials approved by the director, which shall be kept accurate and current ~~((Course materials shall be updated no later than thirty days after the effective date of a change in statute or rules;~~

(7) Include in its title the phrase "real estate fundamentals," "real estate brokerage management," "real estate law," "business management," or "real estate practices" if submitted for approval for clock hours pursuant to WAC 308-124H-011. ~~No other courses shall use these phrases in their titles);~~ and

~~((8))~~ (9) Not have a title which misleads the public as to the subject matter of the course((-;

(9) ~~Be offered by a tax supported, public technical or community college or any other institution of higher learning that may certify clock hours as indicated in RCW 18.85.010(9) or by a private entity approved by the director to operate as a school;~~

(10) Any change in course content or material other than updating for statute or rule changes, shall be submitted to the department no later than twenty days prior to the date of using the changed course content material, for approval by the director;

(11) ~~Changes in course instructors may be made only if the substitute instructors are currently approved to teach the course pursuant to chapter 308-124H WAC;~~

(12) A course completed in another jurisdiction may be approved for clock hour credit if:

(a) The course was offered by a tax supported, public technical or community college, or any other institution of higher learning, or by a national institution with uniform scope and quality of representation, or was approved to satisfy an education requirement for real estate licensing or renewal and offered by an entity approved to offer the course by the real estate licensing agency in that jurisdiction; and

(b) The course satisfies the requirements of subsections (1) through (6) of this section, and includes a comprehensive examination and requirement of a passing course grade of at least seventy percent; and/or

(c) If the director determines that the course substantially satisfies the requirements of the real estate fundamentals course required under RCW 18.85.095 or satisfies the

requirements of the law, brokerage management and business management courses required under RCW 18.85.090)).

#### NEW SECTION

**WAC 308-124H-026 Secondary education provider course content approval application.** (1) An approved school may offer courses that are currently approved for another education provider or course developer provided a secondary provider course content approval application is submitted to the department;

(2) The applicant must also provide written authorization by the original education provider/developer permitting use of the course content by the applicant;

(3) A certificate of course approval will be provided to the secondary education provider;

(4) The applicant must use the course approval number issued by the department on all certificates of course completion;

(5) Course approval is valid only for the dates of the original education provider/course developer's approval; and

(6) Secondary provider course content approval applications may not be used for real estate fundamentals, real estate brokerage management, real estate law, business management, or real estate practices.

#### NEW SECTION

**WAC 308-124H-027 Distance education delivery methods—Defined.** As used in this chapter, a distance education delivery method is one in which instruction takes place in other than a live classroom setting, the instructor and the student are in physically separate locations, and interactive instructional methods such as video-based instruction, computer conferencing, video conferencing, interactive audio, interactive computer software, or internet-based instruction are used.

#### NEW SECTION

**WAC 308-124H-028 Interactive—Defined.** (1) As used in this chapter, interactive means the course structure and technologies promote active student involvement with the course content, including the ability to:

(a) Access or bypass optional content, if applicable;

(b) Submit questions or answer test items, and receive direct feedback; and

(c) Communicate with the instructor and/or other students on an immediate or reasonably delayed basis.

(2) Interactive instruction specifically excludes courses that only provide passive delivery of instructional content.

#### NEW SECTION

**WAC 308-124H-029 Distance education delivery method approval required.** Applicants are required to submit an application for each separate distance education delivery method for which they propose to offer approved courses for clock hours. When submitting a distance education deliv-

ery method application, the following minimum criteria must be provided by the applicant:

(1) Specify the course learning objectives for each learning unit and clearly demonstrate that the learning objectives cover the subject matter. Objectives must be specific to ensure that all content is covered adequately to ensure mastery;

(2) Demonstrate how mastery of the material is provided by:

(a) Dividing the material into major learning units, each of which divides the material into modules of instruction;

(b) Specifying learning objectives for each learning unit or module of instruction. Learning objectives must be comprehensive enough to ensure that if all the objectives are met, the entire content of the course will be mastered;

(c) Specifying an objective, quantitative criterion for mastery used for each learning objective and provide a structured learning method designed to enable students to attain each objective;

(3) Demonstrate that the course includes the same or reasonably similar informational content as a course that would otherwise qualify for the requisite number of clock hours of classroom-based instruction;

(4) Describe consistent and regular interactive events appropriate to the delivery method. The interactive elements must be designed to promote student involvement in the learning process, and must directly support the student's achievement of the course learning objectives. The application must identify the interactive events included in the course and specify how the interactive events contribute to achievement of the stated learning objectives;

(5) Demonstrate how the course provides a mechanism of individual remediation to correct any deficiencies identified during the instruction and assessment process;

(6) Measure, at regular intervals, the student's progress toward completion of the mastery requirement for each learning unit or module. In the case of computer-based instruction, the course software must include automatic shutdown after a period of inactivity;

(7) Demonstrate that approved instructors are available to answer questions regarding course content at reasonable times and by reasonable means, including in-person contact, individual and conference telephone calls, e-mail and FAX;

(8) Demonstrate how reasonable security will be provided to ensure that the student who receives credit for the course is the student who enrolled in and completed the course. Both the approved school and the student must certify in writing that the student has completed the course, and the required number of clock hours;

(9) Provide a complete description of any hardware, software, or other technology to be used by the provider and needed by the student to effectively engage in the delivery and completion of the course material and an assessment of the availability and adequacy of the equipment, software, or other technologies to the achievement of the course's instructional claims; and

(10) Provide an orientation session with the instructor or an affiliated representative of an approved school. Mechanisms must be clearly in place which allow students an early orientation to discuss course specifics.

NEW SECTION

**WAC 308-124H-031 Distance education delivery methods certified by the Association of Real Estate License Law Officials (ARELLO).** An applicant who provides evidence of certification of the distance education delivery method for his or her course by the Association of Real Estate License Law Officials (ARELLO) need not submit an application for approval of the same distance education delivery method when delivering the same course within the state of Washington.

NEW SECTION

**WAC 308-124H-034 Courses completed in other jurisdictions.** A course completed in another jurisdiction may be approved for clock hour credit if:

(1) The course was offered by a tax-supported, public technical or community college, or any other institution of higher learning, and the director determines that the course substantially satisfies the general requirements for course approval consistent with the intent of this chapter;

(2) The course was approved to satisfy an education requirement for real estate licensing or renewal and offered by an entity approved to offer the course by the real estate licensing agency in that jurisdiction; or

(3) If the director determines that the course substantially satisfies the general requirements for course approval consistent with the intent of this chapter.

NEW SECTION

**WAC 308-124H-039 Changes and updates in approved courses.** (1) Course materials shall be updated no later than thirty days after the effective date of a change in federal, state, or local statutes or rules.

(2) Any change in course content or material other than updating for statute or rule changes, shall be submitted to the department prior to the date of using the changed course content material, for approval by the director.

(3) Changes in course instructors may be made only if the substitute instructors are currently approved to teach the topic area pursuant to chapter 308-124H WAC.

AMENDATORY SECTION (Amending WSR 95-03-012, filed 1/5/95, effective 2/5/95)

**WAC 308-124H-041 Certificate of course completion.** Each approved school shall issue a certificate of course completion ~~((on a form, sample provided by the department,))~~ to students ~~((which))~~ who have satisfactorily completed the course requirements. The certificate shall include the following information:

(1) ~~((School's identification number issued by the department of licensing;~~

~~((2)))~~ Student's name;

(2) School's name and identification number issued by the department;

(3) The course commencement date and completion date;

- (4) Course title;  
 (5) Clock hours for the course;  
 (6) School administrator's signature;  
(7) Course identification number issued by the department;  
(8) Instructor name and number; and  
(9) Completion of a required examination, if applicable.

NEW SECTION

**WAC 308-124H-042 Courses offered in a symposium or conference format.** (1) Approved schools offering courses in a symposium or conference format with two or more modules of independent instruction may issue certificates of course completion for fewer clock hours than approved by the department on their original course approval application; and

(2) Students must complete a minimum of three clock hours of instruction to receive clock hour credit.

AMENDATORY SECTION (Amending WSR 90-10-010, filed 4/20/90, effective 8/1/90)

**WAC 308-124H-051 Disciplinary action—Procedures—Investigation.** (1) The department shall have the authority on its own motion or upon complaint made to it to investigate or audit any course to determine compliance with chapter 18.85 RCW and with the rules and regulations of this chapter.

(2) Complaints concerning approved courses should be made in writing to the department and contain the following information when appropriate:

(a) The complainant's name, address, and telephone number;

(b) School name, address, and telephone number;

(c) Instructor(s) name;

(d) Nature of complaint and facts detailing dates of attendance, termination date, date of occurrence, names, addresses and positions of school officials contacted, and any other pertinent information;

(e) An explanation of what efforts if any, have been taken to resolve the problem with the school;

(f) Copies of pertinent documents, publications, and advertisements.

~~((3) All approved courses shall be subject to periodic visits by an official representative of the department who shall observe classroom activities, evaluate course content and instructor proficiency to ensure that courses are being taught in accordance with the provisions set forth.))~~

AMENDATORY SECTION (Amending WSR 95-03-012, filed 1/5/95, effective 2/5/95)

**WAC 308-124H-061 Grounds for denial or withdrawal of course approval.** Course approval may be denied or withdrawn if the instructor or any owner, ~~((employee, or))~~ administrator or affiliated representative of a school, or a course provider or developer:

(1) ~~((Has had any disciplinary action taken against his/her professional license in this or any other jurisdiction;~~

~~(2) Falsified any student records or clock hour certificates;~~

~~(3) Falsified any)) Submits a false or incomplete course application or any other information required to be submitted to the department;~~

~~((4) Attempted in any manner to discover, or to impart to any license candidate, the content of and/or answer to any real estate license examination question(s);~~

~~(5) Violated any provision in chapter 18.85 RCW or the rules promulgated thereunder;~~

~~(6) Failed to cooperate with the department in any investigation or hearing;~~

~~(7) Has been convicted of a crime;~~

~~(8) Violated any of the provisions of any local, state, or federal antidiscrimination law;~~

~~(9) Continued to teach or offer any real estate subject matter whereby the interests of the public are endangered, after the director, by order in writing, stated objections thereto;~~

~~(10) Offered, sold, or awarded any clock hours without requiring the student to successfully complete the clock hours for which the course was approved;~~

~~(11) Accepted registration fees and not supplied the service and/or failed to refund the fees within thirty days of not supplying the service;~~

~~(12) Represented in any manner that the school is associated with a "college" or "university" unless it meets the standards and qualifications of and has been approved by the state agency having jurisdiction;~~

~~(13) Represented that a school is recommended or endorsed by the state of Washington or by the department, provided that a school authorized to offer clock hours under this chapter may state: "This school is approved under chapter 18.85 RCW";~~

~~(14) Advertised, published, printed, or distributed false or misleading information;~~

~~(15) Solicited, directly or indirectly, information from applicants for a real estate license following the administration of any real estate examination to discover the content of and/or answer to any examination question or questions;~~

~~(16) Has failed to meet the requirements of this chapter.) (2) Includes in its title the phrase "real estate fundamentals," "real estate brokerage management," "real estate law," "business management," and "real estate practice" if the course was not submitted for approval of clock hours pursuant to WAC 308-124H-012;~~

~~(3) If the title of the course misleads the public and/or licensees as to the subject matter of the course;~~

~~(4) If course materials are not updated within thirty days of the effective date of a change in the statute or rules;~~

~~(5) If course content or material changes are not submitted to the department for approval prior to the date of using the changed course content.~~

AMENDATORY SECTION (Amending WSR 90-10-010, filed 4/20/90, effective 8/1/90)

**WAC 308-124H-062 Hearing procedure.** Upon notice of course denial or disapproval or ((issuance of charges)) withdrawal of course approval, a person is entitled to a hear-

ing conducted in accordance with the Administrative Procedure Act, chapter 34.05 RCW, and the provisions of WAC 308-124-025, 308-124-035 and 308-124-045.

To exercise the right to a hearing under this section, a person must request a hearing within twenty days after receipt of the notice of denial, disapproval or ((charges)) withdrawal of course approval.

Any person aggrieved by a final decision of the director is entitled to judicial review under the provisions of the Administrative Procedure Act, chapter 34.05 RCW.

AMENDATORY SECTION (Amending WSR 90-10-010, filed 4/20/90, effective 8/1/90)

**WAC 308-124H-210 School and school administrator approval required.** ((Any school desiring to offer clock hour courses must be approved)) (1) School and school administrator approval by the department is required prior to the date on which ((it first offers)) courses are offered for clock hour credit.

(2) Each application for approval of a school or school administrator shall be submitted to the department on the appropriate application form provided by the department. The most recent application form shall be obtained from the department prior to submission.

(3) The director or designee shall approve or disapprove applications based upon criteria established by the commission. The director or designee shall approve only complete applications which meet the requirements of this chapter.

(4) Upon approval or disapproval the applicant will be so advised in writing by the department. Notification of disapproval shall include the reasons therefor.

(5) No school for which approval is required shall promote a course for clock hour credit prior to approval of the school.

(6) No school shall allow an instructor for whom approval is required to supervise a course for clock hour credit prior to approval of the instructor.

(7) No school shall issue to a student certification for completion of an approved course unless the course had been approved prior to the first day of instruction.

(8) Approval shall expire two years after the effective date of approval.

(9) School names submitted that are similar to those currently approved shall not be granted approval.

#### NEW SECTION

**WAC 308-124H-221 Application process for previously approved schools.** (1) If there are no changes in the original school or school administrator approval application for a previously approved school or school administrator, the school or school administrator will be approved upon receipt of a school or school administrator renewal application and payment of the required fee.

(2) If there are changes in the original school or school administrator approval application for previously approved schools or school administrators, the application will not be processed as a renewal, and will require completion of a

PROPOSED

school or school administrator approval application and payment of required fees.

(3) If a school or school administrator renewal application or a school or school administrator approval application is submitted at least thirty days prior to the current school expiration date, the previous school or school administrator approval shall remain in effect until action to approve or disapprove the application is taken by the director.

AMENDATORY SECTION (Amending WSR 90-10-010, filed 4/20/90, effective 8/1/90)

**WAC 308-124H-230 Application for school approval.** An application for school approval shall include the following information attested to by the school's administrator, who shall be responsible for administration of the school:

(1) The complete legal name of the school, current telephone number, current mailing address, the school's administrative office address, and date of establishment;

(2) The form of ownership of the school, whether sole proprietorship, partnership, limited partnership, or corporation, limited liability company or limited liability partnership;

(3) ~~((The name(s) of the corporation, partnership, limited partnership or sole proprietorship, and the names, addresses and telephone numbers of all directors, with the exception of trade association directors, officers, and all those with ten percent or more ownership interest;~~

(4)) If the school is a corporation or a subsidiary of another corporation, current evidence of registration with the Washington secretary of state's office and the name, address, and telephone number of the corporation's registered agent;

~~((5))~~ (4) The administrator's name, ~~((address, telephone number,))~~ and evidence of previous experience in administration of educational institutions, courses or programs, previous experience in the administration of business activities related to real estate, or administrative experience in the field of real estate;

~~((6))~~ (5) The publication required under WAC 308-124H-260 and the course description required under WAC 308-124H-270.

NEW SECTION

**WAC 308-124H-245 Administrator responsibilities.** Each school administrator shall be responsible for performing the following:

(1) Ensure that the school, course(s), and instructor(s) are all currently approved before offering clock hour courses;

(2) Ensure that all instructors are approved to teach in the appropriate topic area(s);

(3) Sign and verify all course completion certificates;

(4) Maintain all required records for five years, including attendance records, required publications, and course evaluations;

(5) Safeguard comprehensive examinations;

(6) Ensure the supervision and demonstrate responsibility for the conduct of employees and individuals affiliated with the school;

(7) Periodically review courses and advise department of content currency as required;

(8) Ensure each student is provided a course curriculum; and

(9) Ensure each student is provided a course evaluation form.

NEW SECTION

**WAC 308-124H-246 Affiliated representative of an approved school—Defined—Tasks and duties described.**

(1) An affiliated representative of an approved school is the natural person employed by or associated with an approved real estate school, and who is authorized by the school administrator to perform the following tasks and duties:

(a) Conduct student orientation sessions;

(b) Provide technical and/or procedural advice regarding course requirements and program operations;

(c) Perform routine or periodic audits of student progress; and

(d) Perform other tasks delegated by the approved school administrator, not requiring the interpretation of course content or subject matter expertise.

(2) Responsibility for an affiliated representative in the performance of the tasks and duties described above shall rest with the approved school administrator.

AMENDATORY SECTION (Amending WSR 90-23-039, filed 11/15/90, effective 12/16/90)

**WAC 308-124H-260 Required publication.** Each school shall have available to prospective and enrolled students a publication containing the following information:

(1) Date of publication;

(2) Name and address of school. The name of the administrator and telephone number(s) of the school's administrative offices;

(3) A list of courses, ~~((including the clock hours approved for each course and the specific educational requirements under chapter 18.85 RCW that will be met by completion of the course. Such lists shall be accurate as of the date of publication))~~ as outlined in WAC 308-124H-270;

(4) Description of all course prerequisites;

(5) The school's policy regarding:

(a) Admission procedure;

(b) Causes for dismissal and conditions for readmission;

(c) Attendance requirements, leave, absences, makeup work, and tardiness;

(d) Standards of progress required of the student, including a definition of the grading system of the school, the minimum grades considered satisfactory, and the conditions for reentrance for those students whose course of study is interrupted;

(e) Refund policy of registration or tuition fees, record retrieval fee, or any other charges, including procedures a student shall follow to cancel enrollment before or after instruction has begun;

(6) The statement that: "This school is approved under chapter 18.85 RCW; inquiries regarding this or any other real estate school may be made to the: Washington State Depart-

PROPOSED



ment of Licensing, Real Estate Program, P.O. Box ((9012)) 9015, Olympia, Washington ((98504)) 98507-9015";

(7) Dated supplements or errata sheets so as to maintain accuracy of the information in the publication, which shall clearly indicate that such information supersedes that which it contradicts and/or replaces elsewhere in the publication.

**AMENDATORY SECTION** (Amending WSR 91-23-006, filed 11/7/91, effective 12/8/91)

**WAC 308-124H-270 Course description.** Each approved school shall have available for distribution to prospective and enrolled students a course description containing the following information:

- (1) Name of approved school;
- (2) Date(s) and location of the course;
- (3) The course title;
- (4) The educational objectives of the course;
- (5) The type of instruction (e.g., live classroom~~((lecture, audio-visual, computer-assisted))~~ or distance education) in the course and the length of time required for completion;
- (6) The number of clock hours approved for the course, or, a statement that an application for approval is pending;
- (7) Name(s) of instructors when available;
- (8) Equipment and supplies which the student must provide;
- (9) Fees for the course;
- (10) The specific education requirements under chapter 18.85 RCW or chapter 308-124H WAC which will be met upon completion of the course students shall be informed, that for ~~((substantive))~~ courses of thirty clock hours or more, a comprehensive examination is available and is mandatory to satisfy ~~((the))~~ any preclicense requirements ~~((of))~~ in RCW 18.85.090 and 18.85.095;
- (11) Cancellation policy; and
- (12) Tuition refund policy.

**AMENDATORY SECTION** (Amending WSR 90-10-010, filed 4/20/90, effective 8/1/90)

**WAC 308-124H-290 Change of ownership or circumstances.** A change in the sole proprietor of a school, in the majority interest of general partners of a partnership owning a school, or in a majority stock ownership of a school shall be deemed a change of ownership.

Upon change of ownership~~((;))~~ or administrator ~~((of address of school))~~, approval shall continue provided that a new application for approval shall be submitted to the department within twenty days after a change of ownership~~((;))~~ or administrator~~((; or address))~~. The administrator must submit a notarized statement of the change asserting that all conditions required in these rules are being met. The school may continue to offer courses under the prior approval until action is taken on the new application. The school administrator is responsible for notifying the department of address changes.

In case of bankruptcy, a notarized statement reporting the information shall be filed with the department within twenty days.

Unless the above conditions are met, school approval shall be terminated upon a change of ownership.

**AMENDATORY SECTION** (Amending WSR 90-10-010, filed 4/20/90, effective 8/1/90)

**WAC 308-124H-300 Disciplinary action—Procedures—Investigation.** (1) The department shall have the authority, on its own motion or upon complaint made to it, to investigate or audit any school to determine compliance with chapter 18.85 RCW and with the rules and regulations of this chapter.

(2) Complaints concerning approved schools should be made in writing to the department and contain the following information when appropriate:

- (a) The complainant's name, address, and telephone number;
- (b) School name, address, and telephone number;
- (c) Instructor(s) name;
- (d) Nature of complaint and facts detailing dates of attendance, termination date, date of occurrence, names, addresses and positions of school officials contacted, and any other pertinent information;
- (e) An explanation of what efforts if any, have been taken to resolve the problem with the school;
- (f) Copies of pertinent documents, publications, and advertisements.

(3) All approved schools shall be subject to periodic visits by an official representative for the department who ~~((shall))~~ may observe classroom and distance education activities, evaluate course content, exams and instructor proficiency to ensure that courses are being taught in accordance with the provisions ~~((set forth))~~ of this chapter.

**AMENDATORY SECTION** (Amending WSR 95-03-012, filed 1/5/95, effective 2/5/95)

**WAC 308-124H-310 Grounds for denial or withdrawal of school or school administrator approval.** Approval may be denied or withdrawn if the instructor or any owner, ~~((employee, or))~~ administrator, or affiliated representative of a school:

- (1) Has had any disciplinary action taken against his/her professional license in this or any other jurisdiction;
- (2) Falsified any student records or clock hour certificates;
- (3) Falsified any application or any other information required to be submitted to the department;
- (4) Attempted in any manner to discover, or to impart to any license candidate, the content of and/or answer to any real estate license examination question(s);
- (5) Violated any provision in chapter 18.85 RCW or the rules promulgated thereunder;
- (6) Failed to cooperate with the department in any investigation or hearing;
- (7) Has been convicted of a crime within the preceding ten years;
- (8) Violated any of the provisions of any local, state, or federal antidiscrimination law;
- (9) Continued to teach or offer any real estate subject matter whereby the interests of the public are endangered, after the director, by order in writing, stated objections thereto;

(10) Offered, sold, or awarded any clock hours without requiring the student to successfully complete the clock hours for which the course was approved;

(11) Accepted registration fees and not supplied the service and/or failed to refund the fees within thirty days of not supplying the service;

(12) Represented in any manner that the school is associated with a "college" or "university" unless it meets the standards and qualifications of and has been approved by the state agency having jurisdiction;

(13) Represented that a school is recommended or endorsed by the state of Washington or by the department, provided that a school authorized to offer clock hours under this chapter may state: "This school is approved under chapter 18.85 RCW";

(14) Advertised, published, printed, or distributed false or misleading information;

(15) Advertised the availability of clock hour credit for a course in any manner without affixing the name of the school as approved by the department;

(16) Solicited, directly or indirectly, information from applicants for a real estate license following the administration of any real estate examination to discover the content of and/or answer to any examination question or questions;

~~((16))~~ (17) Has failed to meet the requirements of this chapter;

~~((17))~~ (18) Failed to teach a course consistent with the approved course content or curriculum;

(19) Used a substitute instructor who has not been approved to teach the topic area(s) pursuant to chapter 308-124H WAC.

**AMENDATORY SECTION** (Amending WSR 90-10-010, filed 4/20/90, effective 8/1/90)

**WAC 308-124H-320 Hearing procedure.** Upon notice of disapproval or issuance of charges, a person is entitled to a hearing conducted in accordance with the Administrative Procedure Act, chapter 34.05 RCW, and the provisions of WAC 308-124-025, 308-124-035 and 308-124-045.

To exercise the right to a hearing under this section, a person must request a hearing within twenty days after receipt of the notice of disapproval or charges.

Any person aggrieved by a final decision of the director is entitled to judicial review under the provisions of the Administrative Procedure Act, chapter 34.05 RCW.

**AMENDATORY SECTION** (Amending WSR 90-10-010, filed 4/20/90, effective 8/1/90)

**WAC 308-124H-510 Instructor approval required.** ~~((Any instructor desiring to teach clock hour courses must be approved))~~ (1) Instructor approval by the department is required prior to the date on which the ~~((school first offers courses))~~ course is offered for clock hour credit.

(2) Each application for approval of an instructor shall be submitted to the department on the appropriate application form provided by the department.

(3) The director or designee shall approve or disapprove instructor applications based upon criteria established by the commission.

(4) The director or designee shall approve only complete applications which meet the requirements of this chapter.

(5) Upon approval or disapproval the applicant will be so advised in writing by the department. Notification of disapproval shall include the reasons therefor.

(6) Approval shall expire two years after effective date of approval.

(7) Applicants shall identify on the application form the specific subject matter topic area or areas he or she proposes to teach.

#### NEW SECTION

**WAC 308-124H-525 Application process for previously approved instructors.** (1) If there are no changes in the original instructor approval application for a previously approved instructor, the instructor will be approved upon receipt of an instructor renewal form and payment of the required fee.

(2) If there are changes in an original instructor approval application for a previously approved instructor, the application will not be processed as a renewal, and will require completion of an instructor approval application and payment of required fees.

(3) If an instructor renewal application or an instructor approval application is submitted at least thirty days prior to the current instructor expiration date, the previous instructor approval shall remain in effect until action to approve or disapprove the application is taken by the director.

**AMENDATORY SECTION** (Amending WSR 90-10-010, filed 4/20/90, effective 8/1/90)

**WAC 308-124H-530 Certificate of instructor approval.** Upon approval an instructor shall be issued a certificate of approval containing the instructor's name, ~~((address,))~~ date of approval, ~~((and))~~ department identification number, and the subject matter topic areas that the instructor is approved to teach.

#### NEW SECTION

**WAC 308-124H-551 Guest lecture(s)—Defined.** A topic area expert(s) may be utilized as a guest lecturer to assist an approved instructor teach an approved course. The approved instructor is responsible for supervision of the approved course. Guest lecturer(s) shall not be utilized to circumvent the instructor approval requirements of this chapter.

**AMENDATORY SECTION** (Amending WSR 90-10-010, filed 4/20/90, effective 8/1/90)

**WAC 308-124H-580 Hearing procedure.** Upon notice of disapproval or issuance of charges, a person is entitled to a hearing conducted in accordance with the Administrative Procedure Act, chapter 34.05 RCW, and the provisions of WAC 308-124-025, 308-124-035, and 308-124-045.

To exercise the right to a hearing under this section, a person must request a hearing within twenty days after receipt of the notice of disapproval or charges.

Any person aggrieved by a final decision of the director is entitled to judicial review under the provisions of the Administrative Procedure Act, chapter 34.05 RCW.

**AMENDATORY SECTION** (Amending WSR 95-03-012, filed 1/5/95, effective 2/5/95)

**WAC 308-124H-800 Real estate course, school, and instructor approval fees.** The following fees shall be charged ~~((by the department of licensing))~~ for applications for approval of real estate courses, schools ~~((offering the courses))~~, and instructors. These fees shall be effective on and after July 1, ~~((1995))~~ 2000.

An application fee shall accompany each application. Approval, if granted, shall be two years from the date of approval. Applications submitted and disapproved may be resubmitted at no additional fee.

(1) Application for course content approval - a fee of \$5.00 per clock-hour credit being offered, with a minimum fee of \$50.00 per course. Except, the application fee for approval of the sixty clock-hour course in real estate fundamentals shall be \$150.00.

~~((An application fee shall accompany each application. Approval, if granted, shall be for two years from the date of approval.))~~ Courses approved prior to the effective date for this rule, need not apply for re-approval until the expiration of the current two-year approval period. ~~((Applications submitted and disapproved may be resubmitted at no additional fee.))~~

(2) Application for school approval - a fee of \$250.00 ~~((fee provides for two year approval))~~.

~~((An application fee shall accompany each application. An application for school approval must include application for approval of the school's administrator. A school will not be approved unless the school's administrator is also approved. Approval, if granted, shall be for two years from the date of approval. All schools approved after August 1, 1990 and prior to the effective date of this rule, need not apply for re-approval until expiration of the current two-year approval period. Applications submitted and disapproved may be resubmitted at no additional fee.))~~

(3) Application for instructor approvals:

(a) Approval to teach a specific course on one occasion - a fee of \$50.00;

(b) Approval to teach as many subject areas as requested at time of initial application - a fee of \$75.00. Approval shall be for two years from the approval date;

(c) Approval to teach additional subject area(s) not requested at time of initial application or renewal - a fee of \$25.00 for each application to teach additional subject area(s). Approval, if granted, shall be for remainder of two-year approval period.

Applications submitted under (a), (b) and (c) above, and disapproved may be resubmitted at no additional fee.

~~((An application fee shall accompany each application.))~~ Instructors ~~((approval))~~ approved to teach a specific ~~((course))~~ topic area prior to the effective date of this rule,

need not apply for reapproval until the expiration of the current two-year approval period. ~~((However, those instructors who wish approval to teach an additional subject area(s), must file an application and pay the appropriate \$25.00 application fee.))~~

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

|                  |                               |
|------------------|-------------------------------|
| WAC 308-124H-021 | Approval of courses.          |
| WAC 308-124H-220 | Approval of schools.          |
| WAC 308-124H-240 | Administrator qualifications. |
| WAC 308-124H-520 | Approval of instructors.      |

#### **WSR 00-03-066**

#### **PROPOSED RULES**

#### **DEPARTMENT OF COMMUNITY, TRADE AND ECONOMIC DEVELOPMENT**

[Filed January 18, 2000, 4:37 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-20-091.

Title of Rule: Best available science rule. The subject is criteria for ensuring that best available science (BAS) is included in the development of local policies and regulations for critical areas pursuant to RCW 36.70A.172. The rule also identifies ways to provide special consideration for preserving or enhancing anadromous fisheries, pursuant to RCW 36.70A.172.

Purpose: The purposes are (1) to provide guidance to counties and cities when developing policies and development regulations to protect the functions and values of critical areas and to give special consideration to conservation or protection measures necessary to preserve or enhance anadromous fisheries; and (2) to assist counties and cities in demonstrating they have met their statutory obligations under RCW 36.70A.172.

Statutory Authority for Adoption: RCW 36.70A.190 (4)(b).

Statute Being Implemented: RCW 36.70A.172(1).

Summary: The rule has six sections that include the following information: WAC 365-195-900 Background and purpose, 365-195-905 How do counties and cities determine which information is the "best available science"? WAC 365-195-910 Where can counties and cities locate the best available science? WAC 365-195-915 How do counties and cities include the best available science in developing policies and development regulations? WAC 365-195-920 What should counties and cities do if there is inadequate scientific information available relating to their critical areas? and WAC 365-195-925 How do counties and cities demonstrate they have given "special consideration" to conservation or protection measures necessary to preserve or enhance anadromous fisheries?

PROPOSED

Reasons Supporting Proposal: Local governments are subject to legal challenges in implementing the statute about "best available science" under the Growth Management Act (GMA). The Department of Community, Trade and Economic Development (CTED) is required to provide technical assistance through rules to help local governments implement the GMA.

Name of Agency Personnel Responsible for Drafting: Chris Parsons, Department of Community, Trade and Economic Development, P.O. Box 48300, Olympia, WA 98504-8300, (360) 664-8809; and Implementation: Shane Hope, Department of Community, Trade and Economic Development, P.O. Box 48300, Olympia, WA 98504-8300, (360) 753-1197.

Name of Proponent: Washington State Department of Community, Trade and Economic Development, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Cities and counties are encouraged to refer to this rule when developing policies and regulations regarding critical areas under the GMA.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The best available science rule assists cities and counties with including the "best available science" in the development of policies and development regulations to protect critical areas functions and values. Critical areas are defined in the GMA as wetlands, fish and wildlife habitat conservation areas, critical aquifer recharge areas, frequently flooded areas and geologically hazardous areas. The rule also identifies ways to provide special consideration for preserving or enhancing anadromous fisheries, pursuant to RCW 36.70A.172. This rule is intended to assist counties and cities in identifying and including the best available science in their periodic review and evaluation of development regulations and policies and in demonstrating they have met their statutory obligations under RCW 36.70A.172. The use and application of this rule is discretionary and does not contain substantive standards that jurisdictions must apply.

Proposal does not change existing rules.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rule is advisory to cities and counties only and has no direct effect on small businesses.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The statute does not apply because this rule is procedural guidance for local governments. RCW 34.05.028 (5)(a)(ii) [34.05.328 (5)(b)(ii)] specifically exempts rules relating only to internal governmental operations that are not subject to violations by a nongovernmental party.

Hearing Location: On March 1, 2000, at 6:30 p.m. - 9:00 p.m., at the Water Resources Education Center Conference Room, 4600 S.E. Columbia Way, Vancouver, WA; on March 14, 2000, at 6:30 p.m. - 9:00 p.m., at the Seattle Center Conference Center, Room G (Center House), 305 Harrison Street, Seattle, WA; on March 28, 2000, at 6:30 p.m. - 9:00 p.m., at the Hal Holmes Community Center, 201 North Ruby Street,

Ellensburg, WA; and on March 29, 2000, at 6:30 p.m. - 9:00 p.m., at the Eastern Washington University Riverpoint Campus, 668 North Riverpoint Boulevard, Spokane, WA.

Assistance for Persons with Disabilities: Contact Chris Parsons by February 28, 2000, TDD (360) 586-4224, or (360) 586-1557.

Submit Written Comments to: Chris Parsons, Senior Planner, Department of Community, Trade and Economic Development, P.O. Box 48300, Olympia, WA 98504-8300, fax (360) 753-2950, or e-mail [chrisp@cted.wa.gov](mailto:chrisp@cted.wa.gov), by March 31, 2000.

Date of Intended Adoption: May 1, 2000.

January 18, 2000

Busse Nutely

Deputy Director

## PART NINE BEST AVAILABLE SCIENCE

### NEW SECTION

**WAC 365-195-900 Background and purpose.** (1) Counties and cities planning under RCW 36.70A.040 are subject to continuing review and evaluation of their comprehensive land use plan and development regulations. Every five years they must take action to review and revise their plans and regulations, if needed, to ensure they comply with the requirements of the Growth Management Act. RCW 36.70A.215.

(2) Counties and cities must include the "best available science" when developing policies and development regulations to protect the functions and values of critical areas and must give "special consideration" to conservation or protection measures necessary to preserve or enhance anadromous fisheries. RCW 36.70A.172(1). The rules in WAC 365-195-900 through 365-195-925 are intended to assist counties and cities in identifying and including the best available science in this periodic review and evaluation and in demonstrating they have met their statutory obligations under RCW 36.70A.172(1).

(3) The inclusion of the best available science in the development of critical areas policies and regulations is especially important to salmon recovery efforts, and to other decision-making affecting threatened or endangered species.

(4) These rules are adopted under the authority of RCW 36.70A.190 (4)(b) which requires the department of community, trade, and economic development (department) to adopt rules to assist counties and cities to comply with the goals and requirements of the Growth Management Act.

### NEW SECTION

**WAC 365-195-905 How do counties and cities determine which information is the "best available science?"**

(1) This section provides assessment criteria to assist counties and cities in determining whether information obtained during development of critical areas policies and regulations constitutes the "best available science."

(2) The ultimate accountability for determining whether information obtained during development of critical areas policies and regulations constitutes the "best available science" rests with the legislative authority of the county or city. However, when feasible, counties and cities should consult with a qualified scientific expert or team of qualified scientific experts to identify scientific information, determine the best available science, and assess its applicability to the relevant critical areas. The scientific expert or experts may rely on their professional judgment based on experience and training, but they should use the criteria set out in WAC 365-195-900 through 365-195-925 and any technical guidance provided by the department. Use of these criteria also should guide counties and cities that lack the assistance of a qualified expert or experts, but these criteria are not intended to be a substitute for an assessment and recommendation by a qualified scientific expert or team of experts.

(3) Whether a person is a qualified scientific expert with expertise appropriate to the relevant critical areas is determined by the person's professional credentials and/or certification, any advanced degrees earned in the pertinent scientific discipline from a recognized university, the number of years of experience in the pertinent scientific discipline, recognized leadership in the discipline of interest, formal training in the specific area of expertise, and field and/or laboratory experience with evidence of the ability to produce peer-reviewed publications or other professional literature. No one factor is determinative in deciding whether a person is a qualified scientific expert. Where pertinent scientific information implicates multiple scientific disciplines, counties and cities are encouraged to consult a team of qualified scientific experts representing the various disciplines to ensure the identification and inclusion of the best available science.

(4) Counties and cities may use information that local, state or federal natural resource agencies have determined represents the best available science. The department will make available a list of resources that state agencies have identified as meeting the criteria for best available science pursuant to this chapter.

(5) Scientific information can be produced only through a valid scientific process. To ensure that best available science is being included, a county or city should consider the following:

(a) **Characteristics of a valid scientific process.** In the context of critical areas protection, a valid scientific process is one that produces reliable information useful in understanding the consequences of a local government's regulatory decisions and in developing critical areas policies and development regulations that will be effective in protecting the

functions and values of critical areas. To determine whether information received during the public participation process is reliable scientific information, a county or city must determine whether the source of the information displays the characteristics of a valid scientific process. The characteristics generally to be expected in a valid scientific process are as follows:

1. **Peer review.** The information has been critically reviewed by other persons who are experts in that scientific discipline. The criticism of the peer reviewers has been addressed by the proponents of the information. Publication in a refereed scientific journal usually indicates that the information has been appropriately peer-reviewed.

2. **Methods.** The methods that were used to obtain the information are clearly stated and able to be replicated. The methods are standardized in the pertinent scientific discipline or, if not, the methods have been appropriately peer-reviewed to assure their reliability and validity.

3. **Logical conclusions and reasonable inferences.** The conclusions presented are based on reasonable assumptions supported by other studies and consistent with the general theory underlying the assumptions. The conclusions are logically and reasonably derived from the assumptions and supported by the data presented. Any gaps in information and inconsistencies with other pertinent scientific information are adequately explained.

4. **Quantitative analysis.** The data have been analyzed using appropriate statistical or quantitative methods.

5. **Context.** The information is placed in proper context. The assumptions, analytical techniques, data, and conclusions are appropriately framed with respect to the prevailing body of pertinent scientific knowledge.

6. **References.** The assumptions, analytical techniques, and conclusions are well referenced with citations to relevant, credible literature and other pertinent existing information.

(b) **Common sources of scientific information.** Some sources of information routinely exhibit all or some of the characteristics listed in (a) of this subsection. Information derived from one of the following sources may be considered scientific information if the source possesses the characteristics necessary to ensure the information is scientifically valid and reliable. A county or city may consider information to be scientifically valid if the source possesses the characteristics listed in (a) of this subsection. The information found in Table 1 provides a general indication of the characteristics typically associated with common sources of scientific information.

| Table 1  | CHARACTERISTICS |         |   |                       |         |            |
|--|-----------------|---------|---|-----------------------|---------|------------|
|  | Peer review     | Methods | Logical conclusions & reasonable inferences | Quantitative analysis | Context | References |
| SOURCES OF SCIENTIFIC INFORMATION  |                 |         |   |                       |         |            |
| A. Research. Research data collected and analyzed as part of a controlled experiment (or other appropriate methodology) to test a specific hypothesis. | X               | X       | X   | X                     | X       | X          |

PROPOSED

| Table 1<br><br>SOURCES OF SCIENTIFIC INFORMATION   | CHARACTERISTICS |         |   |                       |         |            |
|--|-----------------|---------|---|-----------------------|---------|------------|
|  | Peer review     | Methods | Logical conclusions & reasonable inferences | Quantitative analysis | Context | References |
| <b>B. Monitoring.</b> Monitoring data collected periodically over time to determine a resource trend or evaluate a management program.   |                 | X       | X   | Y                     | X       | X          |
| <b>C. Inventory.</b> Inventory data collected from an entire population or population segment (e.g., individuals in a plant or animal species) or an entire ecosystem or ecosystem segment (e.g., the species in a particular wetland).      |                 | X       | X   | Y                     | X       | X          |
| <b>D. Survey.</b> Survey data collected from a statistical sample from a population or ecosystem.  |                 | X       | X   | Y                     | X       | X          |
| <b>E. Modeling.</b> Mathematical or symbolic simulation or representation of a natural system. Models generally are used to understand and explain occurrences that cannot be directly observed.   | X               | X       | X   | X                     | X       | X          |
| <b>F. Assessment.</b> Inspection and evaluation of site-specific information by a qualified scientific expert. An assessment may or may not involve collection of new data.  |                 | X       | X   |                       | X       | X          |
| <b>G. Synthesis.</b> A comprehensive review and explanation of pertinent literature and other relevant existing knowledge by a qualified scientific expert.  | X               | X       | X   |                       | X       | X          |
| <b>H. Expert Opinion.</b> Statement of a qualified scientific expert based on his or her best professional judgment and experience in the pertinent scientific discipline. The opinion may or may not be based on site-specific information. |                 |         | X   |                       | X       | X          |

X = characteristic must be present for information derived to be considered scientifically valid and reliable  
 Y = presence of characteristic strengthens scientific validity and reliability of information derived, but is not essential to ensure scientific validity and reliability

(c) **Common sources of nonscientific information.** Many sources of information usually do not produce scientific information because they do not exhibit the necessary characteristics for scientific validity and reliability. Information from these sources may provide valuable information to supplement scientific information, but should not be used as a substitute for valid and available scientific information. Common sources of nonscientific information include the following:

- (i) Anecdotal information. One or more observations which are not part of an organized scientific effort (for example, "I saw a grizzly bear in that area while I was hiking").
- (ii) Nonexpert opinion. Opinion of a person who is not a qualified scientific expert in a pertinent scientific discipline (for example, "I do not believe there are grizzly bears in that area").
- (iii) Hearsay. Information repeated from communication with others (for example, "At a lecture last week, Dr. Smith said there were no grizzly bears in that area").

(6) Counties and cities are encouraged to monitor and evaluate their efforts in critical areas protection and incorporate new scientific information, as it becomes available.

**NEW SECTION**

**WAC 365-195-910 Where can counties and cities locate the best available science?** (1) Consultation with state natural resources agencies can provide a quick and cost-

effective way to develop scientific information and recommendations. State natural resource agencies provide numerous guidance documents and model ordinances that incorporate the agencies' assessments of the best available science. The department can provide technical assistance in obtaining such information from state natural resources agencies, developing model GMA-compliant critical areas policies and development regulations, and related subjects. The department will make available to interested parties a current list of the best available science as identified by state or federal natural resource agencies for critical areas.

(2) A county or city may compile scientific information through its own efforts, with or without the assistance of qualified experts, and through state agency review and the Growth Management Act's required public participation process. The county or city must assess whether the scientific information it compiles constitutes the best available science, using the criteria set out in WAC 365-195-900 through 365-195-925 and any technical guidance provided by the department. If not, the county or city must identify and assemble additional scientific information to ensure it has included the best available science.

**NEW SECTION**

**WAC 365-195-915 How do counties and cities include the best available science in developing policies and development regulations?** (1) To demonstrate that the

best available science has been included in the development of critical areas policies and regulations, counties and cities should address each of the following on the record:

(a) The specific policies and development regulations adopted to protect the functions and values of the critical areas at issue.

(b) The relevant sources of best available scientific information included in the decision-making.

(c) Any nonscientific information—including legal, social, cultural, economic, and political information—used as a basis for critical area policies and regulations that depart from recommendations derived from the best available science. A county or city departing from science-based recommendations should:

(i) Identify the information in the record that supports its decision to depart from science-based recommendations;

(ii) Explain its rationale for departing from science-based recommendations; and

(iii) Identify potential risks to the functions and values of the critical area or areas at issue and any additional measures chosen to limit such risks. State Environmental Policy Act (SEPA) review often provides an opportunity to establish and publish the record of this assessment.

(2) Counties and cities must include the best available science in determining whether to grant applications for administrative variances and exceptions from generally applicable provisions in policies and development regulations adopted to protect the functions and values of critical areas. Counties and cities should adopt procedures and criteria to ensure that the best available science is included in every review of an application for an administrative variance or exception.

#### NEW SECTION

**WAC 365-195-920 What should counties and cities do if there is inadequate scientific information available relating to their critical areas?** Where there is an absence of valid scientific information or incomplete scientific information relating to a county's or city's critical areas, leading to uncertainty about which development and land uses could lead to harm of critical areas or uncertainty about the risk to critical area function of permitting development, counties and cities should use one of the following approaches:

(1) A "precautionary or a no risk approach," in which development and land use activities are strictly limited until the uncertainty is sufficiently resolved; or

(2) As an interim approach, an effective adaptive management program that relies on scientific methods to evaluate how well regulatory and nonregulatory actions achieve their objectives. Management, policy, and regulatory actions are treated as experiments that are purposefully monitored and evaluated to determine whether they are effective and, if not, how they should be improved to increase their effectiveness. An adaptive management program is a formal and deliberate scientific approach to taking action and obtaining information in the face of uncertainty. To effectively implement an adaptive management program, counties and cities must be willing to:

(a) Pay for a research program;

(b) Change course based on the results and interpretation of new information that resolves uncertainties; and

(c) Commit to the appropriate timeframe and scale necessary to reliably evaluate regulatory and nonregulatory actions affecting critical areas protection and anadromous fisheries.

#### NEW SECTION

**WAC 365-195-925 How do counties and cities demonstrate they have given "special consideration" to conservation or protection measures necessary to preserve or enhance anadromous fisheries?** (1) RCW 36.70A.172(1) imposes two distinct but related requirements on counties and cities. Counties and cities must include the "best available science" when developing policies and development regulations to protect the functions and values of critical areas, and counties and cities must give "special consideration" to conservation or protection measures necessary to preserve or enhance anadromous fisheries. Local governments should address both requirements in RCW 36.70A.172(1) when developing their records to support their critical areas policies and development regulations.

(2) To demonstrate compliance with RCW 36.70A.172(1), a county or city adopting policies and development regulations to protect critical areas must include in the record evidence that it has given "special consideration" to conservation or protection measures necessary to preserve or enhance anadromous fisheries. The record should be developed using the criteria set out in WAC 365-195-900 through 365-195-925 to ensure that conservation or protection measures necessary to preserve or enhance anadromous fisheries are grounded in the best available science.

(3) Conservation or protection measures necessary to preserve or enhance anadromous fisheries include measures that protect habitat important for all life stages of anadromous fish, including, but not limited to, spawning and incubation, juvenile rearing and adult residence, juvenile migration downstream to the sea, and adult migration upstream to spawning areas. Special consideration must be given to habitat protection measures based on the best available science relevant to stream flows, water quality and temperature, spawning substrates, instream structural diversity, migratory access, estuary and nearshore marine habitat quality, and the maintenance of salmon prey species. Conservation or protection measures can include the adoption of interim actions and long-term strategies to protect and enhance fisheries resources.

**WSR 00-03-067**

**PROPOSED RULES**

**DEPARTMENT OF COMMUNITY,  
TRADE AND ECONOMIC DEVELOPMENT**

[Filed January 18, 2000, 4:44 p.m.]

Original Notice.

PROPOSED

Preproposal statement of inquiry was filed as WSR 98-01-133.

**Title of Rule:** Criteria to analyze project consistency. The subject of the rule will be criteria for analyzing whether a proposed project is consistent with development regulations and the comprehensive plan adopted under chapter 36.70A RCW.

**Purpose:** To provide guidelines to local governments for analyzing project consistency with comprehensive plans and development regulations adopted under chapter 36.70A RCW.

**Statutory Authority for Adoption:** RCW 36.70B.040.

**Statute Being Implemented:** RCW 36.70B.030, 36.70B.040 [36.70B.040].

**Summary:** These rules are advisory in nature and provide guidelines for better integrating permit review with environmental review under chapter 43.21C RCW, analyzing project consistency, determining when there is a deficiency in the comprehensive plan or development regulation during project review that may require future amendments to the plan or regulations, appealing consistency, and denying a project based on consistency analysis.

**Reasons Supporting Proposal:** Local governments planning under the Growth Management Act need guidance on how to analyze project consistency when consistency with applicable regulations is not clear.

**Name of Agency Personnel Responsible for Drafting:** Heather Ballash, 906 Columbia Street S.W., Olympia, WA 98504, (360) 664-2364; and **Implementation:** Shane Hope, 906 Columbia Street S.W., Olympia, WA 98504, (360) 753-1197.

**Name of Proponent:** Washington State 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 Local Project Review Act authorizes the Department of Community, Trade and Economic Development to develop and adopt by rule criteria to assist local governments planning under RCW 36.70A.040 to analyze the consistency of project actions. These criteria are to be jointly developed with the Department of Ecology (RCW 36.70B.040(5)).

The rule provides guidelines for better integrating permit review with environmental review under chapter 43.21C RCW, analyzing project consistency, determining when there is a deficiency in the comprehensive plan or development regulation during project review that may require future amendments to the plan or regulations, appealing consistency, and denying a project based on consistency analysis. This rule is advisory in nature. It imposes no additional requirements for local governments in conducting project review.

Proposal does not change existing rules.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This rule will impose no costs on business because it is procedural guidance to local governments and is advisory in nature.

**Hearing Location:** On March 1, 2000, at 6:30 p.m. - 9:00 p.m., at the Water Resources Education Center Conference Room, 4600 S.E. Columbia Way, Vancouver, WA; on March 14, 2000, at 6:30 p.m. - 9:00 p.m., at the Seattle Conference Center, Room G (Center House), 305 Harrison Street, Seattle, WA; on March 28, 2000, at 6:30 p.m. - 9:00 p.m., at the Hal Holmes Community Center, 201 North Ruby Street, Ellensburg, WA; and on March 29, 2000, at 6:30 p.m. - 9:00 p.m., at the Eastern Washington University Riverpoint Campus, 668 North Riverpoint Boulevard, Spokane, WA.

**Assistance for Persons with Disabilities:** Contact Chris Parsons at (360) 664-8809, by February 28, 2000, TDD (360) 586-4224, or (360) 586-1557.

**Submit Written Comments to:** Heather Ballash, Senior Planner, Department of Community, Trade and Economic Development, P.O. Box 48300, 906 Columbia Street S.W., Olympia, WA 98504, fax (360) 753-2950, or e-mail heatherb@cted.wa.gov, by March 31, 2000.

**Date of Intended Adoption:** May 1, 2000.

January 18, 2000

Busse Nutley

Deputy Director

## Chapter 365-197 WAC

### PROJECT CONSISTENCY

#### NEW SECTION

**WAC 365-197-010 Purpose of a project consistency rule.** The Local Project Review Act (chapter 36.70B RCW) authorizes the department of community, trade, and economic development to develop and adopt by rule criteria to assist local governments planning under RCW 36.70A.040 to analyze the consistency of project actions. These criteria are to be jointly developed with the department of ecology (RCW 36.70B.040(5)).

A basic principle of the Growth Management Act (GMA) and the Local Project Review Act is that land use decisions made in adopting a comprehensive plan and development regulations under chapter 36.70A RCW should not be revisited during project review. When review of a project indicates that it is consistent with earlier land use decisions, that project should not be reevaluated or scrutinized with respect to whether those decisions were appropriate. Given the number of jurisdictions and agencies in the state, it is essential to establish a uniform framework for jurisdictions planning under the GMA to consider the consistency of a proposed project with the applicable development regulations or, in the absence of applicable regulations, the adopted comprehensive plan.

Consistency should be considered in the project review process by analyzing four factors found in applicable regulations or plans. The four factors are:

- (1) The type of land use allowed;
- (2) The level of development allowed, such as dwelling units per acre or other measures of intensity;
- (3) Infrastructure, such as the adequacy of public facilities and services to serve the proposed project; and



(4) The characteristics of the proposed development, such as assessment for compliance with specific development regulations or standards. This uniform approach is based upon existing project review practices and should not place a "new" burden on applicants or local government. The intent is that consistency analysis be largely a matter of code checking for most projects, which are simple or routine. More complex projects may require more analysis of these factors, including any required studies. During project review, a question may be raised about whether a project is consistent with applicable regulations or plans after some initial analysis. A project's consistency with applicable development regulations may not initially be clear due to the complexity of the project or the regulations. For example, provision for infrastructure. In these cases, the criteria in the rule are intended to provide guidance to local government, applicants, and reviewers in conducting a consistency analysis. The criteria are not intended for every aspect of the project, only for those aspects where there are still questions of consistency after the initial review.

This rule is advisory in nature. As provided by RCW 36.70B.040, local governments may develop and apply their own procedures for determining project consistency.

#### NEW SECTION

**WAC 365-197-020 Definitions.** (1) "GMA" means the Growth Management Act, chapter 36.70A RCW and those statutes codified in other chapters of the Revised Code of Washington that were enacted or amended as part of chapter 17, Laws of 1990 1st ex. sess. and chapter 32, Laws of 1991 sp. sess.

(2) "GMA county/city" means a county or city that is planning under RCW 36.70A.040.

(3) "SEPA" means the State Environmental Policy Act of 1971, chapter 43.21C RCW, and the SEPA rules, chapter 197-11 WAC, as enacted or later amended.

#### NEW SECTION

**WAC 365-197-030 Integrated project review—GMA project consistency analysis and environmental review under SEPA.** The GMA is a fundamental building block of regulatory reform. The GMA should serve as an integrating framework for other land use-related laws. (ESHB 1724, Section 1.)

Integration of permit review and environmental review is intended to eliminate duplication in processes and requirements. The legislature recognized that consistency analysis and determinations of whether environmental impacts have been adequately addressed involve many of the same studies and analyses. SEPA substantive authority should not be used to condition or deny a permit for those impacts adequately addressed by the applicable development regulations.

The primary role of environmental review under SEPA at the project level is to focus on those environmental impacts that have not been addressed by a GMA county's/city's development regulations and/or comprehensive plan adopted under chapter 36.70A RCW, or other local, state, and federal laws and regulations. SEPA substantive authority should

only be used when the impacts cannot be adequately addressed by existing laws. As consistency analysis involves the application of development regulations and/or the comprehensive plan to a specific project, it will also help answer the question of whether a project's environmental impacts have been adequately addressed by the regulations and/or plan policies.

During project review, a GMA county/city may determine that some or all of the environmental impacts of the project have been addressed by its development regulations, comprehensive plan, or other applicable local, state, or federal laws or rules (RCW 43.21C.240 and WAC 197-11-158). The GMA county/city may make this determination during the course of environmental review and preparation of a threshold determination (including initial consistency review), if the impacts have been adequately addressed in the applicable regulations, plan policies, or other laws. "Adequately addressed" is defined as having identified the impacts and avoided, otherwise mitigated, or designated as acceptable the impacts associated with certain levels of service, land use designations, development standards, or other land use planning decisions required or allowed under the GMA. Once a determination has been made that an impact has been adequately addressed, the jurisdiction may not require additional mitigation for that impact under its SEPA substantive authority.

Thus, through the project review process:

(1) If the applicable regulations require studies that adequately analyze all of the project's specific probable adverse environmental impacts, additional studies under SEPA will not be necessary on those impacts;

(2) If the applicable regulations require measures that adequately address such environmental impacts, additional measures would likewise not be required under SEPA; and

(3) If the applicable regulations do not adequately analyze or address a proposal's specific probable adverse environmental impacts, SEPA provides the authority and procedures for additional review. (Note to RCW 43.21C.240.)

#### NEW SECTION

**WAC 365-197-040 Definition and review of project consistency.** (1) "Project consistency" refers to whether a project is consistent with adopted and applicable development regulations, or in their absence, comprehensive plans adopted under chapter 36.70A RCW.

(2) Project review for consistency is not subject to the provisions of this chapter for regulations or plans that:

(a) Do not exist or have not been adopted under chapter 36.70A RCW; or

(b) Do not apply to the particular project (e.g., no need to review compliance with floodplain ordinances if the site is not in a floodplain).

(3) The adopted and applicable development regulations/plans that apply to a project fall into four basic categories, which are defined in different levels of detail by GMA counties/cities:

(a) Type of land use;

(b) Level of development (dwelling units per acre or other measures of density);

(c) Infrastructure to support the proposed project (public facilities and services); and

(d) The other characteristics of the development (how the project is sited or otherwise built and operated from a growth management/land use and environmental perspective).

(4) Reviewing consistency in these four categories will be largely a code-checking exercise for relatively simple or routine projects in GMA counties/cities with specific development regulations, while more complex projects or projects that affect critical areas may require more analysis.

#### NEW SECTION

**WAC 365-197-050 Criteria to analyze consistency of project actions.** (1) In considering the four basic categories of project consistency, it may not be clear on initial review whether a project is consistent with a particular applicable development regulation, or in its absence, the comprehensive plan. The following criteria, in the form of questions, are intended to assist cities/counties, applicants, and reviewers in analyzing for consistency.

(a) **Type of land use:** Is the project's proposed land use within the range of allowable uses identified for this site in the comprehensive plan/development regulation? This would include uses that may be allowed under certain circumstances if they satisfy approval criteria, for example, planned unit developments, conditional uses, or special uses.

(b) **Level of development:** Is the project's proposed land use within the range of densities, including dwelling units per acre or other measures of intensity, as defined in the comprehensive plan/development regulations? Other measures of intensity may include, but are not limited to, such measures as square footage of nonresidential development, number of employees, or floor area ratio.

(c) **Infrastructure:** Are the system-wide public facilities and services necessary to serve the development available? To make this decision, the local jurisdiction should ask:

(i) Is the system-wide infrastructure sufficient to serve the development? (If yes, no need to ask the next question.)

(ii) Have any system improvements needed for the proposed development and site:

(A) Been identified as necessary to support development in the comprehensive plan; and

(B) Had provision for funding in the comprehensive plan (e.g., capital facilities plan, utilities element, transportation improvement plan)? Alternatively, can the applicant demonstrate capacity, e.g., through a certificate of concurrency process? (If yes, no need to ask the next question.)

(iii) Will the proposed project use more capacity than the usage or assumptions on which the capital facilities plan, utilities element, or transportation improvement plan were based, or will the project cause current service levels to fall below level of service standards identified in the comprehensive plan? (If yes, does the applicant want to pay for the improvements or allow the GMA county/city to docket the issue for future plan amendment?)

(d) **Characteristics of development:** Does the proposed project:

(i) Meet or fall within the range of numerical standards that apply? (Examples of numerical standards may include, but are not limited to, number of dwelling units per acre, floor area ratio, building setbacks, building height, lot size, lot coverage, minimum width and depth for new lots, parking requirements, and density/intensity bonuses or incentives. In applying some of these standards, some overlap may occur with the analysis for level of development, i.e., units per acre and floor area ratio.)

(ii) Promote or not substantially conflict with narrative standards that apply? (Examples of narrative standards include performance standards, engineering or design criteria, methods for determining compliance such as monitoring or contingency plans, and mandatory policies or criteria.) Analysis of consistency with narrative standards may be contingent upon preparation, completion, and approval of required studies, plans, determinations, or monitoring (e.g., delineation of critical areas, mitigation plans, etc.).

(e) For purposes of this section, "system-wide" infrastructure means those public services or facilities that may be needed to serve a geographic area greater than the specific site on which the project is located. For example, sewer systems, water systems, or transportation systems that serve a geographic area beyond the project site. Public services or facilities that are not system-wide and may be needed on or near a proposed project (such as drainage facilities, utility connections or transportation improvements to primarily serve the project) should be addressed through analysis of the characteristics of development.

(2) Analysis of project consistency should take into consideration regulatory standards and policies that provide a method to reconcile a project's proposed type of development, level of development, infrastructure needs, or characteristics of development with development regulation and/or comprehensive plan requirements. Such provisions include, but are not limited to, variance and conditional use procedures, innovative land use techniques, developer funding for infrastructure construction or improvements, and project-specific mitigation measures.

(3) If the information needed to analyze project consistency does not exist in the applicable development regulations or comprehensive plan, the county or city should determine whether a deficiency exists pursuant to WAC 365-197-060.

#### NEW SECTION

**WAC 365-197-060 Definition of plan "deficiency" identified in project review and how such deficiencies should be docketed.** (1) Project review may continue under SEPA and other applicable laws, if, during project review, a GMA county/city identifies a deficiency in the applicable development regulations or the policies in the comprehensive plan. The identified deficiency shall be docketed for possible future development regulation or plan amendments. The applicant may proceed as provided in subsection (4)(c) of this section. The project review process shall not be used

as a comprehensive planning process. Docketed deficiencies shall be considered through the normal amendment process for comprehensive plans or development regulations.

(2) "Deficiency" in a development regulation or comprehensive plan refers to the absence of required or potentially desirable<sup>1</sup> contents of a comprehensive plan or development regulation. It does not refer to whether a development regulation adequately addresses a project's probable specific adverse environmental impacts, which the permitting agency could mitigate in the normal project review process. Some project-specific impacts could be identified that the agency will need to or prefer to address at the project level rather than in the comprehensive plan or development regulations.

For purposes of docketing, use of the term "deficiency" shall not mean that a comprehensive plan or development regulation adopted by a county or city under chapter 36.70A RCW is invalid or out of compliance with chapter 36.70A RCW. Docketing is intended to allow and encourage GMA counties/cities to improve their plans and regulations as a result of experience in reviewing projects, but without stopping review of the project that may have disclosed the "deficiency."

(3) A project should not be found to be inconsistent with applicable regulations or the plan if the inconsistency is the result of a deficiency of one of the four criteria for project consistency. The deficiency should be docketed for possible future regulation or plan amendments, and the project proponent can proceed with either of the options provided in subsection (4)(c) of this section.

(4) The process for identifying and docketing deficiencies during project review is outlined below. The project is analyzed for consistency with the applicable regulations, or in their absence, the plan. If the information to analyze consistency:

(a) Is in the regulations or plan and the project is clearly consistent or inconsistent, the project should proceed through the project review decision process.

(b) Is in the regulations or plan but consistency cannot be clearly determined, more analysis may be required using the criteria in WAC 365-197-040 to analyze consistency.

(c) Does not exist in the regulations or plan, the absence should be docketed for possible future regulation or plan amendments. At this point the applicant may:

(i) Await docketing and decision on the proposed amendment to address the deficiency before proceeding with the project review process; or

(ii) Proceed with the project review process under SEPA and other applicable laws.

#### NEW SECTION

**WAC 365-197-070 Appeals of consistency.** (1) When and how appeals of consistency may fit into a GMA county's/city's appeal process depends upon the individual jurisdiction's project review and appeals process. Nothing in this section requires documentation or dictates a GMA county's/city's procedures for considering consistency.

(2) Fundamental land use planning decisions made in comprehensive plans and development regulations should not be revisited at the project level. During project review,

the local government or any subsequent reviewing body shall not reexamine alternatives to or hear appeals on the planning decisions specified in subsection (3)(a) through (c) of this section, except for issues of code interpretation. The planning decisions in subsection (3)(a) through (c) of this section are a subset of the four basic categories of criteria for analyzing project consistency under WAC 365-197-050 (1)(a) through (d). The planning decisions in subsection (3)(a) through (c) of this section are identified in RCW 36.70B.030(2) as decisions that are determinative and cannot be reexamined at the project level if they have been addressed in the development regulations and/or comprehensive plan. As project review includes environmental review, the local government or subsequent reviewing body shall not reexamine or hear appeals on how the environmental impacts of those planning decisions in subsection (3)(a) through (c) of this section were addressed under chapter 43.21C RCW. However, if environmental information is required to analyze project consistency under subsection (3)(a) through (c) of this section and that information is not available, the decision may still be challenged procedurally under SEPA.

(3) During project review, a GMA county/city or any subsequent reviewing body shall determine whether the items listed in (a) through (c) of this subsection are defined in the development regulations applicable to the proposed project or, in the absence of applicable regulations, the adopted comprehensive plan under chapter 36.70A RCW. At a minimum, such applicable regulations or plans shall be determinative of the:

(a) Type of land use permitted at the site, including uses that may be allowed under certain circumstances, such as planned unit developments and conditional and special uses, if the criteria for their approval have been satisfied;

(b) Density of residential development in urban growth areas, including densities that may be allowed under certain circumstances, such as planned unit developments and density bonuses;

(c) Availability and adequacy of public facilities:

(i) That are needed to serve the proposed development;

(ii) That are identified in the comprehensive plan; and

(iii) For which the plan or development regulations identify the sources of funding, as required by chapter 36.70A RCW.

(4) Upon a determination of consistency of the project with the planning decisions in subsection (3)(a) through (c) of this section, no further analysis of the project with respect to those items will be required. However, because the planning decisions in subsection (3)(a) through (c) of this section do not include all of the project review criteria in WAC 365-197-050 (1)(a) through (d), further analysis may be required to apply the remaining criteria listed in WAC 365-197-050 (1)(a) through (d) that are not addressed in the planning decisions in subsection (3)(a) through (c) of this section. For example, analysis of residential densities outside the urban growth area or the character of development may still need to be addressed.

(5) For purposes of this section, "code interpretation" includes the correct application of the applicable regulations or plan to the project. As part of its project review process, each GMA county/city must adopt procedures for obtaining a

PROPOSED

code interpretation pursuant to RCW 36.70B.030(3) and 36.70B.110(11). A GMA county/city may provide a formal or informal process for code interpretation. The GMA county or city or subsequent reviewing body may consider comments on the application of regulations or the plan to the project without requiring a formal code interpretation.

(6) As provided above, agencies should not be revisiting fundamental land use planning decisions made in comprehensive plans and development regulations at the project level. However, nothing in this chapter limits the authority of a permitting agency to approve, condition, or deny a project as provided in its development regulations adopted under chapter 36.70A RCW and in its SEPA substantive policies adopted under RCW 43.21C.060. An agency may still use its authority under adopted development regulations or SEPA substantive policies to condition a project. For example, an agency may condition a project to reduce neighborhood traffic, which would have the effect of reducing the level of development otherwise permitted by zoning ordinance.

#### NEW SECTION

**WAC 365-197-080 An agency may deny a project based upon consistency analysis.** (1) An agency has the authority to deny a project if it:

(a) Is inconsistent and does not comply with the applicable development regulations, or in their absence, the adopted comprehensive plan;

(b) Will result in significant adverse environmental impacts which cannot be mitigated per RCW 43.21C.060 and WAC 197-11-660; or

(c) Does not comply with other local, state, or federal law and rules.

(2) This rule is not intended to modify any criteria developed by a GMA county/city for denying a project.

#### **WSR 00-03-068**

#### **PROPOSED RULES**

#### **DEPARTMENT OF AGRICULTURE**

[Filed January 19, 2000, 8:30 a.m.]

#### Original Notice.

Preproposal statement of inquiry was filed as WSR 99-24-109.

Title of Rule: Chapter 16-80 WAC, Pseudorabies in swine.

Purpose: The purpose of chapter 16-80 WAC is to detail rules for control, surveillance and eradication of an important swine disease and to protect animal and public health in Washington state.

Statutory Authority for Adoption: RCW 16.36.040.

Statute Being Implemented: RCW 16.36.010, [16.36.]020, [16.36.]040, [16.36.]050, [16.36.]060, [16.36.]090, [16.36.]096, and [16.36.]100.

Summary: Changes add definitions, modernizes the language and makes technical corrections. Changes clarify the surveillance program, quarantine and release procedures, dis-

affection, indemnity, vaccination, identification of swine and mandatory reporting of suspected pseudorabies.

Reasons Supporting Proposal: Modernizes the chapter, provides definitions, removes unnecessary language and makes technical corrections in terminology and testing methods.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Kathleen M. Connell, DVM, 1111 Washington Street, Olympia, WA 98504-2577, (360) 902-1835.

Name of Proponent: Washington State Department of Agriculture, Washington State University College of Veterinary Medicine, Agricultural Animal Health Program Advisory Board, Washington Pork Producers, and USDA-APHIS, VS area office, private and governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Generally, since language is being modernized, there is little change.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The purpose of chapter 16-80 WAC is to detail rules necessary for control, surveillance and eradication of an important swine disease and to protect animal and public health in Washington state. Washington state achieved its Pseudorabies Free or Stage V status in 1993 and has maintained that status since that time. Rules are necessary for surveillance and emergency situations. The federal government relies on state personnel for quarantine and investigative authorities, except in a declared animal health emergency. The chapter clarifies requirements to control and prevent the introduction of this disease into the state.

Proposal Changes the Following Existing Rules: Changes add definitions, modernizes the language and makes technical corrections in terminology and testing methods. The changes clarify requirements to control and prevent the introduction of pseudorabies into the state.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Generally, because only the language is being modernized, the overall impact of these changes is fiscally neutral. The regulatory burden on small agriculture businesses stays the same.

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

Hearing Location: Natural Resources Building, 1st Floor, Cafeteria Conference Room, 1111 Washington Street, Olympia, WA 98504-2577, on February 22, 2000, at 1:30 p.m.

Assistance for Persons with Disabilities: Contact Mary Frazee by February 22, 2000, TDD (360) 902-1996.

Submit Written Comments to: Kathleen M. Connell, DVM, Assistant State Veterinarian, P.O. Box 42577, Olympia, WA 98504-2577, fax (360) 902-1835, by February 22, 2000.

Date of Intended Adoption: March 1, 2000.

January 12, 2000  
Candace A. Jacobs  
Assistant Director

AMENDATORY SECTION (Amending WSR 91-08-027, filed 3/29/91, effective 4/29/91)

**WAC 16-80-005 Definitions.** ~~((For the purpose of this chapter:))~~

(1) "Director" means the director of agriculture of the state of Washington or his ~~((duly))~~ or her authorized representatives.

(2) "Department" means the ~~((Washington state))~~ department of agriculture of the state of Washington.

(3) "Approved pseudorabies vaccine" means only those biological products that are approved by and produced under license of the United States Department of Agriculture (USDA) for injection into swine for the purpose of enhancing their resistance to pseudorabies, are ~~((a))~~ specific gene deletion vaccines and are authorized for use in a specific herd by the state veterinarian.

(4) "Official identification" means a USDA issued backtag or ~~((a metal))~~ an eartag bearing state identification and a unique number.

(5) "Pseudorabies infected herd" means a herd of swine in which ~~((the disease))~~ pseudorabies has been diagnosed ~~((positive))~~ in one or more animals by the National Veterinary Service Laboratory (NVSL) or a state laboratory ~~((which can conduct the serum neutralization))~~ approved by USDA to conduct official pseudorabies tests.

(6) "Expose" means to ~~((lay open))~~ have contact with an animal ((or group of animals to risk of infection by)) infected with the pseudorabies virus.

(7) "Pseudorabies" means a contagious, infectious and communicable disease caused by a herpesvirus that affects swine and other animals.

(8) "Official pseudorabies test" means a test for the diagnosis of pseudorabies conducted in a USDA-approved laboratory. These tests include, but are not limited to, serum neutralization (SN), virus isolation, fluorescent antibody, latex agglutination, particle concentration fluorescence immunoassay (PCFIA) and enzyme-linked immunosorbent assay (ELISA).

AMENDATORY SECTION (Amending WSR 91-08-027, filed 3/29/91, effective 4/29/91)

**WAC 16-80-007 Surveillance program.** All swine blood submitted to the ~~((federal state animal health))~~ department's laboratory for brucellosis testing will be ~~((also))~~ tested for pseudorabies by the latex agglutination test. Samples ~~((which are))~~ positive on the latex agglutination test will be further tested by the enzyme linked ~~((immunosorbant))~~ immunosorbent assay (ELISA) and serum neutralization (SN) tests. The ELISA or SN tests must show positive results before classifying the sample as positive. An epidemiological investigation will be initiated for each positive sample and an attempt will be made to trace such a sample to the herd of origin. Area testing will be done on all swine herds within a five mile radius of any infected premises. Trace forward and trace backward testing will be done in all herds which may have bought animals from or sold animals to the infected herd within a twenty-four month period prior to discovery of the infection.

AMENDATORY SECTION (Amending WSR 91-08-027, filed 3/29/91, effective 4/29/91)

**WAC 16-80-010 Quarantine.** All swine herds ~~((that are))~~ infected with or exposed to pseudorabies ~~((shall))~~ will be quarantined and officially tested for pseudorabies. If the owner of any such swine herd refuses to allow the department to test ~~((for the above disease)),~~ the swine herd and the premises on which they are quarantined ~~((shall))~~ will remain quarantined until released under WAC 16-80-020, RCW 16.36.010 or ~~((RCW 16.36.030))~~ 16.36.020. No animal or products of such animals ~~((shall))~~ will be removed from the premises while they are under quarantine except as provided in RCW ~~((16.36.030))~~ 16.36.010 or 16.36.020.

AMENDATORY SECTION (Amending WSR 91-08-027, filed 3/29/91, effective 4/29/91)

**WAC 16-80-015 Sale of quarantined animals.** ~~((No person shall offer for sale any))~~ Swine from a pseudorabies quarantined herd cannot be offered for sale, except for ((other than)) immediate slaughter((:—Provided, however, That)), Such swine ~~((shall))~~ can only be moved from the pseudorabies quarantined herd when accompanied by an official federal form ~~((number))~~ VS1-27 ~~((filled out))~~ completed and signed by a federal or state veterinarian.

AMENDATORY SECTION (Amending WSR 91-08-027, filed 3/29/91, effective 4/29/91)

**WAC 16-80-020 Quarantine and release.** Any herd of swine in which pseudorabies positive animals are found will be quarantined. The quarantine will be released when the entire quarantined herd has successfully completed Plan A (test and removal), Plan B (offspring segregation), ~~((or))~~ Plan C (depopulation - repopulation) ~~((as described in "Swine Pseudorabies Eradication Guidelines," prepared and published by the pseudorabies committee, Livestock Conservation Institute)),~~ or any plan listed in Pseudorabies Eradication State-Federal-Industry Program Standards, APHIS Document 91-55-041, effective January 1, 1998. Plan C will be the plan of choice if the state-wide herd infection rate is less than 0.1% of total number of state herds. The plan used will be determined by mutual agreement between the herd owner or ~~((their))~~ his or her veterinarian ~~((if so))~~ designated by the owner and the state veterinarian.

AMENDATORY SECTION (Amending WSR 91-08-027, filed 3/29/91, effective 4/29/91)

**WAC 16-80-025 Disinfecting premises.** All barns, feed troughs, water tanks, feeding platforms, farrowing houses, and dry lots where a pseudorabies infected herd has been held must be thoroughly cleaned and disinfected within fifteen days after all infected swine have been removed. Recommended disinfectants are: Orthophenolphenate compounds, phenolic compounds, 2% ~~((Na))~~ sodium hydroxide, ~~((TriNaPO4))~~ trisodium phosphate, chlorhexidine.

PROPOSED

AMENDATORY SECTION (Amending WSR 91-08-027, filed 3/29/91, effective 4/29/91)

**WAC 16-80-030 Disinfecting vehicles.** ~~((+))~~ When a vehicle is used to transport pseudorabies infected animals or pseudorabies exposed animals from a pseudorabies quarantined herd, the vehicle ~~((shall))~~ must be cleaned and disinfected immediately following the unloading of the last animal of each ~~((such))~~ load. The destination of ~~((such))~~ infected or exposed swine ~~((shall))~~ must be equipped with department approved facilities to clean and disinfect vehicles.

~~((2))~~ Upon completion Written approval will be issued after inspection of the cleaning and disinfection of the vehicle ~~((approval of the adequacy of the cleaning and disinfection shall be obtained in writing))~~. This approval must be obtained from a state or federal ~~((animal health employee))~~ veterinarian or registered veterinary technician or from ~~((an authorized representative of))~~ the director ~~((of agriculture on a form approved by the director))~~.

AMENDATORY SECTION (Amending WSR 91-08-027, filed 3/29/91, effective 4/29/91)

**WAC 16-80-035 Indemnity for pseudorabies infected or exposed swine.** ~~((As provided under RCW 16.36.096,))~~ The director ~~((of agriculture))~~ may order the slaughter or destruction of any swine affected with or exposed to pseudorabies. The state veterinarian must approve the disposal methods of those swine destroyed. Subject to the availability of sufficient funds, the director may pay an indemnity for any swine ordered slaughtered or destroyed. When the indemnity is approved, the amount that will be paid is one hundred dollars for any sow past fifty days pregnant or with suckling piglets, fifty dollars for boars and open sows or sows less than fifty days pregnant, and fifty dollars for breeding gilts over two hundred fifty pounds live weight. An indemnity of up to ~~((fifty))~~ seventy-five percent of appraised value of feeding stock will be paid when destroyed rather than slaughtered.

No indemnity will be paid if:

- (1) The state-wide infection rate exceeds 0.1% of total swine herds in the state; or
- (2) The swine belong to the federal government or any of its agencies, this state or any of its political subdivisions ~~((thereof))~~ or any municipal corporations; or
- (3) The swine were brought into this state within six months of being ordered slaughtered or destroyed.

AMENDATORY SECTION (Amending WSR 91-08-027, filed 3/29/91, effective 4/29/91)

**WAC 16-80-040 Vaccination.** No pseudorabies vaccine may be used in the state ~~((of Washington))~~ except when the use of an approved pseudorabies vaccine is specifically authorized in writing by the state veterinarian for use in a pseudorabies infected herd under pseudorabies eradication Plan A (test and removal). Only gene deleted vaccines with a corresponding specific laboratory test will be authorized.

AMENDATORY SECTION (Amending WSR 91-08-027, filed 3/29/91, effective 4/29/91)

**WAC 16-80-045 Identification of swine.** Boars and sows moving through livestock auction yards or collection facilities in intrastate commerce must be tagged with official identification. All swine moving in interstate commerce must be identified in compliance with federal regulation 9 CFR 71.19 a & b.

AMENDATORY SECTION (Amending WSR 91-08-027, filed 3/29/91, effective 4/29/91)

**WAC 16-80-047 Mandatory reporting of suspected pseudorabies.** Pseudorabies is a reportable disease under WAC 16-70-010 and must be reported to the department immediately by persons licensed to practice veterinary medicine in the state ~~((of Washington as required by WAC 16-70-010))~~. Additionally, laboratories and swine producers ~~((are hereby required to))~~ must report to the director ~~((of agriculture or his authorized representative the discovery of))~~ the existence or suspected existence of pseudorabies infection among ~~((domestic))~~ swine within the state. This report ~~((shall))~~ will be ~~((immediate-))~~ immediately made by telephone or FAX on the day ~~((discovered))~~ infection is diagnosed or suspected. Veterinarians, laboratories and swine producers are to make this report to the office of the state veterinarian ~~((telephone number (206) 753-5040, FAX (206) 753-3700))~~.

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 16-80-050 Criminal penalty—Civil injunction.

#### **WSR 00-03-069**

#### **PROPOSED RULES**

#### **DEPARTMENT OF AGRICULTURE**

[Filed January 19, 2000, 8:33 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-24-108.

Title of Rule: Chapter 16-74 WAC, Livestock testing—Duties of owners.

Purpose: The purpose of chapter 16-74 WAC is to detail the livestock owner's responsibilities to present, confine and handle their animals and to furnish adequate facilities during disease testing.

Statutory Authority for Adoption: RCW 16.36.040.

Statute Being Implemented: RCW 16.36.010, [16.36.]020, [16.36.]040, [16.36.]060, and [16.36.]100.

Summary: Changes add definitions, modernizes the language and includes all livestock, not just cattle.

Reasons Supporting Proposal: Modernizes the chapter and provides definitions.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Kathleen M. Connell, DVM, 1111 Washington Street, Olympia, WA 98504-2577, (360) 902-1835.

Name of Proponent: Washington State Department of Agriculture, Washington State University College of Veterinary Medicine, Agricultural Animal Health Program Advisory Board, Washington Cattle Feeders Association, Washington Cattlemen's Association, Washington State Dairy Federation, Washington Sheep Producers, Washington Pork Producers, Northwest Egg Producers Cooperative Association, USDA-APHIS, VS., private and governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Since language is only being modernized, there is little change.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The purpose of chapter 16-74 WAC is to detail the owner's responsibilities when their livestock is being tested. This protects animal and public health in Washington state and creates safer working/handling conditions for the testers and the livestock.

Proposal Changes the Following Existing Rules: Changes and definitions and modernizing the language. The changes also include all livestock, not just cattle.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The changes merely modernize language, so the overall impact of these changes is fiscally neutral. The regulatory burden on small agriculture businesses stays the same.

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

Hearing Location: Natural Resources Building, 1st Floor, Cafeteria Conference Room, 1111 Washington Street, Olympia, WA 98504-2577, on February 22, 2000, at 1:15 p.m.

Assistance for Persons with Disabilities: Contact Mary Frazee by February 22, 2000, TDD (360) 902-1996.

Submit Written Comments to: Kathleen M. Connell, DVM, Assistant State Veterinarian, P.O. Box 42577, Olympia, WA 98504-2577, fax (360) 902-2087, by February 22, 2000.

Date of Intended Adoption: March 1, 2000.

January 12, 2000

Candance Jacobs

Assistant Director

NEW SECTION

**WAC 16-74-005 Definitions.** (1) "Communicable disease" means a disease due to a specific infectious agent or its toxic products transmitted from an infected person, animal or inanimate reservoir to a susceptible host, either directly or indirectly through an intermediate plant or animal host, vector or the environment.

(2) "Contagious disease" means a communicable disease that is capable of being easily transmitted from one animal to another animal or a human.

(3) "Director" means the director of agriculture of the state of Washington or his or her authorized representative.

(4) "Department" means the department of agriculture of the state of Washington.

(5) "Infectious disease" means a clinical disease of humans or animals resulting from an infection with an infectious agent that may or may not be communicable or contagious.

(6) "Livestock" means horses, mules, donkeys, cattle, bison, sheep, goats, swine, rabbits, llamas, alpacas, ratites, poultry, waterfowl, game birds and other species designated by statute. "Livestock" does not mean free ranging wildlife as defined in Title 77 RCW.

AMENDATORY SECTION (Amending Order 776, Regulation 1, effective 5/26/58)

**WAC 16-74-010 Presenting and confining (~~(cattle)~~) livestock for testing.** Livestock owners (~~(shall be)~~) are required to present and confine their (~~(cattle)~~) livestock when (~~(such cattle)~~) they are to be tested for (~~(tuberculosis and/or brucellosis or)~~) any infectious, communicable or contagious disease(~~(, such confinement and presentment)~~). The accessibility and confinement of the livestock are to be in a manner and at (~~(such)~~) reasonable times as prescribed by the director (~~(of agriculture)~~).

AMENDATORY SECTION (Amending Order 776, Regulation 2, effective 5/26/58)

**WAC 16-74-020 Facilities.** Owners must furnish adequate facilities to assure convenient and safe procedures in conducting (~~(such)~~) all tests(~~(, which facilities may be required to)~~). The required facilities may include corrals, chutes, stanchions and/or squeeze chutes as deemed necessary by the director or his duly authorized representative (~~(or inspector in any given instance)~~).

AMENDATORY SECTION (Amending Order 776, Regulation 3, effective 5/26/58)

**WAC 16-74-030 Handling.** All handling of (~~(cattle)~~) livestock for the purpose of testing, sampling or drawing of blood samples (~~(shall be)~~) is the responsibility of the owner.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 16-74-001 Promulgation.

WAC 16-74-040 Penalty

PROPOSED

**WSR 00-03-070**  
**PROPOSED RULES**  
**DEPARTMENT OF AGRICULTURE**

[Filed January 19, 2000, 8:35 a.m.]

**Original Notice.**

Preproposal statement of inquiry was filed as WSR 99-24-107.

Title of Rule: Chapter 16-70 WAC, Animal disease—Reporting.

Purpose: The rule is necessary to carry out the director's duties to protect animal health/public health in the state. The additional reporting requirements of the USDA-APHIS, VS, National Animal Health Reporting System program requires modifications of the reportable disease lists.

Statutory Authority for Adoption: RCW 16.36.010(1), [16.36.]040, and [16.36.]080(4).

Statute Being Implemented: RCW 16.36.010, [16.36.]020, [16.36.]040, [16.36.]060, and [16.36.]100.

Summary: The rule is written in an organized, clear and concise manner although it consists of lists of diseases with long, complicated names. The target audience should know the names of the diseases or can research a full description.

Reasons Supporting Proposal: Some minor technical changes are necessary to update the rule and the lists of diseases needs to be amended to bring them up to date. The additional reporting requirements of the USDA-APHIS, VS, NAHRS program require modification of the reportable disease lists.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Robert W. Mead, DVM, 1111 Washington Street, Olympia, WA 98504-2577, (360) 902-1881.

Name of Proponent: USDA, APHIS, VS, veterinarians, veterinary laboratories and corporations having in-house veterinary laboratories, livestock groups, private and governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: No other government agency has jurisdiction over animal disease reporting other than the USDA-APHIS NAHRS program.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The rule spells out what diseases are to be reported to the director of agriculture and in what time frame from veterinarian, laboratories and other entities as provided by law. Clinical case definitions are added to this revision of the rule to clarify reporting criteria and responsibilities.

Proposal Changes the Following Existing Rules: [No information supplied by agency.]

No small business economic impact statement has been prepared under chapter 19.85 RCW. The rule does not result in any significant inequities or disproportionate impacts. The benefits to the general population is maintaining good animal disease control and public health and is greater than the relative low cost of reporting the listed diseases.

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

Hearing Location: Natural Resources Building, 1st Floor, Cafeteria Conference Room, 1111 Washington Street, Olympia, WA 98504-2577, on February 22, 2000, at 1:00 p.m.

Assistance for Persons with Disabilities: Contact Mary Frazee by February 22, 2000, TDD (360) 902-1996.

Submit Written Comments to: Robert W. Mead, DVM, State Veterinarian, P.O. Box 42577, Olympia, WA 98504-2577, fax (360) 902-2087, by February 22, 2000.

Date of Intended Adoption: March 1, 2000.

January 18, 2000

Candace Jacobs

Assistant Director

AMENDATORY SECTION (Amending Order 5011, filed 9/21/93, effective 10/22/93)

**WAC 16-70-005 Definitions.** For the purpose of this chapter:

(1) "Animal" means any animal species except fish and insects including all those so classified as wild, captive wild, exotic wild, alternative livestock, semidomesticated, domestic or farm.

(2) "Domestic animal" means any farm animal raised for the production of food and fiber or companion animal or both.

(3) "Farm animal" means any species which have normally and historically been kept and raised on farms in Washington, the United States, or elsewhere and used or intended for use as food, fiber, breeding, or draft and which may be legally kept for such use in Washington and are not those animals classified as wildlife or deleterious exotic wildlife under Title 77 RCW.

(4) "Alternative livestock" means any species which can be kept or raised on farms and used or intended for use as food, fiber, breeding, or draft and which may be legally kept for use in Washington and are not those animals classified as wildlife or deleterious exotic wildlife under Title 77 RCW.

(5) "Wild animal" means those species of the class Mammalia whose members exist in Washington in a wild state.

(6) "Exotic wild animal" means those species of (~~class Mammalia~~) animals whose members do not exist in the state of Washington but exist elsewhere in the world in the wild state.

(7) "OIE" means Office International des Epizooties.

(8) "Veterinary laboratory" means a place equipped for performing diagnostic or investigative procedures on submitted specimens from animals and fish or their environment where the tests are conducted by personnel whose primary duties are to conduct such procedures.

AMENDATORY SECTION (Amending Order 5011, filed 9/21/93, effective 10/22/93)

**WAC 16-70-010 Reporting diseases—Requirements.**

(1) Any person licensed to practice veterinary medicine in the state of Washington, veterinary laboratories, and others designated by statute shall report to the director (~~(of agriculture or his authorized representative)~~) the discovery of the exist-



ence or suspected existence among any (~~wild, captive wild, exotic wild, alternative livestock, semi-domesticated or domestic~~) animals within the state any of the reportable diseases as published by the director of agriculture. Case definitions shall conform to OIE standards under the OIE International Animal Health Code where a case means an individual animal affected by one of the infectious or parasitic diseases recognized by OIE, the criterion by which "affected" is defined and made clear in each instance (for example: Clinical signs, serological evidence, etc.). The OIE International Animal Health Code can be found on the internet under OIE-International Standards. The International Animal Health Code is available in web format or a hard copy version may be ordered from OIE. Exceptions to the above standards are as noted in subsection (3) of this section.

(2) The following listed emergency diseases, suspected or confirmed, shall be reported immediately (by telephone or FAX on day discovered) to the office of the state veterinarian whenever encountered among animals within the state:

All suspected foreign or eradicated diseases including all of the following diseases:

African Horse Sickness  
African Swine Fever  
Bovine Spongiform Encephalopathy (BSE)  
Caprine and Ovine Brucellosis (excluding Brucella ovis)  
Classical Swine Fever (Hog Cholera)  
Contagious Bovine Pleuropneumonia  
Contagious Equine Metritis  
Contagious Agalactia  
Contagious Caprine Pleuropneumonia  
Dourine  
Enterovirus Encephalomyelitis (exotic strains)  
Epizootic Lymphangitis  
Equine Piroplasmiasis  
Exotic (velogenic and mesogenic strains) Newcastle Disease  
Foot and Mouth Disease (all types)  
Glanders  
Heartwater  
Horse Pox  
Japanese Encephalitis  
Lumpy Skin Disease  
Malignant Catarrhal Fever (foreign strain)  
Nairobi Sheep Disease  
Ovine Pulmonary Adenomatosis  
Peste des Petits Ruminants  
Rift Valley Fever  
Rinderpest  
Salmonellosis (Salmonella abortus ovis)  
Screwworm

Sheep Pox and Goat Pox

Surra (Trypanosoma evansi)

Theileriosis (Theileria parva, T. annulata and other foreign species)

Trypanosomiasis (Trypanosoma congolense, T. vivax, T. brucei brucei)

Venezuelan Equine Encephalomyelitis

In addition the following foreign fish diseases are reportable to the director through the director of the Washington department of fish and wildlife:

Epizootic Hematopoietic Necrosis

Herpesvirosis of Salmonids (Onchorynchus Masou Virus Disease)

Spring Viremia of Carp

Viral Hemorrhagic Septicemia (European strain)

The following domestic diseases are also reportable immediately:

Anthrax

((Contagious equine metritis))

Fowl Plague (Highly Pathogenic Avian Influenza)

Rabies

Swine Vesicular Disease

Sylvatic plague

Vesicular stomatitis

(3) The following listed diseases suspected or confirmed shall be reported (~~by the phone~~) the next working day, by telephone or FAX to the office of the state veterinarian whenever encountered among animals within the state. Case definitions are as indicated for each disease.

((Brucellosis

Contagious ecthyma (sheep, goats, llamas)

Equine encephalitis-EEE, WEE (horses)

Infectious coryza (poultry)

Laryngotracheitis (poultry)

Lyme disease (any species)

Ornithosis (birds)

Potomac Horse Fever (horses)

Pseudorabies (swine)

Serapie (sheep, goats)

Tuberculosis

Tularemia (sheep, dog, cats, rabbits, wildlife)

(4))

Brucellosis (positive serology, abortion, or bacterial cultural)

PROPOSED

Contagious Ecthyma (sheep, goats, llama, alpaca) (clinical signs or virus isolation)

Chronic Wasting Disease (Cervids) (clinical signs, histopathology, or chemical histopathology)

Equine Encephalitis EEE, WEE (horses) (clinical signs, histopathology, or positive serology with increasing titer)

Fowl Typhoid (Salmonella gallinarum) (bacterial culture and positive serology)

Infectious Coryza (poultry) (clinical signs, bacterial culture and positive serology)

Laryngotracheitis (poultry) (clinical signs, viral culture or positive serology)

Lyme Disease (any species) (clinical signs and positive serology)

Ornithosis or Psittacosis (all birds) (bacterial culture, positive serology, or other positive laboratory diagnostic tests)

Pullorum Disease (Salmonella pullorum or typhoid) (bacterial culture and positive serology)

Potomac Horse Fever (horses) (clinical signs and positive serology)

Pseudorabies (swine) (positive serology)

Scrapie (sheep, goats) (clinical signs, histopathology, or chemical histopathology)

Tuberculosis (clinical signs, history of exposure, responder to tuberculin, granulomas submitted as possible tuberculosis lesions, acid fast organisms not identified as Johne's or benign types, bacterial culture positive for M. tuberculosis, M. bovis or M. avium in a mammal, or other laboratory tests diagnostic for M. tuberculosis, M. bovis or M. avium in a mammal)

Tularemia (sheep, dogs, cats, rabbits, wildlife) (clinical signs, serology or bacterial culture)

(4) The following listed diseases are reportable monthly by the fifth working day of the month to the office of the state veterinarian when diagnosed in the previous month by any veterinary laboratory performing testing or diagnostic procedures on any animal resident in the state of Washington. Only the first case of each individual disease diagnosed each month needs to be reported. The diseases listed below with others listed in subsections (1) and (2) of this section will be reported on a qualitative basis each month to the National Animal Health Reporting System (NAHRS) by the state veterinarian.

Anaplasmosis

Atrophic Rhinitis

Babesiosis

Bovine Genital Campylobacteriosis

Avian Infectious Bronchitis

Avian Tuberculosis

Caprine Arthritis/Encephalitis (CAE)

Cysticercosis

Dermatophilosis (Dermatophilus congolensis) cattle only

Duck Viral Enteritis

Duck Viral Hepatitis

Bluetongue

Echinococcosis/Hydatidosis

Enzootic Abortion of Ewes (Ovine Psittacosis, Chlamydia psittaci)

Enzootic Bovine Leukosis (BLV)

Equine Influenza (Virus Type A)

Equine Rhinopneumonitis (1 and 4)

Equine Viral Arteritis (EVA)

Fowl Cholera (Pasteurella multocida)

Fowl Pox

Hemorrhagic Septicemia (Pasteurella multocida)

Horse mange

Infectious Bursal Disease (Gumboro Disease)

Infectious Bovine Rhinotracheitis/Infectious Pustular Vulvovaginitis (IBR/IPV)

Infectious Hematopoietic Necrosis (to be reported by fish laboratories)

Leptospirosis

Maedi-Visna/Ovine Progressive Pneumonia

Marek's Disease

Mycoplasmosis (Mycoplasma gallisepticum)

Ovine Epididymitis (Brucella ovis)

Paratuberculosis (Johne's Disease)

Porcine Reproductive and Respiratory Syndrome (PRRS)

Transmissible Gastroenteritis (TGE)

Trichomoniasis

Q Fever (Coxiella burnetti)

(5) The following list of diseases suspected or confirmed by veterinarians or veterinary laboratories shall be reported if notified to do so by letter from the state veterinarian's office whenever encountered in any animals during the reporting month. These diseases are to be reported by the 10th day of the next month. The case definition will be supplied with notification of required reporting.

Anaplasmosis

Aleutian disease (mink)

Atrophic rhinitis

Blackleg

Bovine viral diarrhea

Botulism (horses, swine, mink)

Bluetongue

Campylobacteriosis

Coccidiosis (clinical cases only)

~~((Chronic wasting diseases of deer (captive)))~~

Distemper (dogs, mink)

Edema disease of swine

Equine protozoal myeloencephalitis

Equine viral arteritis (abortion or respiratory)

Equine viral rhinopneumonia (abortion)

Erysipelas (swine)

Feline panleukopenia

Heartworm

Histoplasmosis

Influenza (swine) (horses)

Leptospirosis

Leukosis (cattle)

Leukemia (cats)

Listeriosis

Malignant edema (horses, cattle)

Malignant catarrhal fever (sheep)

Mycotic stomatitis

Infectious mastitis (cattle) (goats)

Newcastle disease (lentogenic or low pathogenic strain)

Paratuberculosis (Johne's disease, confirmed only)

Parvo and related viruses (dogs)

Salmonellosis (including paratyphoid(;;) and enteritidis  
(~~and typhoid~~) in poultry typhimurium (DT 104), S.  
dublin and S. newport in cattle and any salmonella  
outbreaks in horses)

Scabies (swine and small animals) (nonotodectic)

Strangles (confirmed Strep. equi)

Tetanus (clostridium tetani) (horses) (sheep)

Transmissible mink encephalopathy

Toxoplasmosis

Transmissible gastroenteritis (TGE of swine)

Tuberculosis (dogs, cats)

Trichomoniasis

~~((Campylobacteriosis))~~

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

|               |   |
|---------------|---|
| WAC 16-70-001 | Promulgation.                             |
| WAC 16-70-030 | Reporting diseases—Lists may be modified. |

#### WSR 00-03-073

#### PROPOSED RULES

#### DEPARTMENT OF HEALTH

[Filed January 19, 2000, 9:50 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-17-100.

Title of Rule: Chapter 246-338 WAC, Medical test site rules.

Purpose: The proposed changes are to improve the organization, clarify the wording, and update references in the rule. There is only one substantive change in the requirements for medical test sites, which is an increase in the acceptable passing score for HIV proficiency testing from 80% to 100%.

Statutory Authority for Adoption: RCW 70.42.005, 70.42.060.

Statute Being Implemented: Chapter 70.42 RCW.

Summary: Proposed changes to chapter 246-338 WAC include reorganization and rewriting of requirements for clarity and ease of use for licensees and updating references.

Reasons Supporting Proposal: The proposed changes will improve the organization and readability of the rules, making it easier for licensees to locate information and understand the requirements for medical test sites. The proposed change in the acceptable passing score for HIV proficiency testing will ensure that HIV testing procedures are monitored for the highest level of accuracy.

Name of Agency Personnel Responsible for Drafting and Implementation: Gail Neuenschwander, 1610 N.E. 150th Street, Seattle, 98155-9701, (206) 361-2805; 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 medical test site rule licenses all sites that perform clinical laboratory testing in the state. The state law was passed to take the place of federal regulation (CLIA). The proposed changes will continue to meet the federal regulations and will improve the organization of the rule and clarify the requirements for the licensees. Tables have been added to the rule to increase the ease of locating specific requirements. The increase in the acceptable passing score for HIV testing from 80% to 100% will ensure that HIV testing procedures are monitored for the highest level of accuracy.

Proposal Changes the Following Existing Rules: The proposed changes amend all sections of the existing chapter 246-338 WAC. The changes improve the organization of the chapter by clearly indicating how to apply for a license; how to renew a license; and what are the requirements for each type of license. Tables are used to assist licensees in finding specific information.

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.

PROPOSED

RCW 34.05.328 does not apply to this rule adoption. Section 201, chapter 403, Laws of 1995 does not apply to rules that adopt without material change, federal statutes or regulations (RCW 34.05.328 (5)(b)(ii)).

Hearing Location: Department of Health, Target Plaza, Training Room, 2725 Harrison Avenue N.W., Suite 500, Olympia, WA 98502, on February 22, 2000, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Theresa Phillips, by January 25, 2000, TDD (800) 833-6388, or (360) 705-6652.

Submit Written Comments to: Gail Neuenschwander, Office of Laboratory Quality Assurance, 1610 N.E. 150th Street, Shoreline, WA 98155, or e-mail gail.neuenschwander@doh.wa.gov, fax (206) 361-2813, by February 21, 2000.

Date of Intended Adoption: February 25, 2000.

January 18, 2000

M. C. Selecky

Secretary

**AMENDATORY SECTION** (Amending Order 121, filed 12/27/90, effective 1/31/91)

**WAC 246-338-001 Purpose.** The purpose of this chapter is to implement chapter 70.42 RCW, by establishing ~~((minimum))~~ licensing standards for medical test sites, consistent with federal law and regulation, related to quality control, quality assurance, ~~((recordkeeping))~~ records, personnel requirements, proficiency testing, and licensure waivers.

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

**WAC 246-338-010 Definitions.** For the purposes of ~~((chapter 70.42 RCW and))~~ this chapter, the following words and phrases have these meanings unless the context clearly indicates otherwise.

(1) "Accreditation ~~((body))~~ organization" means a public or private organization or agency ~~((which accredits, certifies, or licenses medical test sites, by establishing and monitoring standards judged by the department to be))~~ approved by HCFA as having standards which are consistent with federal law and regulation, and judged by the department to be equivalent to this chapter.

(2) "Authorized person" means any individual allowed by Washington state law or rule to order tests or receive test results.

(3) "Biannual verification" means a system for verifying the accuracy of test results, at least twice a calendar year, for those tests for which proficiency testing is not required by the department.

(4) "Calibration" means a process of testing and adjusting an instrument, kit, or test system to provide a known relationship between the measurement response and the value of the substance that is being measured by the test procedure.

(5) "Calibration verification" means the assaying of calibration materials in the same manner as patient samples to confirm that the calibration of the instrument, kit, or test system has remained stable throughout the laboratory's reportable range for patient test results.

(6) "Calibrator" means a material, solution, or lyophilized preparation designed to be used in calibration. The values or concentrations of the analytes of interest in the calibration material are known within limits ascertained during its preparation or before use.

(7) "Case" means any slide or group of slides, from one patient specimen source, submitted to a medical test site, at one time, for the purpose of cytological or histological examination.

~~((4))~~ "Certificate of waiver" means a medical test site performing one or more of the tests listed under WAC 246-338-030(11), and no other tests.

~~((5))~~ (8) "CDC" means the federal Centers for Disease Control and Prevention.

(9) "CLIA" means Section 353 of the Public Health Service Act, Clinical Laboratory Improvement Amendments of 1988, and regulations implementing the federal amendments, 42 CFR Part 493-Laboratory Requirements.

(10) "Control" means a material, solution, lyophilized preparation, or pool of collected serum designed to be used in the process of quality control. The concentrations of the analytes of interest in the control material are known within limits ascertained during its preparation or before routine use.

(11) "Control slide" means a preparation of a material known to produce a specific reaction which is fixed on a glass slide and is used in the process of quality control.

(12) "Days" means calendar days.

~~((6))~~ (13) "Deemed status" means recognition that the requirements of an accreditation organization have been judged to be equal to, or more stringent than, the requirements of this chapter and the CLIA requirements, and the accreditation organization has agreed to comply with all requirements of this chapter and CLIA.

(14) "Deficiency" means a finding from an inspection or complaint investigation that is not in compliance with this chapter and requires corrective action.

(15) "Department" means the department of health.

~~((7))~~ "Designated test site supervisor" (16) "Direct staff time" means all state employees' work time; travel time; telephone contacts and staff or management conferences; and expenses involved with a complaint investigation or an on-site follow-up visit.

(17) "Director," defined as the designated test site supervisor in RCW 70.42.010, means the ~~((available))~~ individual responsible for the technical functions of the medical test site ~~((and meeting)).~~ This person must meet the qualifications for Laboratory Director, listed in 42 CFR Part 493 Subpart M - Personnel for Moderate and High Complexity Testing.

~~((8))~~ (18) "Disciplinary action" means license or certificate of waiver denial, suspension, condition, revocation, civil fine, or any combination of the preceding actions, taken by the department against a medical test site.

~~((9))~~ (19) "Facility" means one or more locations within one campus or complex where tests are performed((; within one campus or complex;)) under one owner.

~~((10))~~ "Federal law and regulation" means Section 353 of the Public Health Service Act, Clinical Laboratory Improvement Amendments of 1988, and regulations implementing the federal amendments, 42 CFR Part 493 - Laboratory Requirements.

~~((11))~~ (20) "Forensic" means investigative testing in which the results are never used for ((health care or treatment)) clinical diagnosis, or referral to a health care ((or)) provider for treatment((:)) of ((the)) an individual.

~~((12)) "Licensed test" means all tests categorized as provider-performed microscopic procedures or moderate or high complexity tests consistent with federal law and regulation and not specifically listed as waived under WAC 246-338-030(11), or defined as forensic under subsection (11) of this section.~~

~~((13)) "Limited public health testing" means a combination of fifteen or less waived tests, as listed under WAC 246-338-030(11), or tests of moderate complexity, as defined under subsection (12) of this section;~~

~~((14))~~ (21) "HCFA" means the federal Health Care Financing Administration.

(22) "High complexity" means a test system, assay, or examination that is categorized under CLIA as a high complexity test.

~~((23))~~ "May" means permissive or discretionary ((on the part of the department)).

~~((15))~~ (24) "Medical test site" or "test site" means any facility or site, public or private, which analyzes materials derived from the human body for the purposes of health care, treatment, or screening. A medical test site does not mean:

(a) A facility or site, including a residence, where a test approved for home use by the Federal Food and Drug Administration is used by an individual to test himself or herself without direct supervision or guidance by another and where this test is not part of a commercial transaction; or

(b) A facility or site performing tests solely for forensic purposes.

~~((16))~~ (25) "Moderate complexity" means a test system, assay, or examination that is categorized under CLIA as a moderate complexity test.

(26) "Must" means compliance is mandatory.

(27) "Nonwaived" means all tests categorized under CLIA as:

(a) Moderate complexity tests, including provider-performed microscopic procedures; or

(b) High complexity tests.

(28) "Owner" means the person, corporation, or entity legally responsible for the business requiring licensure or a certificate of waiver as a medical test site under chapter 70.42 RCW.

~~((17))~~ (29) "Performance specification" means a value or range of values for a test that describe its accuracy, precision, analytical sensitivity, analytical specificity, reportable range and reference range.

~~((18))~~ (30) "Person" means any individual, public organization, private organization, agent, agency, corporation, firm, association, partnership, or business.

~~((19))~~ (31) "Physician" means an individual with a doctor of medicine, doctor of osteopathy, doctor of podiatric medicine, or equivalent degree who is a licensed professional under chapter 18.71 RCW Physicians; chapter 18.57 RCW Osteopathy—Osteopathic medicine and surgery; or chapter 18.22 RCW Podiatric medicine and surgery.

~~((20))~~ (32) "Provider-performed microscopic procedures" means only those moderate complexity tests listed

under WAC 246-338-020 (2)(b)(i) through ~~((xix))~~ (x), when the tests are performed in conjunction with a patient's visit by a licensed professional meeting ~~((one or more of the following))~~ qualifications(:

~~(a) Physician licensed under chapter 18.71 RCW, Physicians; chapter 18.57 RCW, Osteopathy—Osteopathic medicine and surgery; or chapter 18.22 RCW, Podiatric medicine and surgery;~~

~~(b) Advanced registered nurse practitioner, licensed under chapter 18.88 RCW, Registered nurses;~~

~~(c) Midwife licensed under chapter 18.50 RCW, Midwifery;~~

~~(d) Physician assistant licensed under chapter 18.71A RCW, Physician assistants; or~~

~~(e) Naturopath licensed under chapter 18.36A RCW, Naturopathy))~~ specified in WAC 246-338-020 (2)(a)(i) through (vi).

~~((21))~~ (33) "Provisional license" means an interim approval issued by the department to the owner of a medical test site.

~~((22)) "Recordkeeping"))~~ (34) "Records" means books, files, reports, or ((records)) other documentation necessary to show compliance with the quality control and quality assurance requirements under this chapter.

~~((23)) "Shall" means compliance is mandatory.~~

~~((24))~~ (35) "Reference material" means a material or substance, calibrator, control, or standard where one or more properties are sufficiently well established for use in calibrating a process or for use in quality control.

(36) "Specialty" means a group of similar subspecialties or tests. The specialties for a medical test site are as follows:

- (a) Chemistry;
- (b) Cytogenetics;
- (c) Diagnostic immunology;
- (d) Immunohematology;
- (e) Hematology;
- (f) Histocompatibility;
- (g) Microbiology;
- (h) Pathology; and
- (i) Radiobioassay.

~~((25))~~ (37) "Standard" means a reference material of fixed and known chemical composition capable of being prepared in essentially pure form, or any certified reference material generally accepted or officially recognized as the unique standard for the assay regardless of level or purity of the analyte content.

(38) "Subspecialty" means a group of similar tests. The subspecialties of a specialty for a medical test site are as follows, for:

- (a) Chemistry, the subspecialties are routine chemistry, urinalysis, endocrinology, toxicology, and other chemistry;
- (b) Diagnostic immunology, the subspecialties are syphilis serology and general immunology;
- (c) Immunohematology, the subspecialties are blood group and Rh typing, antibody detection, antibody identification, crossmatching, and other immunohematology;
- (d) Hematology, the subspecialties are routine hematology, coagulation, and other hematology;

(e) Microbiology, the subspecialties are bacteriology, mycology, parasitology, virology, and mycobacteriology; and

(f) Pathology, the subspecialties are histopathology (including dermatopathology), diagnostic cytology, and oral pathology.

~~((26))~~ (39) "Supervision" means authoritative procedural guidance by ~~((a qualified))~~ an individual qualified under 42 CFR Part 493 Subpart M - Personnel for Moderate and High Complexity Testing, assuming the responsibility for the accomplishment of a function or activity by technical personnel.

~~((27))~~ (40) "Technical personnel" means individuals employed to perform any test or part of a test.

~~((28))~~ (41) "Test" means any examination or procedure conducted on a sample taken from the human body ~~((including screening))~~.

(42) "Validation inspection" means an on-site inspection by the department of an accredited medical test site to determine that the accreditation organization's regulations are equivalent to this chapter and are enforced.

(43) "Waived test" means a test system that is:

(a) Cleared by the Food and Drug Administration for home use; or

(b) A simple laboratory examination or procedure that has an insignificant risk of an erroneous result.

In order for a test system to be waived, it must be approved for waiver under CLIA.

(44) "Will" means compliance is mandatory.

**AMENDATORY SECTION** (Amending WSR 97-14-113, filed 7/2/97, effective 8/2/97)

**WAC 246-338-020 Licensure—Types of ~~((the))~~ medical test site~~((s))~~ licenses.** ~~((1))~~ After July 1, 1990, no person shall advertise, operate, manage, own, conduct, open, or maintain a medical test site without first obtaining from the department, a license or a certificate of waiver as described under chapter 70.42 RCW and this chapter.

(2) Applicants requesting a medical test site license or renewal shall:

(a) ~~Submit a completed application and fee for the appropriate category of license to the department on forms furnished by the department, including signature of the owner;~~

(b) ~~Submit a completed application and fee for provider-performed microscopic procedures if the medical test site:~~

(i) ~~Restricts its testing performance to waived tests as listed under WAC 246-338-030(11) and one or more of the tests listed in this section, unless specifically allowed or disallowed under federal law and regulation:~~

(A) ~~Wet mounts, including, but not limited to, preparations of vaginal, cervical or skin specimens;~~

(B) ~~Potassium hydroxide (KOH) preparations;~~

(C) ~~Pinworm examinations;~~

(D) ~~Fern tests;~~

(E) ~~Post-coital direct, qualitative examinations of vaginal or cervical mucous;~~

(F) ~~Urine sediment examinations;~~

(G) ~~Nasal smears for eosinophils;~~

(H) ~~Post-vasectomy qualitative semen analysis; and~~

~~((1))~~ Any other tests specifically categorized under federal law and regulation as provider-performed microscopic procedures; and

(ii) ~~Meets the requirements of this chapter for personnel, recordkeeping, quality control, quality assurance and, if applicable, proficiency testing;~~

(e) ~~File a separate application for each facility except under the following conditions:~~

(i) ~~If the medical test site is not at a fixed location and moves from testing site to testing site, or uses a temporary testing location such as a health fair, the medical test site may apply for a single license for the home base location;~~

(ii) ~~If the medical test site is a not-for-profit or state or local government laboratory that engages in limited public health testing at different locations, the owner may file an application for a single license;~~

(d) ~~Furnish full and complete information to the department in writing, as required for proper administration of rules implementing chapter 70.42 RCW including:~~

(i) ~~Name, address, and phone number of the medical test site;~~

(ii) ~~Name, address, and phone number of the owner of the medical test site;~~

(iii) ~~Number and types of tests performed, planned, or projected;~~

(iv) ~~Names and qualifications including educational background, training, and experience of the designated test site supervisor;~~

(v) ~~Names and qualifications including educational background, training, and experience of technical personnel, if requested by the department, in order to determine consistency with federal law and regulation;~~

(vi) ~~Name of proficiency testing program or programs used by the medical test site and a copy of the enrollment form for initial application;~~

(vii) ~~Other information as required to implement chapter 70.42 RCW; and~~

(viii) ~~Methodologies for tests performed, when the department determines the information is necessary, consistent with federal law and regulation.~~

(e) ~~Submit to inspections by the Health Care Financing Administration (HCFA) or HCFA agents as a condition of licensure or approval, for the purpose of validation or in response to a complaint against the medical test site; and~~

(f) ~~Authorize the department to release to HCFA or HCFA agents all records and information requested by HCFA;~~

(3) ~~The owner or applicant shall submit an application and fee to the department thirty days prior to the expiration date of the current license.~~

(4) ~~The department shall:~~

(a) ~~Issue or renew a license for the medical test site, valid for two years, when the applicant or owner meets the requirements of chapter 70.42 RCW and this chapter, subject to subsection (7) of this section;~~

(b) ~~Terminate a provisional license, at the time a two-year license for the medical test site is issued;~~

(e) ~~Establish fees to be paid under WAC 246-338-990;~~

(d) Prohibit transfer or reassignment of a license without thirty days prior written notice to the department and the department's approval;

(e) Examine records of the medical test site, if the department believes a person is conducting tests without an appropriate license;

(f) Give written notice of any violations to the medical test site, including a statement of deficiencies observed and requirements to:

(i) Present a written plan of correction to the department within fourteen days following the date of postmark; and

(ii) Comply within a specified time, not to exceed sixty days, after department approval of a written plan of correction;

(g) Allow the owner a reasonable period of time, not to exceed sixty days, to correct a deficiency unless the deficiency is an immediate threat to life, health, or safety.

(5) The department shall also issue a license for a medical test site if the medical test site:

(a) Is accredited, certified, or licensed by an accreditation body under WAC 246-338-040; and

(b) Submits to the department:

(i) Information defined under subsection (2)(a) and (d) of this section;

(ii) Proof of accreditation, certification or licensure by an accreditation body within eleven months of issuance of the medical test site license; and

(c) Authorizes the accrediting body to submit, upon request from the department:

(i) On-site inspection results;

(ii) Statement of deficiencies;

(iii) Plan of correction for the deficiencies cited;

(iv) Any disciplinary action and results of any disciplinary action taken by the accreditation body against the medical test site; and

(v) Any records or other information about the medical test site required for the department to determine whether or not standards are consistent with chapter 70.42 RCW and this chapter.

(6) The department shall require the owner of a medical test site to reapply for a medical test site license if:

(a) Proof of accreditation is not supplied to the department within eleven months of issuance of the medical test site license; or

(b) The medical test site has its accreditation denied or terminated by the accreditation body.

(7) The department may:

(a) Issue, to a medical test site applying for licensure for the first time a provisional license valid for a period of time not to exceed two years from date of issue;

(b) Conduct on-site review of a medical test site at any time to determine compliance with chapter 70.42 RCW and this chapter; and

(c) Initiate disciplinary action, as described under chapter 70.42 RCW and this chapter, if the owner or applicant fails to comply with chapter 70.42 RCW and this chapter, consistent with chapter 34.05 RCW, Administrative Procedure Act.

(8) The department may extend a license for a period not to exceed six months beyond the expiration date of the license.

(9) The owner shall notify the department, in writing, at least thirty days prior to the date of a proposed change of ownership and provide the following information:

(a) Full name, address, and location of the current owner and prospective new owner, if known;

(b) Name and address of the medical test site and the new name of the medical test site, if known;

(c) Changes in technical personnel and supervisors, if known; and

(d) The date of the proposed change of ownership.

(10) The prospective new owner shall submit the information required under subsection (2)(a) and (d) of this section, at least thirty days prior to the change of ownership.

(11) The owner shall inform the department within thirty days, in writing, of:

(a) The date of opening or closing the medical test site; and

(b) Any changes in:

(i) Name;

(ii) Location; or

(iii) Designated test site supervisor.

(12) The owner shall inform the department within six months, in writing, of any changes in:

(a) Tests, specialties and subspecialties; and

(b) Test methodology.) After July 1, 1990, any person advertising, operating, managing, owning, conducting, opening, or maintaining a medical test site must first obtain a license from the department. License types are described in Table 020-1.

**(1) Certificate of waiver.**

Applicable if the medical test site performs only the tests classified as waived.

**(2) Provider performed microscopic procedures (PPMP).**

Applicable if the medical test site restricts its testing performance to one or more of the following moderate complexity tests performed by one of the licensed professionals listed, in conjunction with a patient's visit. In addition, the medical test site can perform tests classified as waived with this type of license.

(a) PPMP may be performed only by one of the following licensed professionals:

(i) Physician licensed under chapter 18.71 RCW, Physicians; chapter 18.57 RCW, Osteopathy—Osteopathic medicine and surgery; or chapter 18.22 RCW, Podiatric medicine and surgery;

(ii) Advanced registered nurse practitioner, licensed under chapter 18.79 RCW, Nursing care;

(iii) Midwife licensed under chapter 18.50 RCW, Midwifery;

(iv) Physician assistant licensed under chapter 18.71A RCW, Physician assistants;

(v) Naturopath licensed under chapter 18.36A RCW, Naturopathy; or

(vi) Dentist licensed under chapter 18.32 RCW, Dentists.

(b) Microscopic procedures authorized under a PPMP license are:

- (i) All direct wet mount preparations for the presence or absence of bacteria, fungi, parasites, and human cellular elements;
- (ii) All potassium hydroxide (KOH) preparations;
- (iii) Pinworm examinations;
- (iv) Fern tests;
- (v) Postcoital direct, qualitative examinations of vaginal or cervical mucous;
- (vi) Urine sediment examinations;
- (vii) Nasal smears for granulocytes;
- (viii) Fecal leukocyte examinations;
- (ix) Qualitative semen analysis (limited to the presence or absence of sperm and detection of motility); and

(x) Any other tests subsequently categorized under CLIA as provider-performed microscopy procedures.

**(3) Moderate/high complexity.**

(a) **Limited testing, low volume, Category A-I,** as described in Table 990-1.

Applicable if the medical test site performs any tests that are not classified as waived or qualified as PPMP under subsection (2) of this section. Under this type of license, the medical test site may also perform tests classified as waived.

**(b) Accredited.**

Applicable if the medical test site performs any tests that are not classified as waived, and is accredited and inspected by an accreditation organization approved by the department under WAC 246-338-040. Under this type of license, the medical test site may also perform tests classified as waived.

**020-1 Table of Requirements for Each License Type**

| LICENSE TYPE |  | REQUIREMENTS  | INSPECTIONS   |   |
|--------------|--|---|---|---|
| (1)          | <b>Certificate of Waiver</b>                         | <ul style="list-style-type: none"> <li>: <u>Restrict testing to tests classified as waived.</u></li> <li>: <u>Meet the requirements of WAC 246-338-020 Licensure—Types of Medical Test Site Licenses; WAC 246-338-022 Initial Application for Medical Test Site License; WAC 246-338-024 License Renewal/Reapplication Process; WAC 246-338-026 Notification Requirements; WAC 246-338-028 On-site Inspections.</u></li> <li>: <u>Follow manufacturers' instructions for performing the test.</u></li> </ul>  | <b>TYPE</b><br>** <u>Complaint Technical assistance</u>   | <b>FREQUENCY</b><br>: <u>When indicated</u>   |
| (2)          | <b>PPMP</b>  | <ul style="list-style-type: none"> <li>: <u>Restrict testing to tests classified as PPMP or waived.</u></li> <li>: <u>Meet the requirements of WAC 246-338-020 Licensure—Types of Medical Test Site Licenses; WAC 246-338-022 Initial Application for Medical Test Site License; WAC 246-338-024 License Renewal/Reapplication Process; WAC 246-338-026 Notification Requirements; WAC 246-338-028 On-site Inspections; WAC 246-338-050 Proficiency Testing (if applicable); WAC 246-338-060 Personnel; WAC 246-338-070 Records; WAC 246-338-080 Quality Assurance; WAC 246-338-090 Quality Control.</u></li> <li>: <u>Follow manufacturers' instructions for performing the test.</u></li> </ul> | ** <u>Complaint Technical assistance</u>  | : <u>When indicated</u>   |
| (3)          | <b>Moderate/High Complexity</b>                      |   |   |   |
|              | (a) <b>Limited Testing, Low Volume, Category A-I</b> | <ul style="list-style-type: none"> <li>: <u>Perform tests classified as moderate or high complexity.</u></li> <li>: <u>Meet the requirements of WAC 246-338-020 Licensure—Types of Medical Test Site Licenses; WAC 246-338-022 Initial Application for Medical Test Site License; WAC 246-338-024 License Renewal/Reapplication Process; WAC 246-338-026 Notification Requirements; WAC 246-338-028 On-site Inspections; WAC 246-338-050 Proficiency Testing (if applicable); WAC 246-338-060 Personnel; WAC 246-338-070 Records; WAC 246-338-080 Quality Assurance; WAC 246-338-090 Quality Control.</u></li> <li>: <u>Follow manufacturers' instructions for performing test.</u></li> </ul>    | : <u>Initial</u><br>*** <u>Routine Complaint</u><br>: <u>On-site follow-up Technical assistance</u> | : <u>First 6 months of license</u><br>*** <u>Every 2 years When indicated</u><br>: <u>When indicated</u><br>: <u>When indicated</u> |

PROPOSED



| LICENSE TYPE          | REQUIREMENTS  | INSPECTIONS   |  |
|-----------------------|---|---|--|
| (b) <b>Accredited</b> | <ul style="list-style-type: none"> <li>• <u>Perform tests classified as moderate or high complexity.</u></li> <li>• <u>Meet the requirements of WAC 246-338-020 Licensure—Types of Medical Test Site Licenses; WAC 246-338-022 Initial Application for Medical Test Site License; WAC 246-338-024 License Renewal/Reapplication Process; WAC 246-338-026 Notification Requirements; WAC 246-338-028 On-site Inspections; WAC 246-338-050 Proficiency Testing (if applicable); WAC 246-338-060 Personnel; WAC 246-338-070 Records; WAC 246-338-080 Quality Assurance; WAC 246-338-090 Quality Control.</u><br/><u>Follow manufacturers' instructions for performing the test.</u></li> <li>• <u>Submit to the department upon request, or authorize the accreditation organization to submit:</u> <ul style="list-style-type: none"> <li>• <u>Proof of accreditation;</u></li> <li>• <u>On-site inspection results;</u></li> <li>• <u>Statement of deficiencies;</u></li> <li>• <u>Plan of correction for the deficiencies cited;</u></li> <li>• <u>Any disciplinary action and results of any disciplinary action taken by the accreditation organization against the medical test site.</u></li> </ul> </li> </ul> | <p><b>TYPE</b></p> <ul style="list-style-type: none"> <li>• <u>Validation</u></li> <li>•• <u>Complaint</u></li> <li>•• <u>On-site follow-up</u></li> <li>• <u>Technical assistance</u></li> </ul> | <p><b>FREQUENCY</b></p> <ul style="list-style-type: none"> <li>• <u>2.5 % of accredited sites annually</u></li> <li>•• <u>When indicated</u></li> <li>•• <u>When indicated</u></li> <li>• <u>When indicated</u></li> </ul> |

PROPOSED

**NEW SECTION**

**WAC 246-338-022 Initial application for medical test site license. (1) Application procedure.**

- Applicants requesting a medical test site license must:
- (a) Submit a completed application on forms furnished by the department, signed by the owner or authorized representative;
  - (b) File a separate application for each test site **except** under the following conditions:
    - (i) If the test site is not at a fixed location and moves from testing site to testing site, or uses a temporary testing location such as a health fair, the medical test site may apply for a single license for the home base location;
    - (ii) If the medical test site is a not-for-profit or state or local government and performs a combination of fifteen or less of either waived or moderate complexity test procedures at different locations, the owner may file an application for a single license;
  - (c) Furnish full and complete information to the department in writing:
    - (i) Name, address, phone number, and federal tax ID number of the medical test site;
    - (ii) Name of owner;
    - (iii) Number and types of tests performed, planned, or projected;
    - (iv) Name and qualifications including educational background, training, and experience of the director;
    - (v) Names and qualifications including educational background, training, and experience of technical personnel, if requested by the department;
    - (vi) Name of proficiency testing program or programs used by the medical test site and a copy of the enrollment confirmation form, if applicable;

- (vii) Methodologies for tests performed, if requested by the department; and
  - (viii) Other information as requested by the department;
  - (d) Submit the designated fee in the time period indicated, upon receipt of a fee statement from the department;
  - (e) If applying for an accredited license, submit proof of accreditation by an approved accreditation organization. If application has been made to an accreditation organization, submit a copy of the application, followed by proof of accreditation within eleven months of issuance of the medical test site license.
- (2) Issuing an initial license.**
- (a) An initial license will be issued for a medical test site when the applicant:
    - (i) Submits a completed application and any information requested by the department;
    - (ii) Pays the designated license fee; and
    - (iii) Meets the requirements of chapter 70.42 RCW and this chapter.
  - (b) License expiration dates will be based on a two-year licensure cycle, expiring on October 31st of even-numbered years. The license period for an initial license begins the day of the month that payment is received and expires on October 31st of the current or next even-numbered year.
  - (c) The department may issue a provisional license valid for a period of up to two years when a medical test site applies for licensure for the first time.
  - (d) The department will terminate a provisional license at the time a two-year license for the medical test site is issued.
  - (e) License fees are listed under WAC 246-338-990.

NEW SECTION

**WAC 246-338-024 License renewal/reapplication process.** (1) The department will issue a renewal license for a medical test site when the owner:

(a) At least thirty days prior to the expiration date of the current license, submits a completed renewal application form, available from the department, in compliance with WAC 246-338-022(1) and submits the designated fee; and

(b) Meets the requirements of chapter 70.42 RCW and this chapter.

(2) A license is issued for a period of two years. License expiration dates are based on a two-year cycle, expiring on October 31st of even-numbered years.

(3) The department may extend a license for a period not to exceed six months beyond the expiration date of the license.

(4) The department will require the owner of the medical test site to reapply for a license if proof of accreditation is not supplied to the department within eleven months of issuance of an accredited license.

(5) The owner or applicant of a medical test site must reapply for licensure within thirty days, if the acceptance of approval of the accreditation body for the medical test site is denied or terminated.

(6) If at any time any of the changes listed in WAC 246-338-026 occur, the medical test site may require a different type of license than what the medical test site currently holds. If so, the owner must submit a reapplication form, within thirty days of the change, and pay applicable fees.

NEW SECTION

**WAC 246-338-026 Notification requirements.** (1) The owner must notify the department in writing at least thirty days prior to the date of opening or closing the medical test site.

(2) The owner must notify the department in writing within thirty days of any changes in:

- (a) Name of site;
- (b) Director;
- (c) Location of site;
- (d) Tests, specialties, and subspecialties; and
- (e) Test methodologies.

(3) Proposed change of ownership. Transfer or reassignment of a license is prohibited without the department's approval, and must be initiated by the current owner sending a written notice to the department thirty days prior to transfer.

(a) The current owner of a medical test site must notify the department, in writing at least thirty days prior to the change and provide the following information:

- (i) Name, address, and federal tax ID number of the medical test site;
- (ii) Full name, address, and location of the current owner and prospective new owner; and
- (iii) The date of the proposed change of ownership.

(b) The prospective new owner must submit the following information at least thirty days prior to the change of ownership:

(i) New name and federal tax ID number of the medical test site;

(ii) Changes in technical personnel and supervisors;

(iii) Any changes in tests, specialties, and subspecialties; and

(iv) Other information as requested by the department.

(4) The medical test site must authorize an approved accreditation organization to notify the department of the test site's compliance with the standards of the accreditation organization.

(5) The owner of an accredited license must notify the department in writing within thirty days of the medical test site having its accreditation denied or terminated by the accreditation organization or voluntarily dropping its accreditation status.

(6) The owner must notify the department in writing within thirty days of any convictions of fraud and abuse, false billing, or kickbacks under state or federal law.

NEW SECTION

**WAC 246-338-028 On-site inspections.** (1) The department may conduct an on-site review of a licensee or applicant at any time to determine compliance with chapter 70.42 RCW and this chapter as described in Table 020-1.

(2) The department may at any time examine records of the medical test site to determine compliance with chapter 70.42 RCW and this chapter.

(3) The department will:

(a) Provide written notice of deficiencies to the medical test site; and

(b) Allow the owner a reasonable period of time, not to exceed sixty days after department approval of the written plan of correction, to correct a deficiency unless the deficiency is an immediate threat to public health, safety, or welfare.

(4) The medical test site must:

(a) Present a written plan of correction to the department within fourteen days following the date of postmark of the notice of deficiencies;

(b) Comply with the written plan of correction within a specified time, not to exceed sixty days, after department approval of the written plan of correction which must detail how and when the medical test site will correct the deficiencies;

(c) Submit to inspections by HCFA or HCFA agents as a condition of licensure for the purpose of validation or in response to a complaint against the medical test site;

(d) Authorize the department to release all records and information requested by HCFA to HCFA or HCFA agents;

(e) Cooperate with any on-site review conducted by the department; and

(f) Authorize the accreditation organization to submit, upon request of the department:

(i) On-site inspection results;

(ii) Reports of deficiencies;

(iii) Plans of corrections for deficiencies cited;

(iv) Any disciplinary or enforcement action taken by the accreditation organization against the medical test site and

results of any disciplinary or enforcement action taken by the accreditation organization against the medical test site; and

(v) Any records or other information about the medical test required for the department to determine whether or not standards are consistent with chapter 70.42 RCW and this chapter.

**AMENDATORY SECTION** (Amending Order 390, filed 9/1/93, effective 10/2/93)

**WAC 246-338-040 Approval of accreditation (~~bodies~~) organizations.** (1) The department (~~shall, under RCW 70.42.040,~~) will recognize the accreditation (~~bodies~~) organizations granted deemed status by HCFA.

(2) (~~The department, upon request, shall furnish a list of the deemed accreditation bodies.~~)

(3) ~~The department shall:~~

(a) ~~Revoke deemed status from any organization which has deeming authority removed by HCFA;~~

(b) ~~Require the accreditation bodies to agree in writing to:~~

(i) ~~Allow the department to have jurisdiction to investigate complaints, do random on-site inspections and take disciplinary action against a medical test site if indicated; and~~

(ii) ~~Notify the department within thirty days of any medical test that has had its accreditation withdrawn, revoked or limited.~~

(4) ~~The department may deny or terminate the license for a medical test site, if the owner or applicant fails to authorize the accreditation body to notify the department of the test site's compliance with the standards of the accreditation body.~~

(5) ~~The department shall notify the medical test site if an accreditation body loses department acceptance of approval as an accreditation body for the medical test site.~~

(6) ~~The owner or applicant of a medical test site shall reapply for licensure within thirty days, if the acceptance of approval of the accreditation body for the medical test site is denied or terminated.)~~ The HCFA-approved accreditation organizations are:

(a) American Association of Blood Banks (AABB);

(b) American Osteopathic Association (AOA);

(c) American Society of Histocompatibility and Immunogenetics (ASHI);

(d) College of American Pathologists (CAP);

(e) COLA; and

(f) Joint Commission on Accreditation of Healthcare Organizations (JCAHO).

(3) The accreditation organizations must:

(a) Allow the department to have jurisdiction to investigate complaints, do random on-site validation inspections, and take disciplinary action against a medical test site if indicated;

(b) Notify the department within fifteen days of any medical test site that:

(i) Has had its accreditation withdrawn, revoked, or limited;

(ii) Is sanctioned as a result of a routine inspection or complaint investigation; or

(iii) When adverse action has been taken for unsuccessful proficiency testing performance;

(c) Notify the department within five days of any deficiency that jeopardizes the public health, safety, or welfare; and

(d) Provide the department with a list of inspection schedules, as requested, for the purpose of conducting on-site validation inspections.

(4) The department will:

(a) Revoke deemed status from any organization which has deeming authority removed by HCFA; and

(b) Notify the medical test site if approval of an accreditation organization is withdrawn by the department.

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

**WAC 246-338-050 Proficiency testing.** (1) All licensed medical test sites, excluding those granted a certificate of waiver, (~~shall~~) must:

(a) Comply with federal proficiency testing requirements listed in 42 CFR Part 493-Laboratory Requirements, Subparts H and I; (~~and~~)

(b) Submit to the department (~~, by December 31 of each year,~~) a copy of proficiency testing enrollment confirmation form(s) for the tests the medical test site will perform during the following calendar year, by December 31st of each year; and

(c) Authorize the proficiency testing program to release to the department all data required to determine the medical test site's compliance with this section.

(2) The department (~~shall~~) will:

(a) Recognize only those proficiency testing programs approved by (~~the~~) HCFA; and

(b) Furnish, upon request:

(i) A copy of 42 CFR Part 493 Subparts H and I; (~~and~~)

(ii) A list of the proficiency testing programs approved by HCFA; and

(iii) A list of tests that must be covered by proficiency testing.

(3) The department (~~shall~~) will evaluate proficiency testing results by using the following (~~grading~~) criteria:

(a) An evaluation of scores for the last three testing events of proficiency testing samples including:

(i) Tests;

(ii) Subspecialties; and

(iii) Specialties;

(b) Maintenance of a minimum acceptable score of eighty percent for all tests, subspecialties, and specialties except one hundred percent for:

(i) ABO group and D(Rh<sub>(c)</sub>) typing; (~~and~~)

(ii) Compatibility testing; and

(iii) Antihuman immunodeficiency virus;

(c) Unsatisfactory performance occurs when:

(i) Unsatisfactory scores are obtained in any specialty or Subspecialty in a testing event; or

(ii) An unsatisfactory score is obtained on a single test in a testing event(~~;~~)

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~~(d) Unsuccessful participation occurs when a grade of unsatisfactory performance is obtained on a single test or in a specialty or subspecialty on two of any three successive testing events).~~

~~(4) ((For unsuccessful participation in proficiency testing, the following actions shall occur)) Unsatisfactory performance on two of any three successive testing events is considered unsuccessful participation, and will result in the following actions:~~

~~(a) The department ((shall)) will mail a letter to the ((designated test site supervisor)) director stating that the medical test site may choose to:~~

~~(i) Discontinue patient testing for the identified test, specialty or subspecialty; or~~

~~(ii) Follow a directed plan of correction; and~~

~~(b) The medical test site ((shall)) must notify the department, within fifteen days of receipt of the notice of the decision to:~~

~~(i) Discontinue testing patient specimens for the identified test, subspecialty or specialty; or~~

~~(ii) Agree to a directed plan of correction.~~

~~(5) ((After completing a directed plan of correction, if a medical test site has)) Continued unsatisfactory performance for a test, specialty or subspecialty in either of the next two consecutive sets of proficiency testing samples, after completing a directed plan of correction, will result in the following action ((will occur)):~~

~~(a) The department ((shall)) will send, by certified mail, a notice to the owner and ((designated test site supervisor by certified mail a notice to)) director of the medical test site to cease performing the identified test, subspecialty, or specialty; and~~

~~(b) The owner ((shall)) must notify the department in writing within fifteen days of the receipt of the notice of the decision to voluntarily stop performing tests on patient specimens for the identified test, subspecialty, or specialty.~~

~~(6) The owner may petition the department for reinstatement of approval to perform tests on patient specimens after demonstrating satisfactory performance on two successive testing events of proficiency testing samples for the identified test, subspecialty, or specialty.~~

~~(7) The department ((shall)) will notify the owner in writing, within fifteen days of receipt of petition, of the decision related to the request for reinstatement.~~

**AMENDATORY SECTION** (Amending WSR 97-14-113, filed 7/2/97, effective 8/2/97)

**WAC 246-338-060 Personnel.** (1) ~~((Owners shall ensure))~~ Medical test site((s)) owners must:

(a) Have a ~~((designated test site supervisor))~~ director responsible for(~~(:~~

~~(i))~~ the overall technical supervision and management of the test site personnel((; and

~~(ii) Performing))~~ including oversight of the performance of test procedures and reporting of ((testing procedures)) test results;

(b) Have technical personnel, competent to perform tests and report test results; and

(c) Meet the standards for personnel qualifications and responsibilities in compliance with federal regulation, as listed in 42 CFR Part 493 Subpart M-Personnel for Moderate and High Complexity Testing, with the following exception:

A person that achieved a satisfactory grade through an examination conducted by or under the sponsorship of the United States Public Health Service for director, on or before July 1, 1970, would qualify as a director, technical supervisor, technical consultant, general supervisor and testing personnel for the specialties in which a satisfactory grade was achieved for moderate and high complexity testing.

(2) The department~~((, upon request, shall))~~ will furnish a copy of 42 CFR Part 493 Subpart M upon request.

~~(3) ((Owners of medical test sites shall establish, post and observe safety precautions to ensure protection from physical, chemical, biochemical and electrical hazards and biohazardous materials:~~

~~(4) Designated))~~ Medical test site ((supervisors shall) directors must:

- (a) Establish and approve policies for:
  - (i) Performing, recording, and reporting of tests;
  - (ii) Maintaining an ongoing quality assurance program;
  - (iii) Supervision of testing; and
  - (iv) Compliance with chapter 70.42 RCW and this chapter;

(b) Evaluate, verify, and document the following related to technical personnel:

- (i) Education, experience, and training in test performance and reporting tests results;
- (ii) Sufficient numbers to cover the scope and complexity of the services provided;
- (iii) Access to training appropriate for the type and complexity of the test site services offered; and
- (iv) Maintenance of competency to perform test procedures and report test results;

(c) Be present, on call, or delegate the duties of the ~~((designated test site supervisor))~~ director to an on-site technical person during testing.

**AMENDATORY SECTION** (Amending WSR 97-14-113, filed 7/2/97, effective 8/2/97)

**WAC 246-338-070 ((Recordkeeping)) Records.** ~~((The medical test site shall:~~

~~(1) Unless specified otherwise in subsection (2)(a), (b), and (c) of this section, maintain for two years:~~

- ~~(a) Test requisitions or equivalent;~~
- ~~(b) Test records;~~
- ~~(c) Test reports;~~
- ~~(d) Quality control records;~~
- ~~(e) Quality assurance records; and~~
- ~~(f) Discontinued procedures.~~

~~(2) Maintain:~~

- ~~(a) The items listed in subsection (1)(a), (b), (c), (d), and (e) of this section for transfusion services for five years;~~
- ~~(b) Abnormal cytology and all histology reports for ten years; and~~
- ~~(c) Normal cytology reports for ten years.~~

~~(3) Request the following written information to accompany a test requisition:~~

- ~~(a) Patient's name or other method of specimen identification;~~
- ~~(b) Name or other suitable identifier of the authorized person ordering the test;~~
- ~~(c) Date of specimen collection, and time if appropriate;~~
- ~~(d) Source of specimen, if appropriate;~~
- ~~(e) Type of test ordered;~~
- ~~(f) Sex and age of the patient, if appropriate; and~~
- ~~(g) For cytology and histology specimens:~~
- ~~(i) Pertinent clinical information; and~~
- ~~(ii) For pap smears:~~
- ~~(A) The last menstrual period; and~~
- ~~(B) Indication whether the patient has history of cervical cancer or its precursors.~~
- ~~(4) Assure specimen records include:~~
- ~~(a) A medical test site identification;~~
- ~~(b) The patient's name or other method of specimen identification;~~
- ~~(c) The date the specimen was received at the medical test site, and time if appropriate;~~
- ~~(d) The reason for specimen rejection or limitation;~~
- ~~(e) The date of specimen testing; and~~
- ~~(f) The identification of the personnel who performed the test.~~
- ~~(5) Assure that test reports:~~
- ~~(a) Are maintained in a manner permitting identification and reasonable accessibility;~~
- ~~(b) Are released only to authorized persons or designees;~~
- ~~(c) Include the name of the medical test site, or where applicable, the name and address of each medical test site performing each test;~~
- ~~(d) Include the date reported;~~
- ~~(e) Include the time reported, if appropriate;~~
- ~~(f) Include any information regarding specimen rejection or limitation;~~
- ~~(g) Include the test performed, test result, and units of measurement, if applicable; and~~
- ~~(h) Include the exact language of the report from the testing facility, if the specimen was referred to another medical test site for testing.~~
- ~~(6) Assure cytology reports:~~
- ~~(a) Distinguish between unsatisfactory specimen and negative results; and~~
- ~~(b) Contain narrative descriptions for any abnormal results, such as the Bethesda system of terminology as published in the Journal of the American Medical Association, 1989, Volume 262, pages 931-934, for any abnormal results.~~
- ~~(7) Establish and make available for use by authorized persons ordering or utilizing the test results:~~
- ~~(a) Reference ranges; and~~
- ~~(b) A list of test methods, including performance specifications.~~
- ~~(8) Issue corrected reports when indicated.~~
- ~~(9) Establish criteria for and maintain appropriate documentation of:~~
- ~~(a) Temperature-controlled spaces and equipment;~~
- ~~(b) Preventive maintenance activities;~~
- ~~(c) Equipment function checks;~~
- ~~(d) Procedure calibrations;~~
- ~~(e) Validation, precision, and accuracy checks;~~

- ~~(f) Expiration date, lot numbers, and other pertinent information for:~~
- ~~(i) Reagents;~~
- ~~(ii) Solutions;~~
- ~~(iii) Culture media;~~
- ~~(iv) Controls, as defined in WAC 246-338-090;~~
- ~~(v) Calibrators, as defined in WAC 246-338-090;~~
- ~~(vi) Standards, as defined in WAC 246-338-090;~~
- ~~(vii) Reference materials, as defined in WAC 246-338-090; and~~
- ~~(viii) Other testing materials;~~
- ~~(g) Testing of quality control samples; and~~
- ~~(h) Any remedial action taken in response to quality control, quality assurance, personnel, and proficiency testing.~~
- ~~(10) Refer specimens for testing only to a medical test site with a valid license, or to an interstate laboratory with a valid CLIA certificate.~~
- ~~(11) Maintain, or be able to reproduce, a copy of the report for all specimens that are referred for testing.)~~ Medical test sites must maintain records as described in this section.
- (1) REQUISITIONS must include the following information, in written or electronic form:
- (a) Patient name, identification number, or other method of specimen identification;
- (b) Name or other suitable identifier of the authorized person ordering the test;
- (c) Date of specimen collection, and time, if appropriate;
- (d) Source of specimen, if appropriate;
- (e) Type of test ordered;
- (f) Sex and age of the patient, if appropriate; and
- (g) For cytology and histopathology specimens:
- (i) Pertinent clinical information; and
- (ii) For Pap smears:
- (A) Date of last menstrual period; and
- (B) Indication whether the patient has history of cervical cancer or its precursors.
- (2) TEST RECORD SYSTEMS must:
- (a) Consist of instrument printouts, worksheets, accession logs, corrective action logs, and other records that ensure reliable identification of patient specimens as they are processed and tested to assure that accurate test results are reported; and
- (b) Include:
- (i) The patient's name or other method of specimen identification;
- (ii) The date the specimen was received, and time, if appropriate;
- (iii) The reason for specimen rejection or limitation;
- (iv) The date of specimen testing; and
- (v) The identification of the personnel who performed the test.
- (3) TEST REPORTS must:
- (a) Be maintained in a manner permitting identification and reasonable accessibility;
- (b) Be released only to authorized persons or designees;
- (c) Include the name and address of the medical test site, or where applicable, the name and address of each medical test site performing each test;
- (d) Include:

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- (i) Date reported;
- (ii) Time reported, if appropriate;
- (iii) Any information regarding specimen rejection or limitation; and
- (iv) Name of the test performed, test result, and units of measurement, if applicable.

**(4) CYTOLOGY REPORTS must:**

- (a) Distinguish between unsatisfactory specimens and negative results;
- (b) Provide narrative descriptions for any abnormal results, such as the Bethesda system of terminology as published in the Journal of the American Medical Association, 1989, Volume 262, pages 931-934; and
- (c) Include the signature or initials of the technical supervisor, or an electronic signature authorized by the technical supervisor, for nongynecological preparations and gynecological preparations interpreted to be showing reactive or reparative changes, atypical squamous or glandular cells of undetermined significance, or to be in the premalignant (dysplasia, cervical intraepithelial neoplasia or all squamous

intraepithelial neoplasia lesions including human papilloma-virus-associated changes) or malignant category.

(5) HISTOPATHOLOGY REPORTS must include the signature or initial of the technical supervisor or an electronic signature authorized by the technical supervisor on all reports.

**(6) CYTOGENETICS REPORTS must:**

- (a) Use appropriate nomenclature on final reports;
- (b) Include the number of cells counted and karyotyped; and
- (c) Include an interpretation of the karyotypes findings.
- (7) If a specimen is referred to another laboratory for testing, the medical test site must:

(a) Report the essential elements of the referred test results without alterations that could affect the clinical interpretation of the results; and

(b) Retain or be able to produce an exact duplicate of each testing report from the referral laboratory.

(8) The medical test site must retain records, slides, and tissues as described in Table 070-1.

**Table 070-1 Record/Slide/Tissue Retention Schedule**

|  | Two Years   | Five Years   | Ten Years  |
|--|---|--|--|
| (a) <b>General Requirements for all Laboratory Specialties</b> | <ul style="list-style-type: none"> <li>• <u>Test requisitions or equivalent;</u></li> <li>• <u>Test records;</u></li> <li>• <u>Test reports;</u></li> <li>• <u>Quality control records;</u></li> <li>• <u>Quality assurance records;</u></li> <li>• <u>Proficiency testing records;</u></li> <li>• <u>Hard copy of report, or ability to reproduce a copy, for all specimens referred for testing; and</u></li> <li>• <u>Discontinued procedures for all specialty areas</u></li> </ul> |  |  |
| (b) <b>Transfusion Services*</b>                               |   | <ul style="list-style-type: none"> <li>• <u>Test requisitions or equivalent;</u></li> <li>• <u>Test records;</u></li> <li>• <u>Test reports;</u></li> <li>• <u>Quality control records; and</u></li> <li>• <u>Quality assurance records</u></li> </ul> |  |
| (c) <b>Cytology</b>  |   | <ul style="list-style-type: none"> <li>• <u>All cytology slides, from date of examination of the slide</u></li> </ul>  | <ul style="list-style-type: none"> <li>• <u>All cytology reports</u></li> </ul>  |
| (d) <b>Histopathology</b>                                      | <ul style="list-style-type: none"> <li>• <u>Specimen blocks, from date of examination</u></li> </ul>  |  | <ul style="list-style-type: none"> <li>• <u>All histopathology reports; and</u></li> <li>• <u>Stained slides, from date of examination of the slide</u></li> </ul> |
| (e) <b>Histopathology-Tissues</b>                              | <u>Retain remnants of tissue specimens in an appropriate preserved state until the portions submitted for microscopic examination have been examined and diagnosed</u>  |  |  |
| (f) <b>Instrument/method Validation Studies</b>                | <u>For life of instrument/method plus two years</u>   |  |  |

\* Must be retained for no less than five years in accordance with 21 CFR Part 606, Subpart I.

**AMENDATORY SECTION** (Amending Order 390, filed 9/1/93, effective 10/2/93)

**WAC 246-338-080 Quality assurance.** Each medical test site performing moderate complexity (including PPMP)

or high complexity testing, or any combination of these tests, must establish and follow written policies and procedures for a comprehensive quality assurance program. The quality assurance program must be designed to monitor and evaluate

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the ongoing and overall quality of the total testing process (preanalytic, analytic, postanalytic). The medical test site's quality assurance program must evaluate the effectiveness of its policies and procedures; identify and correct problems; assure the accurate, reliable, and prompt reporting of test results; and assure the adequacy and competency of the staff. As necessary, the medical test site must revise policies and procedures based upon the results of those evaluations. The medical test site must meet the standards as they apply to the services offered, complexity of testing performed and test results reported, and the unique practices of each testing entity. All quality assurance activities must be documented.

(1) The medical test site ~~((shall))~~ must establish and implement a written quality assurance plan, including policies and procedures, designed to:

(a) Monitor, evaluate, and review quality control data, proficiency testing ~~((data))~~ results, and test results, including biannual ~~((evaluation))~~ verification of:

(i) Accuracy of test results for tests that are not covered by proficiency testing; and

(ii) Relationship between test results when the medical test site performs the same test on different instruments or at different locations within the medical test site;

(b) Identify and correct problems;

(c) Establish and maintain accurate, reliable, and prompt reporting of test results;

(d) Verify all tests performed and reported by the medical test site conform to specified performance criteria in quality control under WAC 246-338-090; and

(e) Establish and maintain the adequacy and competency of the technical personnel.

(2) The quality assurance plan ~~((shall))~~ must include mechanisms or systems to:

(a) Establish and apply criteria for specimen acceptance and rejection;

(b) Notify the appropriate individuals as soon as possible when test results indicate potential life-threatening conditions;

(c) Assess problems identified during quality assurance reviews and discuss them with the appropriate staff;

(d) Evaluate all test reporting systems to verify accurate and reliable reporting, transmittal, storage, and retrieval of data;

(e) Document all action taken to identify and correct problems or potential problems;

(f) ~~((Make available))~~ Issue corrected reports when indicated;

(g) Provide appropriate instructions for specimen collection, handling, preservation, and transportation; and

~~((g) Make available to))~~ (h) Provide clients updates of testing changes that would affect test results or the interpretation of test results.

(3) The medical test site must establish criteria for and maintain appropriate documentation of any remedial action taken in response to quality control, quality assurance, personnel, proficiency testing, and transfusion reaction investigations.

(4) The medical test site must have a system in place to assure:

(a) All complaints and problems reported to the medical test site are documented and investigated when appropriate; and

(b) Corrective actions are instituted as necessary.

(5) The owner ~~((shall))~~ must:

(a) Maintain adequate space, facilities, and essential utilities for the performance and reporting of tests((-);

~~((4) The medical test site shall))~~ (b) Establish, post, and observe safety precautions to ensure protection from physical, chemical, biochemical, and electrical hazards and bio-hazards; and

(c) Establish and implement policies and procedures for infectious and hazardous medical wastes consistent with local, state, and federal authorities.

(6) Information that must be available to authorized persons ordering or utilizing the test results includes:

(a) A list of test methods, including performance specifications;

(b) Reference ranges; and

(c) Test method limitations.

(7) If the medical test site refers specimens to another site for testing, the site to which specimens are referred must have a valid medical test site license or meet equivalent requirements as determined by HCFA.

**AMENDATORY SECTION** (Amending WSR 97-14-113, filed 7/2/97, effective 8/2/97)

**WAC 246-338-090 Quality control.** ~~((1) For the purpose of this section, the following words and phrases have the following meanings, unless the context clearly indicates another meaning:~~

~~(a) "ABO, A, A<sub>1</sub>, B, O, anti A, anti B, anti D, anti Rh<sub>0</sub>, Rh<sub>0</sub>, (D), HLA, HLA A, B, and DR" means taxonomy classifications for blood groups, types, cells, sera, or antisera;~~

~~(b) "Calibrator" means a material, solution, or lyophilized preparation designed to be used in calibration. The values or concentrations of the analytes of interest in the calibration material are known within limits ascertained during its preparation or before use;~~

~~(c) "Control" means a material, solution, lyophilized preparation, or pool of collected serum designed to be used in the process of quality control. The concentrations of the analytes of interest in the control material are known within limits ascertained during its preparation or before routine use;~~

~~(d) "Control slide" means a preparation fixed on a glass slide used in the process of quality control;~~

~~(e) "Reference material" means a material or substance, calibrator, control or standard where one or more properties are sufficiently well established for use in calibrating a process or for use in quality control;~~

~~(f) "Standard" means a reference material of fixed and known chemical composition capable of being prepared in essentially pure form, or any certified reference material generally accepted or officially recognized as the unique standard for the assay regardless of level or purity of the analyte content.~~

~~(2) The medical test site shall use quality control procedures providing and assuring accurate and reliable test results and reports, meeting the requirements of this chapter.~~

~~(3) The medical test site shall have written procedures and policies available in the work area including:~~

- ~~(a) Analytical methods used by the technical personnel;~~
- ~~(b) Specimen collection and processing procedures;~~
- ~~(c) Preparation of solutions, reagents, and stains;~~
- ~~(d) Calibration procedures;~~
- ~~(e) Proper maintenance of equipment;~~
- ~~(f) Quality assurance policies;~~
- ~~(g) Quality control procedures;~~
- ~~(h) Corrective actions when quality control results deviate from expected values or patterns;~~

~~(i) Procedures for reporting test results;~~

~~(j) Limitations of methodologies; and~~

~~(k) Alternative or backup methods for performing tests including the use of a reference facility if applicable.~~

~~(4) The medical test site shall perform quality control complying with the requirements of this section for each specialty and subspecialty as follows:~~

~~(a) At least as frequently as specified in this section;~~

~~(b) More frequently if recommended by the manufacturer of the instrument or test procedure; or~~

~~(c) More frequently if specified by the medical test site~~

~~(5) The medical test site shall:~~

~~(a) Perform procedural calibration or recalibration, in accordance with manufacturer's instructions:~~

~~(i) When recommended by the manufacturer or specified by the medical test site's established schedule, with at least the frequency recommended by the manufacturer; and~~

~~(ii) When calibration fails to meet the medical test site's acceptable limits;~~

~~(b) Perform calibration verification using materials appropriate for verifying the minimal, mid-point and maximum points of the reportable range, unless the medical test site can demonstrate an alternative method of assuring the accuracy of the procedure throughout the reportable range for patient test results:~~

~~(i) When a complete change of reagents for a procedure is introduced;~~

~~(ii) When there is major preventive maintenance or replacement of critical parts of equipment or instrumentation;~~

~~(iii) When controls begin to reflect an unusual trend or are outside acceptable range limits; or~~

~~(iv) At least every six months;~~

~~(c) If patient values are above the maximum or below the minimum calibration point or the linear range:~~

~~(i) Report the patient results as greater than the upper limit or less than the lower limit or an equivalent designation; or~~

~~(ii) Use an appropriate procedure to rerun the sample allowing results to fall within the established linear range;~~

~~(d) Perform quality control:~~

~~(i) For quantitative tests:~~

~~(A) To include two reference materials of different concentrations each day of testing unknown samples, if these reference materials are available; or~~

~~(B) Have an equivalent mechanism to assure the quality, accuracy, and precision of the test, if reference materials are not available; and~~

~~(ii) For qualitative tests, to include positive and negative reference material each day of testing unknown samples;~~

~~(c) Check each batch or shipment of reagents, discs, stains, antisera and identification systems for positive and negative reactivity:~~

~~(i) When prepared or opened;~~

~~(ii) For stains, each day of use, unless otherwise specified; and~~

~~(iii) For fluorescent stains, each time of use, unless otherwise specified;~~

~~(f) Determine the statistical limits for each lot number of unassayed reference materials through repeated testing;~~

~~(g) Use the manufacturer's reference material limits for assayed material, provided they are:~~

~~(i) Verified by the medical test site; and~~

~~(ii) Appropriate for the methods and instrument used by the medical test site;~~

~~(h) Make reference material limits readily available;~~

~~(i) Report patient results only when reference materials are within acceptable limits;~~

~~(j) Use materials within their documented expiration date and not interchange components of kits with different lot numbers, unless specified by manufacturer;~~

~~(k) For microbiology:~~

~~(i) Check each batch or shipment of reagents, discs, stains, antisera, and identification system for reactivity with positive and negative reference organisms including:~~

~~(A) Each time of use for fluorescent stains;~~

~~(B) Each day of use for:~~

~~(I) Stains, unless specifically stated otherwise in this section; DNA probes; reagents used in mycobacteriology; catalase, coagulase, beta lactamase, and oxidase reagents; and~~

~~(II) Direct antigen detection systems, using positive and negative controls that evaluate both the extraction and reaction phase;~~

~~(C) Each week of use for Gram and acid fast stains, bacitracin, optochin, ONPG, X, and V discs or strips; and~~

~~(D) Each month of use for antisera;~~

~~(ii) When testing antimicrobial susceptibility, check each new batch of media and each new lot of antimicrobial discs or other testing systems using approved reference organisms:~~

~~(A) Before initial use; and~~

~~(B) Each day of testing, or weekly, if the medical test site can meet the quality control requirements for antimicrobial disc susceptibility testing as outlined by the National Committee for Clinical Laboratory Standards (NCCLS), available upon request from the department;~~

~~(iii) Document zone sizes or minimum inhibitory concentration for reference organisms are within established limits;~~

~~(iv) Have available and use appropriate stock organisms for quality control purposes;~~

~~(v) Have available a collection of slides, photographs, gross specimens, or text books for reference sources to aid in identification of microorganisms;~~



(vi) Document appropriate steps in the identification of microorganisms on patient specimens;

(vii) Check each batch or shipment of noncommercial media for sterility, ability to support growth, and if appropriate, selectivity, inhibition, or biochemical response;

(viii) If commercially manufactured media quality control results are used:

(A) Verify that the product insert specifies that the quality control checks meet the requirements, as outlined by NCCLS, for media quality control;

(B) Keep records of the manufacturer's quality control results;

(C) Document visual inspection of the media before use; and

(D) Follow the manufacturer's specifications for using the media;

(ix) When performing mycology:

(A) For susceptibility testing:

(I) Test each drug each day of use with at least one control strain that is susceptible to the drug; and

(II) Document that controls are within established limits before reporting patient results;

(B) Test reagents, used with biochemical tests and other test procedures used for identification, each week of use with an organism that produces a positive reaction;

(x) When performing parasitology:

(A) Use a calibrated ocular micrometer for determining the size of ova and parasites, if size is a critical parameter; and

(B) Check permanent stains using reference materials, each month of use;

(xi) When performing virus identification, simultaneously culture uninoculated cells or cell substrate controls as a negative control;

(I) For syphilis serology:

(i) Use equipment, glassware, reagents, reference materials, and techniques conforming to manufacturers' specifications;

(ii) Perform serologic tests on unknown specimens concurrently with a positive serum reference material with known titer or graded reactivity and a negative reference material; and

(iii) Employ reference materials for all test components to ensure reactivity;

(m) For general immunology:

(i) Perform serologic tests on unknown specimens with a positive and a negative reference material;

(ii) Employ reference materials for all test components to ensure reactivity; and

(iii) Report test results only when the predetermined reactivity pattern of the reference material is observed;

(n) For chemistry, when performing blood gas analysis, include:

(i) A two-point calibration and a reference material each eight hours of testing; and

(ii) A one-point calibration or reference material each time patient samples are tested, unless automated instrumentation internally verifies calibration at least every thirty minutes; or

(iii) Another calibration and reference material schedule, approved by the department as equivalent to this subsection;

(o) For hematology and coagulation:

(i) Use one level of reference material each eight hours of testing patient samples for manual blood counts;

(ii) Use two levels of reference materials:

(A) Each eight hours of testing for:

(I) Instrumentation methods; and

(II) Manual tilt tube method for coagulation; and

(B) Each reagent change for coagulation;

(iii) Run manual coagulation tests and cell counts in duplicate;

(p) For immunohematology, for the services offered:

(i) Perform ABO grouping by testing unknown red cells with Federal Food and Drug Administration approved anti-A and anti-B grouping sera;

(ii) Confirm ABO grouping of unknown serum with known A<sub>1</sub> and B red cells;

(iii) Determine the Rh<sub>0</sub>(D) group by testing unknown red cells with anti-D (anti Rh<sub>0</sub>) blood grouping serum;

(iv) Employ a control system capable of detecting false positive Rh test results, when required by the manufacturer; and

(v) Perform quality control checks of cells and antisera each day of use;

(q) For transfusion services:

(i) Perform ABO grouping, Rh<sub>0</sub>(D) typing, antibody detection, and identification and compatibility testing as described by the Food and Drug Administration under 21 CFR Part 606, with the exception of 21 CFR Part 606.20a; Personnel, and 21 CFR Part 640;

(ii) Collect, store, process, distribute and date blood and blood products as described by the Food and Drug Administration under 21 CFR Parts 606, 610.53 and 640;

(iii) When provided by an outside entity, have an agreement approved by the director for procurement, transfer and availability of blood and blood products; and

(iv) Promptly investigate all transfusion reactions according to the medical test site's procedures;

(r) For histopathology:

(i) Use positive control slides for each special stain to check for intended level of reactivity;

(ii) Retain stained slides at least ten years and specimen blocks at least two years from the date of examination;

(iii) Retain remnants of tissue specimens in an appropriate preserved state until the portions submitted for microscopic examination have been examined and diagnosed; and

(iv) Include on all reports the signature or initials of the technical supervisor, as defined under 42 CFR Part 493 Subpart M;

(s) For cytology:

(i) Develop criteria for submission of material and the assessment of the adequacy of the sample submitted, including notifying the physician;

(ii) Retain all negative slides for five years from the date of examination of the slide;

(iii) Retain all abnormal slides for ten years from the date of examination;

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(iv) Include in quality control the rescreening and documentation of benign gynecological slides as follows:

(A) One hundred percent of slides from patient with a known history of cervical cancer or its precursors; and

(B) Selection of benign slides for a total rescreening of a minimum of ten percent of all benign slides including patients identified in (s)(iv)(A) of this subsection;

(v) Assure that quality control is performed by a person meeting the personnel requirements for technical supervisor or general supervisor in cytology, as defined under 42 CFR Part 493 Subpart M;

(vi) Evaluate the results of the quality control rescreen prior to reporting results for the cases selected;

(vii) Review cytologic specimens or records of previous reviews, for the prior five years, if available, for each abnormal cytology result;

(viii) Correlate abnormal cytology reports with prior cytology reports and with histopathology reports, if available, and determine the cause of any discrepancies;

(ix) Document reviews of negative slides from cases known to have a history of abnormal slides;

(x) Evaluate and document technical personnel slide examination performance, comparing against the medical test site's overall statistics;

(xi) Evaluate and document significant discrepancies in examination of cytology slides;

(xii) Establish an annual statistical evaluation of the number of cytology cases examined, number of specimens processed by specimen type, volume of patient cases reported by diagnosis, number of cases where cytology and histology are discrepant, number of cases where histology results were unavailable for comparison and number of cases where rescreen of negative slides resulted in reclassification as abnormal;

(xiii) Stain all gynecologic smears with a Papanicolaou or modified Papanicolaou staining method;

(xiv) Take effective measures when staining to prevent cross-contamination between gynecologic and nongynecologic specimens;

(xv) The technical supervisor shall:

(A) Confirm all gynecological smears interpreted to be outside normal limits;

(B) Review all nongynecological cytological preparations;

(C) Sign or initial all reports from (s)(xiv)(A) or (B) of this subsection; and

(D) Establish, document and reassess, at least every six months, the workload limits for each cytotechnologist;

(xvi) Technical personnel shall examine, unless federal law and regulation specify otherwise, no more than one hundred cytological slides in a twenty-four hour period and in no less than a eight hour period; and

(xvii) All slide preparations must be evaluated on the premises;

(t) For histocompatibility:

(i) Use applicable quality control standards for immunohematology, transfusion services, and diagnostic immunology as described in this chapter; and

(ii) Meet the standards for histocompatibility as listed in 42 CFR Part 493.1265, Condition: Histocompatibility, available from the department upon request;

(u) For cytogenetics:

(i) Document the:

(A) Number of metaphase chromosome spreads and cells counted and karyotyped;

(B) Number of chromosomes counted for each metaphase spread;

(C) Media used;

(D) Quality of banding; and

(E) Sufficient resolution to support the reported results;

(ii) Assure an adequate number of karyotypes are prepared for each patient, according to the indication given for performing cytogenetics study;

(iii) Use an adequate patient identification system for:

(A) Patient specimens;

(B) Photographs, photographic negatives, or computer stored images of metaphase spreads and karyotypes;

(C) Slides; and

(D) Records;

(iv) Include in the final report:

(A) The number of cells counted and karyotyped; and

(B) An interpretation of the karyotypes findings;

(v) Use appropriate nomenclature on final reports; and

(vi) When performing determination of sex by X and Y chromatin counts, perform confirmatory testing on all atypical results;

(v) For radiobioassay and radioimmunoassay:

(i) Check the counting equipment for stability each day of use with radioactive standards or reference sources; and

(ii) Meet Washington state radiation standards described under chapter 70.98 RCW, and chapter 402-10 through 402-24, 402-32 through 402-34, 402-62, and 402-70 WAC.)) The medical test site must use quality control procedures, providing and assuring accurate and reliable test results and reports, meeting the requirements of this chapter.

(1) The medical test site must have written procedures and policies available in the work area for:

(a) Analytical methods used by the technical personnel including:

(i) Principle;

(ii) Specimen collection and processing procedures;

(iii) Equipment/reagent/supplies required;

(iv) Preparation of solutions, reagents, and stains;

(v) Test methodology;

(vi) Quality control procedures;

(vii) Procedures for reporting results (normal, abnormal, and critical values);

(viii) Reference range;

(ix) Troubleshooting guidelines - limitations of methodology;

(x) Calibration procedures; and

(xi) Pertinent literature references; and

(b) Alternative or backup methods for performing tests including the use of a reference facility if applicable.

(2) The medical test site must establish written criteria for and maintain appropriate documentation of:

(a) Temperature-controlled spaces and equipment;

(b) Preventive maintenance activities;

- (c) Equipment function checks;
- (d) Procedure calibrations; and
- (e) Method/instrument validation procedures.
- (3) The medical test site must maintain documentation

of:  
 (a) Expiration date, lot numbers, and other pertinent information for:

- (i) Reagents;
- (ii) Solutions;
- (iii) Culture media;
- (iv) Controls;
- (v) Calibrators;
- (vi) Standards;
- (vii) Reference materials; and
- (viii) Other testing materials; and
- (b) Testing of quality control samples.

(4) For quantitative tests, the medical test site must perform quality control as follows:

(a) Include two reference materials of different concentrations each day of testing unknown samples, if these reference materials are available; or

(b) Have an equivalent mechanism to assure the quality, accuracy, and precision of the test if reference materials are not available.

(5) For qualitative tests, the medical test site must perform quality control as follows:

(a) Use positive and negative reference material each day of testing unknown samples; or

(b) Have an equivalent mechanism to assure the quality, accuracy, and precision of the test if reference materials are not available.

(6) The medical test site must:

(a) Use materials within their documented expiration date;

(b) Not interchange components of kits with different lot numbers, unless specified by the manufacturer;

(c) Determine the statistical limits for each lot number of unassayed reference materials through repeated testing;

(d) Use the manufacturer's reference material limits for assayed material, provided they are:

- (i) Verified by the medical test site; and
- (ii) Appropriate for the methods and instrument used by the medical test site;

(e) Make reference material limits readily available;

(f) Report patient results only when reference materials are within acceptable limits; and

(g) Comply with general quality control requirements as described in Table 090-1, unless otherwise specified in subsection (9)(a) through (l) of this section.

(7) The medical test site must perform, when applicable:

(a) Calibration and calibration checks for moderate complexity testing as described in Table 090-2;

(b) Calibration and calibration verification for high complexity testing as described in Table 090-3;

(c) Validation for moderate complexity testing by verifying the following performance characteristics when the medical test site introduces a new procedure classified as moderate complexity:

- (i) Accuracy;
- (ii) Precision; and
- (iii) Reportable range of patient test results;
- (d) Validation for high complexity testing:

(i) When the medical test site introduces a new procedure classified as high complexity;

(ii) For each method that is developed in-house, is a modification of the manufacturer's test procedure, or is an instrument, kit or test system that has not been cleared by FDA; and

(iii) By verifying the following performance characteristics:

- (A) Accuracy;
- (B) Precision;
- (C) Analytical sensitivity;
- (D) Analytical specificity to include interfering substances;

(E) Reference ranges (normal values);

(F) Reportable range of patient test results; and

(G) Any other performance characteristic required for test performance.

(8) When patient values are above the maximum or below the minimum calibration point or the reportable range, the medical test site must:

(a) Report the patient results as greater than the upper limit or less than the lower limit or an equivalent designation; or

(b) Use an appropriate procedure to rerun the sample allowing results to fall within the established linear range.

**Table 090-1 General Quality Control Requirements**

|     | <b>Control Material</b>  | <b>Frequency</b>   |
|-----|--|--|
| (a) | <u>Each batch or shipment of reagents, discs, antisera, and identification systems</u> | • <u>Appropriate control materials for positive and negative reactivity</u><br>• <u>When prepared or opened, unless otherwise specified</u>                                  |
| (b) | <u>Each batch or shipment of stains</u>  | • <u>Appropriate control materials for positive and negative reactivity</u><br>• <u>When prepared or opened; and</u><br>• <u>Each day of use, unless otherwise specified</u> |
| (c) | <u>Fluorescent stains</u>  | • <u>Appropriate control materials for positive and negative reactivity</u><br>• <u>Each time of use, unless otherwise specified</u>   |

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|   | <b>Control Material</b>   | <b>Frequency</b>   |
|---|---|--|
| (d) <u>Quality control for each specialty and subspecialty</u>          | <ul style="list-style-type: none"> <li>• <u>Appropriate control materials; or</u></li> <li>• <u>Equivalent mechanism to assure the quality, accuracy, and precision of the test if reference materials are not available</u></li> </ul> | <ul style="list-style-type: none"> <li>• <u>At least as frequently as specified in this section;</u></li> <li>• <u>More frequently if recommended by the manufacturer of the instrument or test procedure; or</u></li> <li>• <u>More frequently if specified by the medical test site</u></li> </ul> |
| (e) <u>Direct antigen detection systems without procedural controls</u> | <ul style="list-style-type: none"> <li>• <u>Positive and negative controls that evaluate both the extraction and reaction phase</u></li> </ul>  | <ul style="list-style-type: none"> <li>• <u>Each batch, shipment, and new lot number; and</u></li> <li>• <u>Each day use</u></li> </ul>  |

**Table 090-2 Moderate Complexity Testing**

|                          | <b>Calibration Material</b>  | <b>Frequency</b>  |
|--------------------------|--|---|
| <b>CALIBRATION</b>       | <ul style="list-style-type: none"> <li>• <u>Calibration material appropriate for methodology according to manufacturer's instructions</u></li> </ul> | <ul style="list-style-type: none"> <li>• <u>Initial on-site installation/implementation of instrument/method;</u></li> <li>• <u>At the frequency recommended by the manufacturer;</u></li> <li>• <u>When controls show trends, shifts, or are out of limits and other corrective action has not fixed the problem.</u></li> </ul> |
| <b>CHECK CALIBRATION</b> | <ul style="list-style-type: none"> <li>• <u>Assayed material appropriate for methodology</u></li> </ul>  | <ul style="list-style-type: none"> <li>• <u>At least every six months.</u></li> </ul>   |

**Table 090-3 High Complexity Testing**

|                                 | <b>Calibration Material</b>  | <b>Frequency</b>  |
|---------------------------------|--|---|
| <b>CALIBRATION</b>              | <ul style="list-style-type: none"> <li>• <u>Calibration materials appropriate for methodology</u></li> </ul>   | <ul style="list-style-type: none"> <li>• <u>Initial on-site installation/implementation of instrument/method;</u></li> <li>• <u>At the frequency recommended by the manufacturer; and</u></li> <li>• <u>Whenever calibration verification fails to meet the medical test site's acceptable limits for calibration verification.</u></li> </ul>  |
| <b>CALIBRATION VERIFICATION</b> | <ul style="list-style-type: none"> <li>• <u>Use assayed material, if available, at the lower, mid-point, and upper limits of procedure's reportable range; or</u></li> <li>• <u>Demonstrate alternate method of assuring accuracy at the lower, mid-point, and upper limits of procedure's reportable range</u></li> </ul> | <ul style="list-style-type: none"> <li>• <u>At least every six months;</u></li> <li>• <u>When there is a complete change of reagents (i.e., new lot number or different manufacturer) is introduced;</u></li> <li>• <u>When major preventive maintenance is performed or there is a replacement of critical parts of equipment; or</u></li> <li>• <u>When controls are outside of the medical test site's acceptable limits or exhibit trends.</u></li> </ul> |

(9) The medical test site must perform quality control procedures as described for each specialty and subspecialty in (a) through (l) of this subsection.

(a) **Chemistry.**  
Perform quality control procedures for chemistry as described in Table 090-4.

**Table 090-4 Quality Control Procedures - Chemistry**

| <b>Subspecialty/Test</b> | <b>Qualitative</b>  |  | <b>Quantitative</b>   |  |
|--------------------------|---|--|---|--|
|                          | <b>Control Material</b>   | <b>Frequency</b>   | <b>Control Material</b>   | <b>Frequency</b>   |
| <u>Routine Chemistry</u> | <ul style="list-style-type: none"> <li>• <u>Positive and negative reference material</u></li> </ul> | <ul style="list-style-type: none"> <li>• <u>Each day of use</u></li> </ul> | <ul style="list-style-type: none"> <li>• <u>Two levels of reference material in different concentrations</u></li> </ul> | <ul style="list-style-type: none"> <li>• <u>Each day of use</u></li> </ul> |

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| Subspecialty/Test  | Qualitative  |  | Quantitative  |   |
|--|--|--|---|---|
|  | Control Material   | Frequency  | Control Material  | Frequency   |
| <b>Toxicology</b>  |  |  |   |   |
| <ul style="list-style-type: none"> <li>GC/MS for drug screening</li> <li>Urine drug screen</li> </ul>              | <ul style="list-style-type: none"> <li>Analyte-specific control</li> <li>Positive control containing at least one drug representative of each drug class to be reported; must go through each phase of use including extraction</li> </ul> | <ul style="list-style-type: none"> <li>With each run of patient specimens</li> <li>With each run of patient specimens</li> </ul> | <ul style="list-style-type: none"> <li>Analyte-specific control</li> </ul>  | <ul style="list-style-type: none"> <li>With each analytical run</li> </ul>  |
| <b>Urinalysis</b>  |  |  |   |   |
| <ul style="list-style-type: none"> <li>Nonwaived instrument</li> <li>Refractometer for specific gravity</li> </ul> |  |  | <ul style="list-style-type: none"> <li>Two levels of control material</li> <li>Calibrate to zero with distilled water</li> <li>One level of control material</li> </ul>   | <ul style="list-style-type: none"> <li>Each day of use</li> <li>Each day of use</li> </ul>  |
| <b>Blood Gas Analysis</b>  |  |  |   |   |
|  |  |  | <ul style="list-style-type: none"> <li>Two-point calibration and one reference material</li> <li>One-point calibration or one reference material, or Another calibration and reference material schedule, approved by the department</li> </ul> | <ul style="list-style-type: none"> <li>Each eight hours of testing</li> <li>Each time patient sample is tested, unless automated instrument internally verifies calibration every thirty minutes</li> </ul> |
| <b>Electrophoresis</b>   |  |  |   |   |
|  | <ul style="list-style-type: none"> <li>One control containing fractions representative of those routinely reported in patient specimens</li> </ul>   | <ul style="list-style-type: none"> <li>In each electrophoretic cell</li> </ul>   | <ul style="list-style-type: none"> <li>One control containing fractions representative of those routinely reported in patient specimens</li> </ul>  | <ul style="list-style-type: none"> <li>In each electrophoretic cell</li> </ul>  |

**(b) Hematology.**  
 (i) Run patient and quality control samples in duplicate for manual cell counts;

(ii) If reference material is unavailable, document the mechanism used to assure the quality, accuracy, and precision of the test; and  
 (iii) Perform quality control procedures for hematology as described in Table 090-5.

**Table 090-5 Hematology**

|                            | Control Material   | Frequency   |
|----------------------------|--|---|
| <b>Automated</b>           | <ul style="list-style-type: none"> <li>Two levels of reference material in different concentrations</li> </ul> | <ul style="list-style-type: none"> <li>Every eight hours that patient samples are tested</li> </ul> |
| <b>Manual Blood Counts</b> | <ul style="list-style-type: none"> <li>One level of reference material</li> </ul>                              | <ul style="list-style-type: none"> <li>Every eight hours that patient samples are tested</li> </ul> |
| <b>Qualitative Tests</b>   | <ul style="list-style-type: none"> <li>Positive and negative reference material</li> </ul>                     | <ul style="list-style-type: none"> <li>Each day of testing</li> </ul>                               |

**(c) Coagulation.**  
 (i) Run patient and quality control samples in duplicate for manual coagulation test (tilt tube);

(ii) If reference material is unavailable, document the mechanism used to assure the quality, accuracy, and precision of the test; and  
 (iii) Perform quality control procedures for coagulation as described in Table 090-6.

**Table 090-6 Coagulation**

|                  | Control Material   | Frequency  |
|------------------|--|--|
| <b>Automated</b> | <ul style="list-style-type: none"> <li>Two levels of reference material in different concentrations</li> </ul> | <ul style="list-style-type: none"> <li>Every eight hours that patient samples are tested; and</li> <li>Each time reagents are changed</li> </ul> |

|  | <b>Control Material</b>   | <b>Frequency</b>   |
|--|---|--|
| <u>Manual Tilt Tube Method</u>   | <ul style="list-style-type: none"> <li>• <u>Two levels of reference material in different concentrations</u></li> </ul> | <ul style="list-style-type: none"> <li>• <u>Every eight hours that patient samples are tested; and</u></li> <li>• <u>Each time reagents are changed</u></li> </ul> |
| <p><b>(d) General immunology.</b></p> <p><u>(i) Employ reference materials for all test components to ensure reactivity;</u></p> <p><u>(ii) Report test results only when the predetermined reactivity pattern of the reference material is observed; and</u></p> <p><u>(iii) Perform quality control procedures for general immunology as described in Table 090-7.</u></p> |   |  |

**Table 090-7 General Immunology**

|   | <b>Control Material</b>  | <b>Frequency</b>   |
|---|--|--|
| <u>Serologic tests on unknown specimens</u>                         | <ul style="list-style-type: none"> <li>• <u>Positive and negative reference material</u></li> </ul>  | <ul style="list-style-type: none"> <li>• <u>Each day of testing</u></li> </ul>   |
| <u>Moderate complexity kits with procedural (internal) controls</u> | <ul style="list-style-type: none"> <li>• <u>Positive and negative reference material (external controls)</u></li> <li>• <u>Procedural (internal) controls</u></li> </ul> | <ul style="list-style-type: none"> <li>• <u>When kit is opened</u></li> <li>• <u>Each time patient sample is tested</u></li> </ul> |

**(e) Syphilis serology.**

(i) Use equipment, glassware, reagents, controls, and techniques that conform to manufacturer's specifications;

(ii) Employ reference materials for all test components to ensure reactivity; and

(iii) Perform serologic tests on unknown specimens concurrently with a positive serum reference material with known titer or graded reactivity and a negative reference material.

**(f) Microbiology.**

(i) Have available and use:

(A) Appropriate stock organisms for quality control purposes; and

(B) A collection of slides, photographs, gross specimens, or test books for reference sources to aid in identification of microorganisms;

(ii) Document all steps (reactions) used in the identification of microorganisms on patient specimens;

(iii) For antimicrobial susceptibility testing:

(A) Record zone sizes or minimum inhibitory concentration for reference organisms; and

(B) Zone sizes or minimum inhibitory concentration for reference organisms must be within established limits before reporting patient results; and

(C) Perform quality control on antimicrobial susceptibility testing media as described in Table 090-9;

(iv) For noncommercial media, check each batch or shipment for sterility, ability to support growth and, if appropriate, selectivity, inhibition, or biochemical response;

(v) For commercial media:

(A) Verify that the product insert specifies that the quality control checks meet the requirements for media quality control as outlined by the National Committee for Clinical Laboratory Standards (NCCLS), Quality Assurance for Commercially Prepared Microbiological Culture Media-Second Edition; Approved Standard (1996);

(B) Keep records of the manufacturer's quality control results;

(C) Document visual inspection of the media for proper filling of the plate, temperature or shipment damage, and contamination before use; and

(D) Follow the manufacturer's specifications for using the media; and

(vi) For microbiology subspecialties:

(A) Bacteriology: Perform quality control procedures for bacteriology as described in Tables 090-8 and 090-9.

**Table 090-8 Bacteriology**

|  | <b>Control Material</b>  | <b>Frequency</b>  |
|--|--|---|
| <u>Reagents, disks, and identification systems</u>   | <ul style="list-style-type: none"> <li>• <u>Positive and negative reference organisms, unless otherwise specified</u></li> </ul> | <ul style="list-style-type: none"> <li>• <u>Each batch, shipment, and new lot number unless otherwise specified</u></li> </ul>              |
| <u>Stains, unless otherwise specified: DNA probes; catalase; coagulase; beta-lactamase; and oxidase reagents</u> | <ul style="list-style-type: none"> <li>• <u>Positive and negative reference organisms</u></li> </ul>                             | <ul style="list-style-type: none"> <li>• <u>Each batch, shipment, and new lot number; and</u></li> <li>• <u>Each day of use</u></li> </ul>  |
| <u>Fluorescent stains</u>  | <ul style="list-style-type: none"> <li>• <u>Positive and negative reference organisms</u></li> </ul>                             | <ul style="list-style-type: none"> <li>• <u>Each batch, shipment, and new lot number; and</u></li> <li>• <u>Each time of use</u></li> </ul> |
| <u>Gram and acid-fast stains, bacitracin, optochin, ONPG, X and V disks or strips</u>                            | <ul style="list-style-type: none"> <li>• <u>Positive and negative reference organisms</u></li> </ul>                             | <ul style="list-style-type: none"> <li>• <u>Each batch, shipment, and new lot number; and</u></li> <li>• <u>Each week of use</u></li> </ul> |

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|  | <u>Control Material</u>  | <u>Frequency</u>   |
|--|--|--|
| <u>Direct antigen detection systems without procedural controls</u>      | : <u>Positive and negative controls that evaluate both the extraction and reaction phase</u>                     | : <u>Each batch, shipment, and new lot number; and</u><br>: <u>Each day of use</u>               |
| <u>Moderate complexity test kits with procedural (internal) controls</u> | : <u>Positive and negative reference material (external) controls</u><br>: <u>Procedural (internal) controls</u> | : <u>Each batch, shipment, and new lot number</u><br>: <u>Each time patient sample is tested</u> |
| <u>Antisera</u>  | : <u>Positive and negative reference material</u>  | : <u>Each batch, shipment, and new lot number; and</u><br>: <u>Each month of use</u>             |

**Table 090-9 Bacteriology - Media for Antimicrobial Susceptibility Testing**

|   | <u>Control Material</u>                                | <u>Frequency</u>  |
|---|--|---|
| <u>Check each new batch of media and each new lot of antimicrobial disks or other testing systems (MIC)</u> | : <u>Approved reference organisms (ATCC organisms)</u> | : <u>Before initial use and each day of testing; or</u><br>: <u>May be done weekly if the medical test site can meet the quality control requirements for antimicrobial disk susceptibility testing as outlined by Performance Standards for Antimicrobial Disk susceptibility Tests-Sixth Edition; Approved Standard (1997).</u> |

**(B) Mycobacteriology:** Perform quality control procedures for mycobacteriology as described in Table 090-10.

**Table 090-10 Mycobacteriology**

|  | <u>Control Material</u>  | <u>Frequency</u>          |
|--|--|---------------------------|
| <u>Iron uptake test</u>  | : <u>Acid-fast organism that produces a positive reaction and with an organism that produces a negative reaction</u> | : <u>Each day of use</u>  |
| <u>All other reagents or test procedures used for mycobacteria identification unless otherwise specified</u> | : <u>Acid-fast organism that produces a positive reaction</u>  | : <u>Each day of use</u>  |
| <u>DNA probes</u>  | : <u>Organisms that produce positive and negative reactions</u>  | : <u>Each day of use</u>  |
| <u>Acid-fast stains</u>  | : <u>Acid-fast organism that produces a positive reaction</u>  | : <u>Each week of use</u> |
| <u>Fluorochrome acid-fast stains</u>   | : <u>Organisms that produce positive and negative reactivity</u>   | : <u>Each week of use</u> |
| <u>Susceptibility test performed on <i>Mycobacterium tuberculosis</i> isolates</u>                           | : <u>Strain of <i>M. tb</i> susceptible to all antimycobacterial agents used</u>                                     | : <u>Each week of use</u> |

**(C) Mycology:** Perform quality control procedures for mycology as described in Table 090-11.

**Table 090-11 Mycology**

|  | <u>Control Material</u>  | <u>Frequency</u>                                    |
|--|--|---|
| <u>Auxanographic medium for nitrate assimilation: Nitrate reagent</u>  | : <u>Peptone control</u>   | : <u>Each day of use</u>                            |
| <u>Susceptibility tests: Each drug</u><br><u>NOTE: Establish control limits and criteria for acceptable control results prior to reporting patient results</u> | : <u>One control strain that is susceptible to the drug</u>                        | : <u>Each day of use</u>                            |
| <u>Acid-fast stains</u>  | : <u>Organisms that produce positive and negative reactions</u>                    | : <u>Each week of use</u>                           |
| <u>Reagents for biochemical and other identification test procedures</u>   | : <u>Organism that produces a positive reaction</u>                                | : <u>Each week of use</u>                           |
| <u>Commercial identification systems utilizing two or more substrates</u>  | : <u>Organisms that verify positive and negative reactivity of each media type</u> | : <u>Each batch or shipment and each lot number</u> |

**(D) Parasitology:**

**(I) Have available and use:**

- Reference collection of slides or photographs and, if available, gross specimens for parasite identification; and
- Calibrated ocular micrometer for determining the size of ova and parasites, if size is a critical parameter.

**(II) Check permanent stains each month of use with reference materials.**

**(E) Virology:**

**(I) Have available:**

- Host systems for isolation of viruses; and

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• Test methods for identification of viruses that cover the entire range of viruses that are etiologically related to the clinical diseases for which services are offered; and

(II) Simultaneously culture uninoculated cells or cell substrate as a negative control when performing virus identification.

(g) Histopathology: Include a control slide of known reactivity with each slide or group of slides for differential or special stains and document reactions.

(h) Cytology.

(i) Processing specimens:

(A) Stain all gynecological smears using a Papanicolaou or a modified Papanicolaou staining method;

(B) Have methods to prevent cross-contamination between gynecologic and nongynecologic specimens during the staining process; and

(C) Stain nongynecological specimens that have a high potential for cross-contamination separately from other nongynecological specimens, and filter or change the stains following staining.

(ii) Performing specimen examinations:

(A) All cytology preparations must be evaluated on the premises of the medical test site;

(B) Technical personnel must examine, unless federal law and regulation specify otherwise, no more than one hundred cytological slides by nonautomated microscopic technique in a twenty-four-hour period and in no less than an eight-hour work period;

(C) Previously examined negative, reactive, reparative, atypical, premalignant or malignant gynecological cases and previously examined nongynecologic cytology preparations and tissue pathology slides examined by a technical supervisor are not included in the one hundred slide limit;

(D) Each slide preparation technique (automated, semi-automated, or liquid based) which results in cell dispersion over one-half or less of the total available slide area and which is examined by nonautomated microscopic technique must be counted as one-half slide; and

(E) Records of the total number of slides examined by each individual at all sites during each twenty-four-hour period must be maintained.

(iii) Establish and implement a quality assurance program that ensures:

(A) There is criteria for submission of material;

(B) All providers submitting specimens are informed of these criteria;

(C) All samples submitted are assessed for adequacy;

(D) Records of initial examinations and rescreening results are available;

(E) Rescreening of benign gynecological slides is:

(I) Performed by an individual who meets the personnel requirements for technical or general supervisor in cytology as defined under 42 CFR Part 493 Subpart M;

(II) Completed before reporting patient results on those selected cases;

(III) Performed and documented on:

• No less than ten percent of the benign gynecological slides; and

• One hundred percent of all slides from patients with a known history of cervical cancer or its precursors;

(F) The technical supervisor:

(I) Confirms all gynecological smears interpreted to be showing reactive or reparative changes, atypical squamous or glandular cells of undetermined significance, or to be in the premalignant (dysplasia, cervical intraepithelial neoplasia or all squamous intraepithelial neoplasia lesions including human papillomavirus-associated changes) or malignant category;

(II) Reviews all nongynecological cytological preparations; and

(III) Establishes, documents, and reassesses, at least every six months, the workload limits for each cytotechnologist;

(G) All abnormal cytology reports are correlated with prior cytology reports and with histopathology reports if available, and the causes of any discrepancies are determined;

(H) Review of all normal or negative gynecological specimens received within the previous five years, if available in the laboratory system, or records of previous reviews, for each patient with a current high grade intraepithelial lesion or moderate dysplasia of CIN-2 or above;

(I) Notification of the patient's physician if significant discrepancies are found that would affect patient care and issuance of an amended report;

(J) An annual statistical evaluation of the number of cytology cases examined, number of specimens processed by specimen type, volume of patient cases reported by diagnosis, number of cases where cytology and histology are discrepant, number of cases where histology results were unavailable for comparison, and number of cases where rescreen of negative slides resulted in reclassification as abnormal; and

(K) Evaluation and documentation of the performance of each individual examining slides against the medical test site's overall statistical values, with documentation of any discrepancies, including reasons for the deviation and corrective action, if appropriate.

(i) Immunohematology/transfusion services.

(i) Perform ABO grouping, Rh (D) typing, antibody detection and identification, and compatibility testing as described by the Food and Drug Administration under 21 CFR Part 606, and must also comply with 21 CFR Part 640.

(A) Perform ABO grouping:

(I) By concurrently testing unknown red cells with Food and Drug Administration approved anti-A and anti-B grouping sera;

(II) Confirm ABO grouping of unknown serum with known A1 and B red cells;

(B) Perform Rh (D) typing by testing unknown red cells with anti-D (anti-Rh) blood grouping serum; and

(C) Perform quality control procedures for immunohematology as described in Table 090-12.

(ii) Blood and blood products:

(A) Collecting, processing, and distributing:

(I) Must comply with FDA requirements listed under 21 CFR Parts 606, 610.53, and 640; and



(II) Must establish, document, and follow policies to ensure positive identification of a blood or blood product recipient.

(B) Labeling and dating must comply with FDA requirements listed under 21 CFR 606, Subpart G, and 610.53.

(C) Storing:

(I) There must be an adequate temperature alarm system that is regularly inspected.

(II) The system must have an audible alarm system that monitors proper blood and blood product storage temperature over a twenty-four-hour period.

(III) High and low temperature checks of the alarm system must be documented.

(D) Collection of heterologous or autologous blood products on-site:

(I) Must register with the Food and Drug Administration; and

(II) Have a current copy of the form FDA 2830 "Blood Establishment Registration and Product Listing."

(iii) Must have an agreement approved by the director for procurement, transfer, and availability to receive products from outside entities.

(iv) Promptly investigate transfusion reactions according to established procedures, and take any necessary remedial action.

**Table 090-12 Immunohematology**

| <u>Reagent</u>                  | <u>Control Material</u>  | <u>Frequency</u>   |
|---------------------------------|--|--|
| <u>ABO antisera</u>             | <u>• Positive control</u>  | <u>• Each day of use</u>   |
| <u>Rh antisera</u>              | <u>• Positive and negative controls</u><br><u>• Patient control to detect false positive Rh test results</u> | <u>• Each day of use</u><br><u>• When required by the manufacturer</u> |
| <u>Other antisera</u>           | <u>• Positive and negative controls</u>  | <u>• Each day of use</u>   |
| <u>ABO reagent red cells</u>    | <u>• Positive control</u>  | <u>• Each day of use</u>   |
| <u>Antibody screening cells</u> | <u>• Positive control using at least one known antibody</u>  | <u>• Each day of use</u>   |

**(j) Histocompatibility.**

(i) Use applicable quality control standards for immunohematology, transfusion services, and diagnostic immunology as described in this chapter; and

(ii) Meet the standards for histocompatibility as listed in 42 CFR Part 493.1265, Condition: Histocompatibility, available from the department upon request.

**(k) Cytogenetics.**

(i) Document:

(A) Number of metaphase chromosome spreads and cells counted and karyotyped;

(B) Number of chromosomes counted for each metaphase spread;

(C) Media used;

(D) Quality of banding; and

(E) Sufficient resolution to support the reported results;

(ii) Assure an adequate number of karyotypes are prepared for each patient according to the indication given for performing cytogenetics study;

(iii) Use an adequate patient identification system for:

(A) Patient specimens;

(B) Photographs, photographic negatives, or computer stored images of metaphase spreads and karyotypes;

(C) Slides; and

(D) Records; and

(iv) Perform confirmatory testing on all atypical results when performing determination of sex by X and Y chromatin counts.

**(l) Radiobioassay and radioimmunoassay.**

(i) Check the counting equipment for stability each day of use with radioactive standards or reference sources; and

(ii) Meet Washington state radiation standards described under chapter 70.98 RCW and chapters 246-220, 246-221, 246-222, 246-232, 246-233, 246-235, 246-239, 246-247, 246-249, and 246-254 WAC.

**AMENDATORY SECTION** (Amending WSR 97-14-113, filed 7/2/97, effective 8/2/97)

**WAC 246-338-100 Disciplinary action.** (1) Pursuant to chapter 34.05 RCW, the department may ~~((take disciplinary action against the license of a medical test site or an application for a license as a medical test site upon a determination that the licensee or applicant has engaged in or committed any of the following))~~ deny a license to any applicant, or condition, suspend, or revoke the license of any licensee, or in addition to or in lieu thereof, assess monetary penalties of up to ten thousand dollars per violation, if the applicant or licensee:

(a) ~~((Failure or refusal))~~ Fails or refuses to comply with the requirements of chapter 70.42 RCW or the rules adopted under chapter 70.42 RCW;

(b) Knowingly, or with reason to know, ~~((made))~~ makes a false statement of a material fact in the application for a license or in any data attached thereto or in any record required by the department;

(c) ~~((Refused))~~ Refuses to allow representatives of the department to examine any book, record, or file required under this chapter;

(d) Willfully ~~((prevented, interfered with, or attempted))~~ prevents, interferes with, or attempts to impede in any way, the work of a representative of the department; or

(e) ~~((Misrepresented or was))~~ Misrepresents or is fraudulent in any aspect of the owner's or applicant's business.

(2) ~~((Except as provided in subsection (3) of this section, the following actions may be taken against the applicant or licensee, individually or in any combination, as a disciplinary action:~~

~~((a) Denial of the license or renewal thereof;~~

~~((b) Conditions on the license which limit or cancel the test site's authority to conduct any tests or group of tests;~~

~~((c) Suspension of the license;~~

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(d) Revocation of the license;

(e) Monetary penalties, not exceeding ten thousand dollars per violation;

(3) Upon a determination that the licensee or applicant has engaged in or committed any of the following described conduct, ~~The department may impose the sanctions enumerated in subsection (1) of this section individually or in any combination.~~

(3) The sanction shall be as specified for ~~(that)~~ the following described conduct. If more than one sanction is listed, the department may impose the sanction ~~((may be ordered))~~ individually or in any combination:

(a) If the applicant was the holder of a license under chapter 70.42 RCW which was revoked for cause and never reissued by the department, then the license application may be denied;

(b) If the licensee willfully prevents or interferes with preservation of evidence of a known violation of chapter 70.42 RCW or the rules adopted under this chapter, a monetary penalty not exceeding ten thousand dollars per violation may be assessed or the license may be:

(i) Conditioned in a manner limiting or canceling the authority to conduct tests or groups of tests;

(ii) Suspended;

(iii) Revoked;

(c) If the licensee used false or fraudulent advertising, a monetary penalty not exceeding ten thousand dollars per violation may be assessed or the license may be suspended or revoked;

(d) If the licensee failed to pay any civil monetary penalty assessed by the department under chapter 70.42 RCW within twenty-eight days after the assessment becomes final, the license may be suspended or revoked;

(e) If the licensee intentionally referred its proficiency testing samples to another medical test site or laboratory for analysis, the license will be revoked for a period of at least one year and a monetary penalty not exceeding ten thousand dollars per violation may be assessed.

(4) The department may summarily suspend or revoke a license when the department finds continued licensure of a test site immediately jeopardizes the public health, safety, or welfare.

(5) The department ~~((shall))~~ will give written notice of any disciplinary action taken by the department to the owner or applicant for licensure, including notice of the opportunity for a hearing.

~~((6) A medical test site, convicted of fraud and abuse, false billing or kickbacks under state law must report this information to the department within thirty days.))~~

**AMENDATORY SECTION** (Amending Order 390, filed 9/1/93, effective 10/2/93)

**WAC 246-338-110 Adjudicative proceedings.** (1) A licensee or applicant ~~((contesting))~~ who contests a disciplinary action shall, within twenty-eight days of service of the notice of disciplinary action, file ~~((an application of))~~ a request for adjudicative proceeding with the Department of Health, ~~((Office of Professional Standards, 2413 Pacific Ave-~~

~~nue))~~ Adjudicative Clerk, P.O. Box ((47872)) 47879, Olympia, WA 98504-~~((7872))~~ 7879.

(2) The adjudicative proceeding is governed by chapter 34.05 RCW, the Administrative Procedure Act, chapter 70.42 RCW, Medical test sites, this chapter, and chapter 246-10 WAC.

(3) Any licensee or applicant aggrieved upon issuance of the decision after the ~~((conduct of an))~~ adjudicative proceeding may, within sixty days of service of the adjudicative proceeding decision, petition the superior court for review of the decision under chapter 34.05 RCW.

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 246-338-030

Waiver from licensure of medical test sites.

**WSR 00-03-074**  
**PROPOSED RULES**  
**DEPARTMENT OF HEALTH**

[Filed January 19, 2000, 9:53 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-14-117.

Title of Rule: Chapter 246-780 WAC, WIC farmers' market nutrition program.

Purpose: The rule needs to be revised to comply with regulatory reform and to bring the rule, the farmers' market contract, the grower's agreement, and the federal regulations into accordance with one another.

Statutory Authority for Adoption: RCW 43.70.120.

Statute Being Implemented: 7 C.F.R. 248.

Summary: The sanctions section is being revised to comply with regulatory reform and the language is changed throughout to provide more clarity and consistency with the farmers' market contract, the grower's agreement, and the federal regulations. In addition, sections are rearranged for better flow and understanding.

Reasons Supporting Proposal: The existing rule had not been reviewed since the regulatory reform legislation was enacted. In addition, there had been requests to bring all program documents into accord with one another. The program also took the opportunity to streamline some procedures and clean up and simplify language.

Name of Agency Personnel Responsible for Drafting: Sheryl Pickering/Susan Evans, P.O. Box 47886, Olympia, 98504-7886, (360) 236-3655; Implementation and Enforcement: Sheryl Pickering/Mari Hovelson, P.O. Box 47886, Olympia, 98504-7886, (360) 236-3655.

Name of Proponent: Department of Health WIC Program, governmental.

Rule is necessary because of federal law, 7 C.F.R. 248.

Explanation of Rule, its Purpose, and Anticipated Effects: The rule explains the responsibilities of farmers'

markets and growers participating in the farmers' market nutrition program, sanctions for noncompliance, and rights of appeal. The purpose of the rule is to clarify the federal regulations and bring the rule, the farmers' market contract, and the grower's agreement into accordance with one another and with the federal regulations. By doing so and by simplifying language and rearranging text for better flow, the program anticipates making compliance for our participating farmers' markets and growers as easy as possible.

Proposal Changes the Following Existing Rules: The proposed rule changes language and flow of the business. It does not change the way farmers' markets and growers participate in the farmers' market nutrition program. No additional work, time, or money will be required of participating farmers' markets and growers upon establishment of this rule.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rule does not change the requirements of participation in the farmers' market nutrition program. They restate the existing requirements in an easier-to-understand language and format. The department expects the proposed changes will lower the costs of compliance for contracted farmers' markets and growers.

RCW 34.05.328 applies to this rule adoption. The rule contains requirements stipulated in the federal regulations which subject a farmers' market or grower to a sanction if violated. The Administrative Procedure Act requires a rule be in place when violation of program requirements subjects the violator to monetary sanctions. One of the types of sanctions listed in the federal regulations is monetary.

Hearing Location: Department of Health, New Market Campus, 7171 Cleanwater Lane, Building 1, Tumwater, 98504-7880, on February 25, 2000, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Susan Evans by February 18, 2000, TDD (800) 833-6388.

Submit Written Comments to: Susan Evans, WIC Program, P.O. Box 47886, Olympia, WA 98504-7886, fax (360) 586-3890, by February 25, 2000.

Date of Intended Adoption: February 29, 2000.

January 18, 2000

M. C. Selecky

Secretary

AMENDATORY SECTION (Amending WSR 96-01-085, filed 12/18/95, effective 1/18/96)

WAC 246-780-001 (~~(Description of)~~ What is the WIC farmers' market nutrition program?) (1) The purpose of the WIC farmers' market nutrition program is to:

(a) Provide locally grown, fresh, nutritious, unprepared fruits and vegetables to (~~(nutritionally at risk low income)~~) women (~~(, infants over six months of age,)~~) and children, who participate in the special supplemental nutrition program for women, infants, and children (WIC); and

(b) Expand the awareness and use of (~~(and sales at)~~) farmers' markets where consumers can buy directly from the grower.

(2) (~~Funding is provided by the Washington state department of health and the Washington state department of~~

~~agriculture who contribute funds meeting the match required to receive federal funding.~~

(3)) The WIC farmers' market nutrition program is administered by the Washington state departments of health and agriculture.

AMENDATORY SECTION (Amending WSR 96-01-085, filed 12/18/95, effective 1/18/96)

WAC 246-780-010 Definitions. (1) "Authorized" or "authorization" means an eligible grower and/or farmers' market has met the selection criteria and signed an agreement/contract with the department allowing participation in the WIC farmers' market nutrition program.

(2) "Broker(s)" (~~(shall)~~) or "wholesale distributor" means (~~(those)~~) an individual(s) or business(es) who exclusively sells produce grown by others. There is an exception for an individual employed by a grower who is qualified to participate in the WIC farmers' market nutrition program or is employed by a nonprofit organization to sell produce on behalf of qualified growers.

(~~(2))~~ (3) "Contract" or "agreement" means a written legal document binding the contractor and the department to designated terms and conditions.

(4) "Contractor" (~~(shall)~~) means a farmers' market who has a signed contract with the department to participate in the WIC farmers' market nutrition program.

(~~(3))~~ (5) "Cut herbs" means fresh herbs with no medicinal value that are not potted or bagged.

(6) "Department" (~~(shall)~~) means the Washington state departments of health and agriculture (~~(and health)~~).

(~~(4)~~) "FMNP" shall mean the farmers' market nutrition program.

(5)) (7) "Disqualification" (~~(shall)~~) means the act of ((ending)) terminating the ((participation)) agreement and/or contract of an authorized ((feed)) grower and/or farmers' market from the WIC farmers' market nutrition program for noncompliance with program requirements.

(~~(6)~~) "Locally grown" shall mean Washington grown or grown in an adjacent county in a border state.

(7)) (8) "Eligible foods" (~~(shall)~~) means locally grown, unprocessed (except for washing), fresh, nutritious fruits ((and)), vegetables, and cut herbs.

(~~(8)~~) "Farmers' market" shall mean an association of five or more local growers who assemble for the purpose of selling their produce directly to consumers.

(9) "Eligible grower" (~~(shall)~~) means ((any)) an individual or business who grows a portion of the produce that they sell ((and exchange for farmers' market nutrition program checks)) at Washington state authorized farmers' markets.

(10) "Farmers' market" means a membership of five or more growers who assemble at a defined location for the purpose of selling their produce directly to consumers.

(11) "FMNP" or "program" means the WIC farmers' market nutrition program.

(12) "Locally grown" means Washington grown or grown in an adjacent county of Idaho or Oregon.

(13) "Local WIC agency" means the contracted agency or clinic where a client receives WIC services and WIC farmers' market checks.

(14) "Program coordinator" means an individual designated by the farmers' market manager (or market board members) responsible for overseeing the market's participation in the WIC farmers' market nutrition program.

(15) "Trafficking" ((shall)) means the ((prohibited)) buying or exchanging of WIC farmers' market ((nutrition program)) checks for cash, drugs, ((and/or)) alcohol.

((11)) (16) "Validating" means stamping the WIC farmers' market check in the designated box with appropriate market and grower identification numbers using the stamper provided by the department.

(17) "WIC" ((shall)) or "WIC program" means the federally funded special supplemental nutrition program for women, infants, and children administered in Washington state by the department of health.

((12) "FMNP abuse" shall include but not be limited to:

(a) Providing cash, unauthorized food, nonfood items, drugs, alcohol or other items to WIC customers in lieu of or in addition to authorized FMNP foods;

(b) Charging the FMNP or WIC/FMNP customer for foods not received by the customer;

(c) Charging the FMNP more for authorized foods than other customers are charged for the same food item;

(d) Providing rain checks or credit to customers in a FMNP transaction;

(e) Charging WIC customers cash or giving change to customers in a FMNP transaction;

(f) Validating and/or redeeming FMNP checks without having authorization from the department;

(g) Collecting a sales tax on FMNP purchases;

(h) Seeking restitution from FMNP WIC program clients for checks not paid by the department;

(i) Accepting and/or validating checks outside of the program dates;)) (18) "WIC client" or "client" means a pregnant, breast feeding, or postpartum woman, infant, or child receiving WIC benefits.

AMENDATORY SECTION (Amending WSR 96-01-085, filed 12/18/95, effective 1/18/96)

WAC 246-780-020 ((Contractor responsibilities;))

How does a farmers' market become a contractor? (1)

((The department shall authorize contractors who may validate and authorize growers to accept FMNP checks. Unauthorized contractors who validate FMNP checks are subject to the penalties specified in WAC 246-780-040, Sanctions.

(2) Contractors shall submit an application to the department:

(3) The contractor shall:

(a) Allow only growers selling locally grown produce to accept FMNP checks;

(b) Agree to designate a program coordinator to validate and/or mark checks with a market/grower identifier.

(c) Agree to provide the department any information it has available which the department deems necessary to track the impact of the FMNP on the farmers' market or on WIC/FMNP clients participating in the FMNP.

(d) Accept training on FMNP procedures, assist the department in training participating growers, and safeguard client information.

(e) Provide such information as the department may require for annual reports to the United States Department of Agriculture, Food and Consumer Services.

(f) Ensure that checks are redeemed only by eligible growers.

(g) Sell eligible foods to FMNP clients at the same price as charged to other customers.

(h) Agree to allow the department to monitor the farmers' market for compliance with FMNP procedures.

(i) Act as a liaison to obtain signed grower agreements from growers who have agreed to sell at the farmers' market before they accept FMNP checks.

(j) Ensure that FMNP clients receive the same courtesies as other customers.

(k) Notify the department immediately if and when market operations cease.

(l) Refuse to validate any FMNP checks from ineligible growers.

(4) The contractor shall not allow growers to:

(a) Collect sales tax on FMNP check purchases.

(b) Seek payment from FMNP clients for checks not paid by the department.

(c) Give cash back for purchases that are in an amount less than the value of the checks.

(5) Neither the department nor the contractor have an obligation to renew a contract.)) A farmers' market wanting to participate in the WIC farmers' market nutrition program must apply for authorization, meet the selection criteria, and sign a contract with the department.

(2) Selection is based on the following:

(a) The local WIC agency in the farmers' market service area must participate in the WIC farmers' market nutrition program.

(b) The farmers' market must have a designated market manager on-site during operating hours.

(c) The farmers' market must have been in operation a minimum of one year. If there is a market currently participating in the program in an area where a new market has applied to participate, the one-year requirement may be waived.

(d) The farmers' market must keep a current list of eligible growers, including the farmer's name, business address, telephone number, and crops to be sold July through October. The farmers' market must agree to provide this list to the state WIC office on request.

(e) The farmers' market must be located within twenty miles of the local WIC agency.

(f) A minimum of five eligible growers must participate in the farmers' market each year.

(g) The farmers' market must agree to comply with training sessions and monitor visits.

(h) The farmers' market must agree to comply with all terms and conditions specified in the contract.

(3) The WIC farmers' market nutrition program is not required to authorize all applicants.

#### NEW SECTION

WAC 246-780-022 What is expected of a contractor?

(1) The contractor shall:

- (a) Comply with the WIC farmers' market nutrition program requirements and the terms and conditions of the farmers' market contract;
  - (b) Accept training on WIC farmers' market nutrition program requirements from department staff;
  - (c) Provide training to market employees and eligible growers in person on WIC farmers' market nutrition program requirements;
  - (d) Be accountable for the actions of market employees involved in the WIC farmers' market nutrition program;
  - (e) Obtain signed grower agreements from eligible growers before they accept WIC farmers' market checks;
  - (f) Ensure that WIC farmers' market checks are redeemed only by eligible growers;
  - (g) Allow only growers selling locally grown produce to accept WIC farmers' market checks;
  - (h) Ensure that WIC farmers' market checks are redeemed only for eligible foods;
  - (i) Ensure eligible growers redeem WIC farmers' market checks within valid dates;
  - (j) Ensure eligible growers have and display the "WIC Farmers' Market Checks Welcome Here" sign each market day when at authorized markets;
  - (k) Refuse to validate any WIC farmers' market checks from ineligible growers;
  - (l) Agree to designate a program coordinator to validate WIC farmers' market checks with the appropriate market and grower identification numbers;
  - (m) Comply with federal and state nondiscrimination laws;
  - (n) Ensure that WIC farmers' market nutrition program clients receive the same courtesies as other customers;
  - (o) Agree to provide the department with any information it has available regarding its participation in the WIC farmers' market nutrition program;
  - (p) Agree to keep WIC farmers' market client information confidential;
  - (q) Agree to allow the department to monitor the farmers' market for compliance with program requirements;
  - (r) Notify the department immediately if and when market operations cease; and
  - (s) Report any suspected noncompliance with WIC farmers' market nutrition program requirements to the department.
- (2) Neither the department nor the contractor have an obligation to renew a contract.

#### NEW SECTION

**WAC 246-780-025 How does an eligible grower become authorized by a farmers' market to accept WIC farmers' market checks?** Eligible growers must:

- (1) Grow a portion of the produce they have for sale. Any individual who purchases all the produce they plan to resell is considered a broker and is not allowed to participate in the program;
- (2) Sell at an authorized farmers' market;
- (3) Agree to follow the terms and conditions of the grower agreement; and

- (4) Sign the grower agreement and return it to the department for signature and to be assigned a grower identification number.

#### NEW SECTION

**WAC 246-780-028 What is expected of an authorized grower?** The authorized grower agrees to:

- (1) Comply with the WIC farmers' market nutrition program requirements and the terms and conditions of the grower agreement;
- (2) Accept training on WIC farmers' market nutrition program requirements and assure that all persons working in the authorized grower's stall are trained as well;
- (3) Be held accountable for the actions of all persons working in the authorized grower's stall regarding WIC farmers' market nutrition program purchases;
- (4) Accept WIC farmers' market checks only for eligible foods;
- (5) Accept WIC farmers' market checks only at authorized farmers' markets;
- (6) Accept WIC farmers' market checks within the valid dates of the program;
- (7) Redeem WIC farmers' market checks by the date imprinted on the check;
- (8) Display the "WIC Farmers' Market Checks Welcome Here" sign each market day when at authorized markets;
- (9) Provide the WIC farmers' market nutrition program clients with the full amount of product for the value of each WIC farmers' market check;
- (10) Charge WIC farmers' market nutrition program clients the same prices as other customers;
- (11) Have the WIC farmers' market checks validated by the program coordinator at the farmers' market where the checks were accepted before cashing or depositing them;
- (12) Make produce available that is the same quality as that offered to other customers;
- (13) Comply with federal and state nondiscrimination laws;
- (14) Treat WIC farmers' market customers as courteously as other customers;
- (15) Cooperate with department staff in monitoring for compliance with program requirements and provide information on request;
- (16) Reimburse the department for WIC farmers' market checks taken improperly;
- (17) Not collect sales tax on WIC farmers' market check purchases;
- (18) Not seek payment from WIC farmers' market nutrition program clients for checks not paid by the department;
- (19) Not give cash back for purchases less than the value of the checks; and
- (20) Not use WIC farmers' market checks to purchase foods from other growers or pay for market fees or other business costs.

AMENDATORY SECTION (Amending WSR 96-01-085, filed 12/18/95, effective 1/18/96)

**WAC 246-780-030** (~~(Authorized foods.)~~) What kind of foods can clients buy with WIC farmers' market checks? (1) (~~The contractor and growers shall ensure that only unprocessed;~~) Locally grown, unprocessed (except for washing), fresh fruits ((and)), vegetables ((are sold to WIC/FMNP clients participating in the FMNP)), and cut herbs can be purchased with WIC farmers' market checks.

(2) ~~Ineligible items ((are those items as defined by the department. The ineligible items)) include, but are not limited to, baked goods, cheeses, cider, crafts, dairy products, dried fruits, dried herbs, dried vegetables, eggs, flowers, fruit juices, honey, ((jam/)) jams, jellies, ((cider)) meats, nuts, ((flowers and baked goods. The list of eligible items shall be provided to growers and contractors upon request)) potted herbs, seafood, seeds, and syrups.~~

AMENDATORY SECTION (Amending WSR 96-01-085, filed 12/18/95, effective 1/18/96)

**WAC 246-780-040** (~~(Sanctions.)~~) What happens if a farmers' market or a grower does not comply with WIC farmers' market nutrition program requirements? (1) (~~The department may disqualify a grower and/or contractor for reasons of FMNP abuse for one year from the date of offense. At the end of the disqualification period, the grower and/or contractor shall be required to reapply to be considered for authorization.~~

(2) ~~Growers and contractors may be subject to sanctions in addition to, or in lieu of, disqualification. Prior to disqualifying a grower or contractor, the department shall consider whether the disqualification would create undue hardships for WIC participants.~~

(3) ~~The department may set the period of disqualification from program participation. In no instance shall this period of disqualification exceed one year.~~

(4) ~~The department shall recover funds due the FMNP and may impose a fine on growers and/or contractors for the offenses in this subsection. The department shall deposit these funds into the FMNP account in accordance with federal regulations.~~

~~Money shall be paid to the department within the time period specified in the notice of adverse action, or the grower and/or contractor may be suspended from the FMNP for a period of at least one program year, or the remainder of the calendar year. Offenses include but are not limited to:~~

(a) ~~Providing cash, unauthorized food, nonfood items, drugs, alcohol or other items to WIC customers in lieu of or in addition to authorized FMNP foods;~~

(b) ~~Charging the FMNP or WIC/FMNP customer for foods not received by the customer;~~

(c) ~~Charging the FMNP more for authorized foods than other customers are charged for the same food item;~~

(d) ~~)) Farmers' markets and growers who do not comply with WIC farmers' market nutrition program requirements are subject to sanctions, such as monetary penalties, in addition to, or in lieu of, disqualification. Prior to disqualifying a farmers' market or grower, the department shall consider~~

whether the disqualification would create undue hardships for WIC farmers' market nutrition program clients.

(2) Noncompliance includes, but is not limited to:

(a) Failing to display the "WIC Farmers' Market Checks Welcome Here" sign each market day when at authorized markets;

(b) Providing unauthorized food, nonfood items, or other items to WIC farmers' market nutrition program clients in lieu of, or in addition to, eligible foods;

(c) Charging the program for foods not received by the client;

(d) Providing rain checks or credit to ((customers)) clients in a ((FMNP)) WIC farmers' market nutrition program transaction;

(e) ((Charging WIC customers cash or giving change to customers in a FMNP transaction;)) Giving change to WIC farmers' market nutrition program clients if the purchase is less than the value of the WIC farmers' market check;

(f) Validating ((and/or redeeming FMNP)) WIC farmers' market checks without having authorization from the department;

(g) Accepting WIC farmers' market checks without having a signed agreement with the department;

(h) Accepting WIC farmers' market checks at unauthorized farmers' markets;

(i) Failing to get the WIC farmers' market checks validated with the market and grower identification numbers by the farmers' market program coordinator where the checks were accepted;

(j) Collecting ((a)) sales tax on ((FMNP)) WIC farmers' market purchases;

((h)) (k) Seeking restitution from ((FMNP-WIC)) program clients for checks not paid by the department;

((i)) (l) Accepting and/or validating checks outside of the program dates; and

((j) Violation of) (m) Violating the rules of this chapter or the provisions of the contract and/or agreement.

((5) Any instances of trafficking in FMNP checks (in any amount) shall result in disqualification as an authorized contractor or grower for the FMNP.

(6) ~~A contractor who commits fraud or abuse of the FMNP is liable for prosecution under Part 7 CFR 246.12 (f)(2)(xiv).)~~ (3) Farmers' markets and growers found in non-compliance will be notified by the department and given the opportunity to correct the problem.

(4) If a farmers' market or grower is subsequently found in noncompliance for the same or a similar reason, the department may impose sanctions, such as monetary penalties or disqualification, without giving the opportunity to correct the problem.

(5) When the department notifies a farmers' market or grower of anything that affects their participation in the program, the department shall give written notice not less than fifteen days before the effective date of the action. The notice shall state what action is being taken, the effective date of the action, and the procedure for requesting an appeal hearing.

(6) The department may deny payment to a grower for mishandling WIC farmers' market checks.

PROPOSED

(7) The department may seek reimbursement from a grower for payments made on improperly handled WIC farmers' market checks.

(8) Monetary penalties shall be paid to the department within the time period specified in the notice. The department shall refer farmers' markets and/or growers who fail to pay within the specified time period to a commercial collection agency. In addition, the department may disqualify a farmers' market or grower.

(9) A farmers' market or grower that has been disqualified from the WIC farmers' market nutrition program must reapply at the end of the disqualification period to be considered for authorization.

(10) Any trafficking in WIC farmers' market checks (exchanging checks for cash, drugs, or alcohol) in any amount shall result in disqualification.

(11) Farmers' markets and growers who commit fraud or other unlawful activities are liable for prosecution according to program regulations. (7 C.F.R. 248.10(k).)

AMENDATORY SECTION (Amending WSR 96-01-085, filed 12/18/95, effective 1/18/96)

WAC 246-780-060 ((Dispute appeals.)) **How does a farmers' market or grower appeal a department decision?** ((Contractors)) (1) Farmers' markets and growers have a right to appeal ((an action by the department denying the)) denial of payment, denial of an application, ((imposing a sanction or disqualifying it)) monetary penalty or disqualification from the ((FMNP)) WIC farmers' market nutrition program. Expiration or nonrenewal of a contract or agreement is not subject to appeal.

((1) A contractor or grower whose application is denied to participate or to continue to participate in the FMNP has the right to an appeal pursuant to the procedures set out in chapter 246-10 WAC. At the appeal, the contractor or grower may discuss the reasons for the denial.))

(2) If the action being appealed is a disqualification of a farmers' market, the farmers' market shall cease validating WIC farmers' market checks for all growers participating in the market effective the date specified in the sanction notice.

(3) If the action being appealed is a disqualification of a grower, the grower shall cease accepting WIC farmers' market checks effective the date specified in the sanction notice. In addition, the farmers' market shall cease validating checks for the affected grower. Payments shall not be made for any WIC farmers' market checks submitted by a grower for payment during a period of disqualification.

(4) The department may, at its discretion, permit the farmers' market or grower to continue participating in the program pending the appeal hearing outcome.

(5) A request for an appeal hearing shall be in writing and shall:

(a) State the issue raised;

(b) ((State the grounds for contesting the aggrieving department action)) **Contain a summary of the farmers' market's or grower's position on the issue, indicating whether each charge is admitted, denied, or not contested;**

(c) State the ((law, facts and conditions on which the appeal relies)) **name and address of the farmers' market or grower requesting an appeal hearing;**

(d) ((Contain the appellant's current address and telephone number, if any; and)) **State the name and address of the ((appellant's)) attorney ((or other representative)) representing the farmers' market or grower, if any;**

(e) **State the farmers' market or grower's need for an interpreter or other special accommodations, if necessary; and**

(f) **Have a copy of the ((adverse department)) notice from the department attached.**

((3)) (6) A request for an appeal shall be ((made by personal service or by regular mail to)) **filed at the Department of Health, ((Office of Professional Standards, 2413 Pacific Avenue)) Adjudicative Clerk's Office, 1107 Eastside, P.O. Box ((47872)) 47879, Olympia, WA 98504-((7872))7879.** The request shall be made within twenty-eight days of the date the ((contractor's)) **farmers' market or grower received the department notice ((of adverse action)).**

((4) The dispute appeals process is the sole administrative remedy the department offers a contractor or grower.) (7) **The decision concerning the appeal shall be made within sixty days from the date the request for an appeal hearing was received by the adjudicative clerk's office. The time shall be extended by as many days as all parties agree to with good cause.**

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 246-780-050 Notice of adverse action to a FMNP contractor and/or grower.

WAC 246-780-070 Contractor/grower-continued participation pending dispute resolution.

**WSR 00-03-075**

**PROPOSED RULES**

**DEPARTMENT OF HEALTH**

[Filed January 19, 2000, 9:56 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 96-21-118.

Title of Rule: WAC 246-976-001 to 246-976-450 and 246-976-910 to 246-976-990, excluding 246-976-935, rules pertaining to emergency medical and trauma prevention including training, certification, licensure, verification, trauma registry and system administration.

Purpose: Research has shown that a system approach to the prehospital delivery of EMS and trauma care and the subsequent provision of definitive care at facilities equipped to handle such patients reduces death and disability. These rules provide for a consistent, coordinated and preplanned

response by quality trained, certified prehospital provider agencies, and definitive care facilities to the needs of the ill and injured patient.

Statutory Authority for Adoption: Chapters 18.71, 18.73, and 70.168 RCW.

Statute Being Implemented: Chapters 18.71, 18.73, and 70.168 RCW.

Summary: These rules identify the duties and responsibilities of the secretary of the Department of Health and his/her delegates, so as to maintain a state-wide program of emergency medical care. They establish the minimum standards and training for first responders, emergency medical technicians, IV technicians, airway technicians, intermediate life support technicians and paramedics, and minimum standards for ambulance services, ambulances, aid vehicles, aid services, and emergency medical equipment.

Reasons Supporting Proposal: The WAC revisions will address: (a) Correcting some education inconsistencies in the curriculum between the various levels, (b) reviewing and updating the curriculum, (c) reviewing certification requirements, (d) review trauma registry and system administration and their responsibilities, and (e) housekeeping problems that improve the structure, grammar, organization and unnecessary repetition of the WAC or statute.

Name of Agency Personnel Responsible for Drafting: Shane Sanderson, 2725 Harrison Avenue N.W., Olympia, WA, (360) 705-6727; Implementation and Enforcement: Steve Bowman, Rick Buell, Jack Cvitanovic, 2725 Harrison Avenue N.W., Olympia, WA, (360) 705-6700.

Name of Proponent: Department of Health, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: These rules provide for a consistent, coordinated and preplanned response by quality trained, certified prehospital provider agencies, and definitive care facilities to the needs of the ill and injured patient. Chapters 18.71, 18.73 and 70.168 require the department to establish these rules. Prior to this no standards were defined in statute. These rules are the only way to establish standards for the response to and delivery of the ill and injured patient to the appropriate definitive care facility.

Proposal Changes the Following Existing Rules: The WAC revisions will address: (a) Correcting some educational inconsistencies in the curriculum between the various levels, (b) reviewing and updating the curriculum, (c) reviewing certification requirements, (d) review trauma registry and system administration and their responsibilities, and (e) housekeeping problems that improve the structure, grammar, organization and unnecessary repetition of the WAC or statute.

No small business economic impact statement has been prepared under chapter 19.85 RCW. According to RCW 19.85.020, "small business" means any business entity, including a sole proprietorship, corporation, partnership, or other legal businesses, that has the purpose of making a profit, and has fifty or fewer employees. All agencies that these rules pertain to have fifty or more employees, or are a nonprofit organization.

RCW 34.05.328 applies to this rule adoption. These rules are legislatively significant because: (1) They subject program ineligibility for not complying with the rule (i.e. pre-hospital agencies may not respond and/or transport trauma patients unless licensed as a verified agency) and (2) the rule establishes qualifications or processes for program eligibility.

Hearing Location: Department of Health, Office of EMS and Trauma, Large Training Room, 2725 Harrison Avenue N.W., Suite 500, Olympia, WA 98504, on February 23, 2000, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Tami Schweppe by February 14, 2000, TDD (800) 833-6388, or (360) 705-6748.

Submit Written Comments to: Janet Griffith, Director, P.O. Box 47853, Olympia, WA 98504-7853, fax (360) 705-6706, by February 14, 2000.

Date of Intended Adoption: March 21, 2000.

January 18, 2000

M. C. Selecky

Secretary

AMENDATORY SECTION (Amending Order 323, filed 12/23/92, effective 1/23/93)

**WAC 246-976-001 ((Declaration of)) Purpose.** The purpose of these rules is to implement RCW 18.71.200 through 18.71.215, and chapters 18.73 and 70.168 RCW; and those sections of chapter 70.24 RCW relating to EMS/TC personnel and services.

~~(1) ((This chapter sets forth standards governing the state wide emergency medical services and trauma care (EMS/TC) system in order to:~~

~~(a) Prevent unnecessary death and disability from trauma and emergency illness;~~

~~(b) Provide optimal care for the trauma patient;~~

~~(c) Contain costs of EMS/TC, and EMS/TC system implementation; and~~

~~(d) Pursue trauma prevention activities to decrease the incidence of trauma.~~

~~(2)) This chapter establishes criteria for:~~

~~(a) ((Basic life support training and certification;~~

~~(b) Advanced life support training and certification;~~

~~(c) Ambulance licensing and inspection;~~

~~(d) The verification process for prehospital services/agencies providing EMS/TC;~~

~~(e) The)) Training and certification of basic, intermediate and advanced life support technicians;~~

~~(b) Licensure and inspection of ambulance and aid services;~~

~~(c) Verification of prehospital trauma services;~~

~~(d) Development and operation of a state-wide trauma registry;~~

~~((f)) (e) The designation process ((of health care facilities to provide)) and operating requirements for designated trauma care services;~~

~~((g) Operation requirements for all levels of trauma care facilities;~~

~~(h)) (f) A state-wide emergency medical communication system;~~

PROPOSED



~~((f)) (g) Administration of the state-wide EMS/TC system (administration).~~

(3) This chapter ~~((is not intended to constitute))~~ does not contain detailed procedures ((for implementation of)) to implement the state EMS/TC system. Request procedures ((and)), guidelines ((are available on request)), or any publications referred to in this chapter from the Office of ((EMS and Trauma Systems)) Emergency Medical and Trauma Prevention, Department of Health, Olympia, WA 98504-7853 or on the internet at [www.doh.wa.gov](http://www.doh.wa.gov).

**AMENDATORY SECTION** (Amending WSR 96-03-052, filed 1/12/96, effective 2/12/96)

**WAC 246-976-010 Definitions.** ~~((Unless a different meaning is plainly required by the context))~~ Definitions in RCW 18.71.200, 18.71.205, 18.73.030, and 70.168.015 apply to this chapter. In addition, unless the context plainly requires a different meaning, the following words and phrases used in this chapter ((shall have the meanings indicated)) mean:

"ACLS" means advanced cardiac life support, a course developed by the American Heart Association.

"Activation of the trauma system" means ~~((a process whereby a prehospital provider identifies the major trauma patient by using the prehospital trauma triage procedures, and notifies from the field both dispatch and medical control, who mobilize))~~ mobilizing resources to care for ((the)) a trauma patient in accordance with regional patient care procedures. When the prehospital provider identifies a major trauma patient, using approved prehospital trauma triage procedures, he or she notifies both dispatch and medical control from the field.

~~(("Advanced life support" means invasive emergency medical services requiring advanced medical treatment skills as defined in chapter 18.71 RCW.))~~ "Adolescence" means the period of physical and psychological development from the onset of puberty to maturity, approximately twelve to eighteen years of age.

"Advanced first aid," for the purposes of RCW 18.73.120, 18.73.150, and 18.73.170, means a course of at least twenty-four hours of instruction, which includes at least:

- CPR;
- Airway management;
- Trauma/wound care;
- Immobilization.

"Agency response time" means the ~~((time))~~ interval from agency notification to arrival on the scene. It is the ((same as the)) combination of activation and enroute times defined under system response times in this section.

"Aid service" means an agency ~~((public or private, that operates))~~ licensed by the department to operate one or more aid vehicles, consistent with regional and state plans.

~~(("Aid vehicle" means a vehicle used to carry aid equipment and individuals trained in first aid or emergency medical procedure.~~

"Air ambulance" means a fixed or rotary-winged aircraft that is configured to accommodate a minimum of one litter and two medical attendants with sufficient space to provide intensive life-saving care without interfering with the perfor-

mance of the flight crew, and has been inspected and licensed by the department as an air ambulance.

"Airway technician" means a person certified to provide mobile airway management as defined in this chapter.

"Ambulance" means a ground or air vehicle designed and used to transport the ill and injured and to provide personnel, facilities, and equipment to treat patients before and during transportation.)) "Airway technician" means a person who:

- Has been trained in an approved program to perform endotracheal airway management and other authorized aids to ventilation under written or oral authorization of an MPD or approved physician delegate; and

- Has been examined and certified as an airway technician by the department or by the University of Washington's school of medicine.

"ALS" means advanced life support.

"Ambulance service" means an agency ~~((public or private, that operates))~~ licensed by the department to operate one or more ground or air ambulances. Ground ambulance service operation must be consistent with regional and state plans. Air ambulance service operation must be consistent with the state plan.

"Approved" means approved by the department of health.

"ATLS" means advanced trauma life support, a course developed by the American College of Surgeons.

"Attending surgeon" means a physician who is board-certified ~~((or board-eligible))~~ in general surgery, and who has surgical privileges delineated by the facility's medical staff. The attending surgeon is responsible for care of the trauma patient, participates in all major therapeutic decisions, and is present during operative procedures.

"Available" for designated trauma services described in WAC 246-976-485 through 246-976-890 means physically present in the facility and able to deliver care to the patient within the time specified. If no time is specified, the equipment or personnel must be available as reasonable and appropriate for the needs of the patient.

"BLS" means basic life support.

"Basic life support" means noninvasive emergency medical services requiring basic medical treatment skills as defined in chapter 18.73 RCW.

"Board certified" means that a physician has been certified by the appropriate specialty board recognized by the American Board of Medical Specialties. For the purposes of this chapter, references to "board certified" include physicians who have graduated less than five years previously from a residency program accredited for the appropriate specialty by the Accreditation Council for Graduate Medical Education.

"BP" means blood pressure.

"Certification" means ~~((recognition by the department of the competence of an individual who))~~ the department recognizes that an individual has met predetermined qualifications, and ((the authorization of)) authorizes the individual to perform certain procedures ((for which they have been trained or are otherwise qualified)).

"CME" means continuing medical education.

PROPOSED

("Communications system" means a radio and landline network which provides rapid public access, coordinated central dispatching of services, and coordination of personnel, equipment, and facilities in an EMS/TC system:))

"Consumer" means an individual who is not associated with the EMS/TC system, either for pay or as a volunteer, except for service on the steering committee, licensing and certification committee, or regional or local EMS/TC councils.

"Continuing medical education (CME)" means ongoing education after initial certification ((for the purpose of maintaining and enhancing)) to maintain and enhance skill and knowledge.

("Council" means the local or regional EMS/TC council as authorized under chapter 70.168 RCW.

"Course coordinator" means an individual who has overall administrative responsibility for coordinating an EMS/TC course or program of continuing education:))

"CPR" means cardiopulmonary resuscitation.

("Department" means the department of health.

"Designated trauma care service" means a level I, II, III, IV, or V trauma care service, or level I, II, or III pediatric trauma care service, or level I, I pediatric, II, or III trauma-related rehabilitative service.

"Designation" means a formal determination by the department that a hospital or health care facility is capable of providing designated trauma care services as authorized in RCW 70.168.070:))

"Dispatch" means to ((designate)) identify and direct an emergency response unit to ((a service)) an incident location.

"E-code" means external cause code, an etiology included in the International Classification of Diseases (ICD).

"ED" means emergency department.

("Emergency medical dispatch (EMD)" means provision of special procedures and trained personnel to ensure the efficient handling of medical emergencies and dispatch of aid. It includes prearrival instructions for CPR and other verbal aid to callers.

"Emergency medical service (EMS)" means medical treatment and care which may be rendered at the scene of any medical emergency or while transporting any patient in an ambulance to an appropriate medical facility, including ambulance transportation between medical facilities.

"Emergency medical services and trauma care (EMS/TC) planning and services regions" means geographic areas established by the department in accordance with RCW 70.168.110:))

"Emergency medical services and trauma care (EMS/TC) system" means an organized approach to providing personnel, facilities, and equipment for effective and coordinated medical treatment of patients with a medical emergency or injury requiring immediate medical or surgical intervention to prevent death or disability. The emergency medical service and trauma care system includes prevention activities, prehospital care, hospital care, and rehabilitation. ((The components of an EMS and trauma care system include:

Provision of manpower;

Training of personnel;

Communications;

Transportation;

Facilities;

Critical care units;

Use of public safety agencies;

Use of private agencies;

Consumer participation;

Accessibility to care;

Transfer of patients;

Standard medical recordkeeping and reporting;

Consumer information and education;

Independent review and evaluation, including formal quality assurance programs;

Disaster linkage; and

Mutual aid agreements.

"Emergency medical services and trauma care system plan (EMS/TC plan)" means a plan that identifies state-wide EMS/TC objectives and priorities and identifies equipment, facility, personnel, training, and other needs required to create and maintain a state-wide EMS/TC.

"Emergency medical technician (EMT)" means a person who is authorized by the secretary to render emergency medical care pursuant to RCW 18.73.081:)) "EMS" means emergency medical services.

"EMS/TC" means emergency medical services and trauma care.

"EMT" means emergency medical technician.

("Facility patient care protocols" means the written procedures adopted by the medical staff that direct the care of the patient. These procedures shall be based upon the assessment of the patient's medical needs. The procedures shall follow minimum state-wide standards for trauma care service.

"First responder" means a person who is authorized by the secretary to render emergency medical care as defined by RCW 18.73.081.

"HIV/AIDS" means human immunodeficiency virus/acquired immunodeficiency syndrome.

"Hospital" means a facility licensed under chapter 70.41 RCW, or comparable health care facility operated by the federal government or located and licensed in another state.

"Hospital trauma service" means a service designed by the hospital within state guidelines for the treatment of trauma patients, including a formal commitment by the hospital and medical staff to an organized trauma care system and to participation in the regional/state system:)) "General surgeon" means a licensed physician who has completed a residency program in surgery and who has surgical privileges delineated by the facility.

"ICD" means the international classification of diseases, a coding system developed by the World Health Organization.

("ICU" means intensive care unit.

"Indicator" means a quality improvement tool or performance measure used to monitor the quality of important governance, management, clinical, and support processes and outcomes.

"Indicator monitoring system" means a method in which indicators are used to monitor important processes or outcomes of care or service, and indicator data are used to evaluate that care:)) "ILS" means intermediate life support.

"Injury prevention" means any combination of educational, legislative, enforcement, engineering and emergency response initiatives used to reduce the number and severity of injuries.

("Intermediate life support technician" means a person certified to provide levels of intermediate support skills as defined in this chapter.

"IV technician" means a person certified to provide mobile intravenous therapy as defined in this chapter.

"L&C" means licensing and certification.

"Legend drug" means any drug which is required by state law or regulation by the state board of pharmacy to be dispensed on prescription only, or is restricted to use by practitioners only.

"Level I pediatric rehabilitative services" means rehabilitative services as defined by RCW 70.168.015. Facilities providing level I pediatric rehabilitative services provide the same services as facilities authorized to provide level I rehabilitative services, except these services are exclusively for children under the age of fifteen years.

"Level I pediatric trauma care services" means pediatric trauma care services as defined by RCW 70.168.015. Hospitals providing level I services shall provide definitive, comprehensive, specialized care for pediatric trauma patients and shall also provide ongoing research and health care professional education in pediatric trauma care.

"Level II pediatric trauma care services" means pediatric trauma care services as defined by RCW 70.168.015. Hospitals providing level II services shall provide initial stabilization and evaluation of pediatric trauma patients and provide comprehensive general medical and surgical care to pediatric patients who can be maintained in a stable or improving condition without the specialized care available in the level I hospital. Complex surgeries and research and health care professional education in pediatric trauma care activities are not required.

"Level III pediatric trauma care services" means pediatric trauma care services as defined by RCW 70.168.015. Hospitals providing level III services shall provide initial evaluation and stabilization of patients. The range of pediatric trauma care services provided in level III hospitals is not as comprehensive as level I and II hospitals.

"Level I rehabilitative services" means rehabilitative services as defined by RCW 70.168.015. Facilities providing level I rehabilitative services provide rehabilitative treatment to patients with traumatic brain injuries, spinal cord injuries, complicated amputations, and other diagnoses resulting in functional impairment, with moderate to severe impairment or complexity. These facilities serve as referral facilities for facilities authorized to provide level II and III rehabilitative services.

"Level II rehabilitative services" means rehabilitative services as defined by RCW 70.168.015. Facilities providing level II rehabilitative services treat individuals with musculoskeletal trauma, peripheral nerve lesions, lower extremity amputations, and other diagnoses resulting in functional impairment in more than one functional area, with moderate to severe impairment or complexity.

"Level III rehabilitative services" means rehabilitative services as defined by RCW 70.168.015. Facilities providing

level III rehabilitative services provide treatment to individuals with musculoskeletal injuries, peripheral nerve injuries, uncomplicated lower extremity amputations, and other diagnoses resulting in functional impairment in more than one functional area but with minimal to moderate impairment or complexity.

"Level I trauma care services" means trauma care services as defined by RCW 70.168.015. Hospitals providing level I services shall have specialized trauma care teams and provide ongoing research and health care professional education in trauma care.

"Level II trauma care services" means trauma care services as defined by RCW 70.168.015. Hospitals providing level II services shall be similar to those provided by level I hospitals, although complex surgeries and research and health care professional education activities are not required to be provided. This does not exclude education or training of prehospital providers.

"Level III trauma care services" means trauma care services as defined by RCW 70.168.015. The range of trauma care services provided by level III hospitals are not as comprehensive as level I and II hospitals.

"Level IV trauma care services" means trauma care services as defined by RCW 70.168.015.

"Level V trauma care services" means trauma care services as defined by RCW 70.168.015. Facilities providing level V services shall provide stabilization and transfer of all patients with potentially life threatening injuries.) "Interfacility transport" means medical transport of a patient between recognized medical treatment facilities requested by a licensed health care provider.

"Intermediate life support (ILS) technician" means a person who:

- Has been trained in an approved program to perform specific phases of advanced cardiac and trauma life support as specified in this chapter, under written or oral direction of an MPD or approved physician delegate; and

- Has been examined and certified as an ILS technician by the department or by the University of Washington's school of medicine.

"Intravenous therapy technician" means a person who:

- Has been trained in an approved program to initiate IV access and administer intravenous solutions under written or oral authorization of an MPD or approved physician delegate; and

- Has been examined and certified as an intravenous therapy technician by the department or by the University of Washington's school of medicine.

"IV" means intravenous.

"Licensing and certification committee (L&C committee)" means the emergency medical services licensing and certification advisory committee created by RCW 18.73.040.

"Local council" means a local EMS/TC council authorized by RCW 70.168.120(1).

"Local medical community" means the organized local medical society existing in a county or counties; or in the absence of an organized medical society, majority physician consensus in the county or counties.

"Medical control" means MPD authority to direct the medical care provided by ~~((all))~~ certified EMS personnel ~~((involved in patient care))~~ in the prehospital EMS system.

"Medical control agreement" means a written agreement between two or more MPDs, using similar protocols that are consistent with regional plans, to assure continuity of patient care between counties, and to facilitate assistance.

~~(("Medical program director (MPD)" means an approved emergency medical services medical program director as defined by RCW 18.71.205(4).))~~

"MPD" means medical program director.

~~(("Name code" means the first four letters of the last name, followed by the first and middle initials.~~

~~"National uniform data set" means a coding system which describes the functional abilities and disabilities of the disabled person, published by the State University of New York, Buffalo, NY.~~

~~"Ongoing training and evaluation" means a course of education as authorized in RCW 18.73.081 (3)(b).) "Must" means shall.~~

"PALS" means pediatric advanced life support, a course developed by the American Heart Association.

"Paramedic" means a person ~~((certified to provide mobile intensive care paramedic services as defined in RCW 18.71.200(3)))~~ who:

- Has been trained in an approved program to perform all phases of prehospital emergency medical care, including advanced life support, under written or oral authorization of an MPD or approved physician delegate; and

- Has been examined and certified as a paramedic by the department or by the University of Washington's school of medicine.

~~(("Patient care procedures" means written operating guidelines adopted by the regional EMS/TC council, in consultation with local EMS/TC councils, emergency communications centers and the MPDs, in accordance with state wide minimum standards. The patient care procedures identify the level of medical care personnel to be dispatched to an emergency scene, procedures for triage of patients, the level of trauma care facility to first receive the patient, and the name and location of other trauma care facilities to receive the patient should an interfacility transfer be necessary. Procedures on interfacility transfer of patients shall be consistent with the transfer procedures in chapter 70.170 RCW.~~

~~"Pediatric trauma patient" means trauma patients known or estimated to be less than fifteen years of age.)~~

"Physician" means an individual licensed under the provisions of chapters 18.71 or 18.57 RCW ~~((, Physicians, or under the provisions of chapter 18.57 RCW, Osteopathy—Osteopathic medicine and surgery)).~~

"Practical examination" means a test ~~((which is))~~ conducted in ~~((the))~~ an initial course, or a test or series of evaluations during a recertification period, ~~((wherein the competency of a person is determined on))~~ to determine competence in each of the practical skills specified by the department.

~~(("Prehospital" means emergency medical care or transportation rendered to patients prior to hospital admission or during interfacility transfer by licensed ambulance or aid service under chapter 18.73 RCW, by personnel certified to provide emergency medical care under chapters 18.71 and 18.73~~

~~RCW, or by facilities providing level V trauma care services as provided for in chapter 18.71 RCW.)~~

~~"Prehospital agencies" means ((both public and private)) providers of prehospital care or interfacility transport.~~

~~"Prehospital index" means a scoring system ((for hospital trauma team activation, incorporating)) used to activate a hospital trauma resuscitation team. It incorporates assessment of systolic blood pressure, pulse, respiratory status, and level of consciousness, as described in "Prehospital Index: A scoring system for field triage of trauma victims," Koehler, John J., M.D. et al. Annals of Emergency Medicine 1986; 15:178-182.~~

~~"Prehospital patient care protocols" means the written procedures adopted by the MPD under RCW 18.73.030(13) and 70.168.015(26) which direct the out-of-hospital emergency care of the emergency patient which includes the trauma care patient. These protocols are related only to direct hands-on patient care.~~

~~"Prehospital trauma care services" means ((both public and private)) agencies that are verified to provide prehospital trauma care.~~

~~"Prehospital trauma triage procedures" means the method used by prehospital providers to evaluate injured patients and determine whether to activate the trauma system. It is described in WAC 246-976-930(2).~~

~~"Public education" means ((the use of preventive measures, involving the)) education of the population at large, targeted groups or individuals, in preventive measures and efforts to alter specific injury-related behaviors.~~

~~"Quality assurance (QA)" means an organized ((method of auditing and evaluating care provided within EMS/TC systems.~~

~~"Reciprocity" means the process by which an individual certified in another state, or certified by the University of Washington's school of medicine as authorized by RCW 18.71.200, is certified by the department.~~

~~"Region" means a geographic area used for EMS/TC planning, designated by the department in accordance with RCW 70.168.110) quality assessment and improvement program to audit and evaluate care provided in EMS/TC systems, with the goal of improving patient outcomes.~~

~~"Regional council" means the regional EMS/TC council established by RCW 70.168.100.~~

~~"Regional patient care procedures (RPCP)" means procedures adopted by a regional council under RCW 18.73.030(14) and 70.168.015(23), and approved by the department. Regional patient care procedures do not relate to hands-on patient care.~~

~~"Regional plan" means the ((approved plan that identifies region-wide EMS/TC objectives and prioritizes and identifies equipment, facilities, personnel, training, and other needs required to create and maintain a region-wide EMS/TC system. The plan includes a strategy of implementation that identifies regional and local activities to create, operate, maintain, and enhance the system)) plan defined in WAC 246-976-960 (1)(b) that has been approved by the department.~~

~~"Registered nurse" means an individual licensed under the provisions of chapter ((18.88)) 18.79 RCW.~~

~~("Rehabilitative services" means a formal program of multidisciplinary, coordinated, and integrated services for evaluation, treatment, education, and training to help individuals with disabling impairments achieve and maintain optimal functional independence in physical, psychosocial, social, vocational, and avocational realms.~~

~~"Reinstatement" means the process by which an individual whose EMS certification has expired can be recertified.)~~

"Response area" means a service coverage zone identified in an approved regional plan.

"Rural" means unincorporated or incorporated areas with total populations less than ten thousand people, or with a population density of less than one thousand people per square mile.

"Senior EMT instructor (SEI)" means an individual approved to be responsible for the quality of instruction ~~((of an initial EMS training course))~~ and the conduct of basic life support training courses.

"Special competence" means that an individual has been deemed competent and committed to a medical specialty area with documented training, board certification and/or experience, which has been reviewed and accepted as evidence of a practitioner's expertise:

- For physicians, by the facility's medical staff;
- For registered nurses, by the facility's department of nursing;

• For physician assistants and advanced registered nurse practitioners, as defined in the facility's bylaws.

"Specialized training" means approved training of certified EMS personnel to use a skill, technique, or equipment that is not included in the standard course curriculum.

~~("State trauma registry" means data collected for examining the entire spectrum of trauma patients and their care, regardless of injury, hospital, or outcome.)~~ "State plan" means the emergency medical services and trauma care system plan described in RCW 70.168.015(7), adopted by the department under RCW 70.168.060(10).

"Steering committee" means the EMS/TC steering committee created by RCW 70.168.020.

"Suburban" means an incorporated or unincorporated area with a population of ten thousand to twenty-nine thousand nine hundred ninety nine or any area with a population density of one thousand to two thousand people per square mile.

"System response time" for trauma means the ~~((time))~~ interval from discovery of an injury until the patient arrives at a designated trauma facility. It includes:

"Discovery time": The interval from injury to discovery of the injury;

"System access time": The ~~((time))~~ interval from discovery to call received;

"911 time": The interval from call received to dispatch notified, including the time it takes the call answerer to:

- Process the call, including citizen interview; and
- Give the information to the dispatcher;

"Dispatch time": The ~~((time))~~ interval from call received by the dispatcher to ~~((the time the agency is notified))~~ agency notification;

• "Activation time": The ~~((time))~~ interval from agency notification to start of response;

• "Enroute time": The ~~((time))~~ interval from the end of activation time to the beginning of on-scene time;

• "Patient access time": The interval from the end of enroute time to the beginning of patient care;

• "On scene time": The ~~((time the unit is on the scene with the patient))~~ interval from arrival at the scene to departure from the scene. This includes extrication, resuscitation, treatment, and loading;

• "Transport time": The ~~((time))~~ interval from leaving the scene to arrival at a health care facility;

"Training agency" means an organization or individual ~~((, which may include local or regional EMS/TC councils, that is approved to train EMS personnel for initial certification))~~ that is approved to be responsible for specified aspects of training of EMS personnel.

"Training physician" means a physician delegated by the MPD and approved by the department to be responsible for specified aspects of training of EMS personnel.

~~("Trauma" means a major single or multisystem injury requiring immediate medical or surgical intervention or treatment to prevent death or permanent disability.~~

~~"Trauma care system" means an organized approach to providing care to trauma patients that provides personnel, equipment, and facilities for effective and coordinated trauma care. The trauma care system includes: Prevention, prehospital care, triage of trauma victims from the scene to designated trauma services, facilities with specific capabilities to provide trauma care, acute hospital care, and rehabilitation services.)~~

"Trauma rehabilitation coordinator" means a person designated to facilitate early rehabilitation interventions and the trauma patient's access to a designated rehabilitation center.

~~("Trauma surgeon" means a physician who is board certified or board eligible in general surgery, and who has trauma surgery privileges delineated by the facility's medical staff.~~

~~"Triage" means the sorting of patients in terms of disposition, destination, or priority. Triage of prehospital trauma victims requires identifying injury severity so that the appropriate care level can be readily assessed according to patient care guidelines.~~

~~"Unit of learning" means a method of meeting the CME requirements of this chapter, which includes:~~

~~Approved learning objectives that reflect a complete patient care approach and to a topic or group of related topics; and~~

~~Measures a student's comprehension of the subject matter by written testing and demonstration of skills.)~~

~~"Urban" means:~~

- ~~An incorporated area over thirty thousand; or~~
- ~~An incorporated or unincorporated area of at least ten thousand people and a population density over two thousand people per square mile.~~

~~("Verification" means the identification of prehospital providers capable of providing verified trauma care services, and is part of the licensure process described in chapter 18.73 RCW.~~

~~"Verified trauma care service" means prehospital services as provided for in RCW 70.168.080, and identified in~~

~~the regional EMS/TC plan as required by RCW 70.168.100, whose capabilities have been verified by the department.)~~

"Wilderness" means any rural area not readily accessible by public or private maintained road.

## ~~((CERTIFICATION))~~ TRAINING

### NEW SECTION

#### **WAC 246-976-021 Training course requirements. (1)**

**Department responsibilities:** The department will publish procedures for agencies to conduct EMS training courses, including:

- (a) The registration process;
- (b) Requirements, functions, and responsibilities of course instructional and administrative personnel;
- (c) Necessary information and administrative forms to conduct the course;

#### **(2) Training agency responsibilities:**

(a) **General.** Agencies providing initial training of certified EMS personnel at all levels (except advanced first aid) must:

- (i) Have MPD approval for the course content;
- (ii) Have MPD approval for all instructional personnel, who must be experienced and qualified in the area of training;
- (iii) Have local EMS/TC council recommendation for each course;
- (iv) Have written approval from the department to conduct each course;

(v) Approve or deny applicants for training consistent with the prerequisites for applicants in WAC 246-976-041 and 246-976-141.

(b) **Basic life support** (first responder, EMT). Agencies providing initial training of basic life support personnel must identify a senior EMS instructor to be responsible for the quality of instruction and the conduct of the course.

(c) **Intermediate life support** (IV, airway and ILS technicians). Agencies providing initial training of intermediate life support personnel must:

- (i) Have a written agreement with the clinical facility, if it is separate from the academic facility;
- (ii) Ensure that clinical facilities provide departments or sections, personnel, and policies, including:

(A) Written program approval from the administrator and chief of staff;

(B) A written agreement to participate in continuing education;

(C) Supervised clinical experience for students during the clinical portion of the program;

(D) An orientation program.

(d) **Paramedics.** Agencies training paramedics must be accredited by a national accrediting organization approved by the department.

(3) **Course curriculum.** The department recognizes the following National Standard EMS training courses published by the United States Department of Transportation as amended by the department:

(a) **First responder:** The first responder training course published 1996, amended by the department March 1998;

(b) **EMT:** The emergency medical technician — Basic training course published 1994, amended by the department February 1999;

(c) **IV technician:** Those parts of the emergency medical technician — Intermediate course published 1999 which relate to intravenous therapy lessons 1-1, 1-2, 1-3, 2-1, 2-2, 2-3, 2-6, 2-7, 3-2, 3-3, 4-1, and 4-2; amended by the department February 1999;

(d) **Airway technician:** Those parts of the emergency medical technician — Intermediate course published 1999 which relate to airway management lessons 1-1, 1-2, 1-3, 2-1, 2-2, 2-3, 2-5, 3-2, 3-3, 4-1, and 4-2; amended by the department February 1999;

(e) **ILS technician:** Those parts of the emergency medical technician — Intermediate course published 1999 which relate to IV therapy and intraosseous infusion, the use of multi-lumen airway adjuncts, and the following medications:

(i) Epinephrine for anaphylaxis administered by a commercially preloaded measured-dose device;

(ii) Albuterol administered by inhalation;

(iii) Dextrose 50% and 25%;

(iv) Nitroglycerine, sublingual and/or spray;

(v) Naloxone;

(vi) Aspirin PO (oral), for suspected myocardial infarction lessons 1-1, 1-2, 1-3, 2-1, 2-2, 2-3, 2-4, 2-6, 2-7, 3-1, 3-2, 3-3, 4-1, and 4-2; amended by the department February 1999;

(f) **Paramedic:** The emergency medical technician — Paramedic training course published 1995.

(4) Initial training for first responders and EMTs must also include approved infectious disease training that meets the requirements of chapter 70.24 RCW.

(5) **Specialized training.** The department, in conjunction with the advice and assistance of the L&C committee, may approve specialized training for certified EMS personnel to use skills, techniques, or equipment that is not included in standard course curricula. Agencies providing specialized training must have MPD and department approval of:

(a) Course curriculum;

(b) Lesson plans;

(c) Course instructional personnel, who must be experienced and qualified in the area of training;

(d) Student selection criteria;

(e) Criteria for satisfactory completion of the course, including student evaluations and/or examinations;

(f) Prehospital patient care protocols that address the specialized skills.

(6) **Local government agencies:** The department recognizes county agencies established by ordinance and approved by the MPD to coordinate EMS training. These agencies must comply with the requirements of this section.

### NEW SECTION

**WAC 246-976-031 Senior EMS instructor (SEI). (1) Responsibilities.** The SEI is responsible for the overall instructional quality of the course, under the general supervision of the MPD. The SEI must conduct courses following department-approved curricula, and follow the department's policies, procedures and administrative requirements.

(2) **Qualifications.** The department will publish procedures to recognize senior EMS instructors (SEIs).

(3) **Initial recognition.** To apply for initial recognition as a SEI, submit to the department:

- (a) Proof of high school graduation, GED or equivalent;
  - (b) Proof of current Washington certification as an EMT or above;
  - (c) Proof of at least three years prehospital EMS experience at the EMT level or above;
  - (d) Proof of at least one recertification;
  - (e) Proof of current recognition as a CPR instructor for health care providers by the American Heart Association, the American Red Cross, the National Safety Council, or other nationally recognized organization with substantially equivalent standards to any of the above mentioned;
  - (f) Successful completion of an approved instructor workshop;
  - (g) Experience assisting with two EMT courses, performing a minimum of three hours of lectures and six hours of practical skills in each course;
  - (h) Recommendation by the local EMS/TC council;
  - (i) Recommendation by the MPD.
- (4) **Renewal of recognition.** Recognition as a SEI is for three years. To renew recognition, submit to the department:
- (a) Proof of current Washington state EMS certification as an EMT or above;
  - (b) Proof of current or previous recognition as a senior EMS instructor;
  - (c) Proof of current recognition as a CPR instructor for health care providers by a nationally recognized organization approved by the department;
  - (d) Recommendation by the local EMS/TC council;
  - (e) Recommendation by the MPD.

#### NEW SECTION

**WAC 246-976-041 To apply for training.** (1) You must meet all requirements for certification, EXCEPT that current membership in an EMS/TC agency is not required for acceptance into an initial training course.

(2) You must be at least eighteen years old at the beginning of the course.

(3) For training at the intermediate (IV, airway and ILS technicians) and advanced life support (paramedic) levels, you must have completed at least one year as a certified EMT or above.

### **CERTIFICATION**

#### NEW SECTION

**WAC 246-976-141 To apply for certification.** (1) Department responsibilities. The department will publish procedures for initial certification which include:

- (a) Examinations. An applicant may have up to three attempts within six months after course completion to successfully complete the examinations;
- (b) The process for administration of examinations; and

(c) Administrative requirements and the necessary forms.

(2) **Applicant responsibilities.** To apply for initial certification, submit to the department:

- (a) An application for certification on forms provided by the department;
- (b) Proof of identity: An official photo identification (which may be state, federal or military identification, drivers' license, or passport);
- (c) Proof of age;
- (d) Proof of completion of an approved course or courses for the level of certification sought;
- (e) Proof of completion of approved infectious disease training to meet the requirements of chapter 70.24 RCW;
- (f) Proof of successful completion of an approved examination within eighteen months prior to application;
- (g) Proof of active membership, paid or volunteer, in one of the following EMS/TC organizations:
  - (i) Licensed provider of aid or ambulance services;
  - (ii) Law enforcement agency; or
  - (iii) Other affiliated EMS/TC service;
- (h) The MPD's recommendation for certification;
  - (i) For EMTs, proof of high school graduation, GED, or equivalent;
  - (j) Other information required by this chapter.

(3) Certification is effective on the date the department issues the certificate, and will be valid for three years except as extended by the department for the efficient processing of license renewals. The expiration date will be indicated on the certification card.

(4) Certification of intermediate level technicians and paramedics is valid only:

- (a) In the county or counties where recommended by the MPD and approved by the department;
- (b) In other counties where formal EMS/TC medical control agreements are in place; or
- (c) In other counties when accompanying a patient in transit from a county meeting the criteria in (a) or (b) of this subsection.

#### NEW SECTION

**WAC 246-976-151 Reciprocity, challenges, reinstatement and other actions.** (1) The department will publish procedures for:

(a) Reciprocal certification of individuals with current EMS certification in another state, or who are currently recognized by a national accrediting agency approved by the department.

- (i) All applicants must pass an approved examination;
- (ii) Paramedics whose training started after June 30, 1996, must have successfully completed a course accredited by a national accrediting organization approved by the department, and be currently recognized by a national accrediting agency approved by the department;
- (b) Reinstatement of individuals whose Washington state EMS/TC certification has lapsed, or been suspended or revoked;
- (c) Challenge of prerequisites for certification examinations by individuals who have not completed the course work

and practical training required by this chapter, but who document equivalent EMS training and/or experience;

(d) Voluntary reversion from a level of certification to a lower level of certification.

(2) Before granting reciprocity, reinstatement, or challenge, the department will verify that infectious disease training required for EMS/TC personnel by chapter 70.24 RCW has been accomplished.

**NEW SECTION**

**WAC 246-976-161 Continuing medical education (CME) and skills maintenance.** (1) General requirements. See Tables A and B. You must document your annual CME and skills maintenance requirements, as indicated in the tables. You must complete all CME and skills maintenance requirements for your current certification period to be eligible for recertification.

(2) You must complete the number of MPD-approved CME hours appropriate to your level of certification, as indicated in Table A.

(3) You must demonstrate proficiency in certain critical skills, indicated in Table B, to the satisfaction of the MPD:

(4) IV starts.

(a) During your first year of certification as an IV technician, combined IV/airway technician, ILS technician, or paramedic, you must perform a minimum of thirty-six successful IV starts. **EXCEPTION:** If you have completed a certification period as an IV or ILS technician, you do not need to meet this requirement during your first year of certification as a paramedic.

(b) By the end of your initial certification period, you must perform a minimum of one hundred eight successful IV starts.

(5) Intubations.

(a) During your first year of certification as an airway technician, combined IV/airway technician, combined ILS/airway technician or paramedic, you must perform a minimum of twelve successful endotracheal intubations. **EXCEPTION:** If you have completed a certification period as an airway technician, you do not need to meet this requirement during your first year of certification as a paramedic.

(b) By the end of your initial certification period, you must perform a minimum of thirty-six successful endotracheal intubations.

(6) Description of selected terms used in the table:

| TABLE A:<br>CME REQUIREMENTS | Basic Life Support |        | Intermediate Life Support |        |        |        |         | Paramedic |
|------------------------------|--------------------|--------|---------------------------|--------|--------|--------|---------|-----------|
|                              | FR                 | EMT    | IV                        | Air    | IV/Air | ILS    | ILS/Air | Paramedic |
| <b>Annual</b>                |                    |        |                           |        |        |        |         |           |
| CPR & Airway                 | X                  | X      | X                         | X      | X      | X      | X       |           |
| Spinal Immobilization        | X                  | X      | X                         | X      | X      | X      | X       |           |
| Patient Assessment           | X                  | X      | X                         | X      | X      | X      | X       |           |
| <b>Certification Period</b>  |                    |        |                           |        |        |        |         |           |
| Infectious Disease           | X                  | X      | X                         | X      | X      | X      | X       | X         |
| Trauma                       |                    | X      | X                         | X      | X      | X      | X       | X         |
| Pharmacology                 |                    | X      | X                         | X      | X      | X      | X       |           |
| Pediatrics                   | X                  | 2 hrs  | 2 hrs                     | 2 hrs  | 2 hrs  | 2 hrs  | 2 hrs   | 6 hrs     |
| Other CME, for a total of:   | 15 hrs             | 30 hrs | 45 hrs                    | 45 hrs | 60 hrs | 60 hrs | 75 hrs  | 150 hrs   |

| TABLE B:<br>SKILLS MAINTENANCE REQUIREMENTS                | Intermediate Life Support |     |        |         |         | Paramedic |
|--|---------------------------|-----|--------|---------|---------|-----------|
|  | IV                        | Air | IV/Air | ILS     | ILS/Air | Paramedic |
| <b>First Certification Period</b>                          |                           |     |        |         |         |           |
| <b>• First Year of Certification</b>                       |                           |     |        |         |         |           |
| IV Starts - may not be averaged (see par 4)                | 36                        |     | 36     | 36      | 36      | 36        |
| Endotracheal intubations - may not be averaged (see par 5) |                           | 12  | 12     |         | 12      | 12        |
| Demonstrate intraosseous infusion proficiency              | X                         |     | X      | X       | X       | X         |
| <b>• Second and Third Years of Certification</b>           |                           |     |        |         |         |           |
| IV Starts - average (see par 4)                            | 36                        |     | 36     | 36      | 36      | 36        |
| Endotracheal intubations - average (see par 5)             |                           | 12  | 12     |         | 12      | 12        |
| Demonstrate intraosseous infusion proficiency              | X                         |     | X      | X       | X       | X         |
| <b>• During the Certification Period</b>                   |                           |     |        |         |         |           |
| Demonstrate pediatric airway proficiency                   |                           | X   | X      |         | X       | X         |
| Multi-Lumen Airway   |                           |     |        | per MPD | per MPD |           |
| Defibrillation   |                           |     |        | per MPD | per MPD |           |

PROPOSED



| TABLE B:<br>SKILLS MAINTENANCE REQUIREMENTS    | Intermediate Life Support |     |        |         |         | Paramedic |
|--|---------------------------|-----|--------|---------|---------|-----------|
|  | IV                        | Air | IV/Air | ILS     | ILS/Air | Paramedic |
| <b>Later Certification Periods</b>             |                           |     |        |         |         |           |
| • <b>Annual Requirements</b>                   |                           |     |        |         |         |           |
| IV Starts - demonstrate proficiency            | X                         |     | X      | X       | X       | X         |
| Endotracheal intubations - average (see par 4) |                           | 4   | 4      |         | 4       | 4         |
| Demonstrate intraosseous infusion proficiency  | X                         |     | X      | X       | X       | X         |
| • <b>During the Certification Period</b>       |                           |     |        |         |         |           |
| Demonstrate pediatric airway proficiency       |                           | X   | X      |         | X       | X         |
| Multi-Lumen Airway                             |                           |     |        | per MPD | per MPD |           |
| Defibrillation                                 |                           |     |        | per MPD | per MPD |           |

• **Infectious disease:** Infectious disease training must meet the requirements of chapter 70.24 RCW and WAC 296-62-08001 (7) and (8).

• **CPR** includes the use of airway adjuncts appropriate to the level of certification.

• **Pharmacology:** Pharmacology specific to the medications approved by your MPD (NOT REQUIRED FOR FIRST RESPONDERS).

• **Pediatrics:** This includes patient assessment, CPR and airway management, and spinal immobilization and packaging.

• **"IV starts":** Proficiency in catheter-around-needle insertions performed on sick, injured, or preoperative adult and pediatric patients. With written authorization of the MPD, IV starts may be performed on artificial training aids.

• **Endotracheal intubation:** Proficiency in endotracheal intubations, at least half of which must be performed on human subjects. With written authorization of the MPD, up to half of the intubations may be performed on artificial training aids.

• **Intraosseous infusion:** Proficiency in intraosseous line placement in pediatric patients.

• **Proficiency:** Ability to perform a skill properly, demonstrated to the satisfaction of the MPD.

• **Pediatric airway:** Proficiency in pediatric airway management.

**NEW SECTION**

**WAC 246-976-171 Recertification.** (1) The department will publish procedures for renewal of certification, including:

(a) An ongoing training and evaluation program (OTEP) of skills as authorized in RCW 18.73.081 (3)(b) for first responders and EMTs; or

(b) Examinations for renewal of certification.

(2) To apply for renewal of certification, submit to the department on approved forms:

(a) All the information identified in WAC 246-976-141(2); EXCEPT current certification is considered proof of course completion, age, and initial infectious disease training;

(b) Proof of completion of CME and skills maintenance required for the level of certification sought, as defined in this chapter and identified on the table above. For first respond-

ers and EMTs, this includes proof of successful demonstration of skills, by:

(i) Successfully completing an approved OTEP; or

(ii) Passing an approved practical examination within the six months prior to application. An applicant changing from the ongoing training and evaluation program to the practical examination program must take the practical examination prior to the end of the certification period.

**NEW SECTION**

**WAC 246-976-182 Authorized care.** (1) Certified EMS/TC personnel are only authorized to provide patient care that is:

(a) Included in the approved curriculum for the individual's level of certification;

(b) Included in approved specialized training; and

(c) That is included in approved MPD protocols.

(2) When a patient is identified as needing care which is not authorized for the providers, the certified person in charge of that patient must consult with medical control as soon as possible, if protocols and regional patient care procedures do not provide adequate off-line direction for the situation.

(3) For trauma patients, all prehospital providers must follow the approved trauma triage procedures, regional patient care procedures and MPD patient care protocols.

**NEW SECTION**

**WAC 246-976-191 Disciplinary actions.** (1) The department will publish procedures for modification, suspension, revocation, or denial of certification. The procedures will be consistent with the requirements of the Administrative Procedure Act (chapter 34.05 RCW), the Uniform Disciplinary Act (chapter 18.130 RCW), and practice and procedure (chapter 246-10 WAC).

(2) The department will publish procedures:

(a) To investigate complaints and allegations against certified personnel;

(b) For MPDs to recommend corrective action regarding certified individuals.

(3) Before recommending revocation, suspension, modification, or denial of a certificate, the MPD must initiate corrective action with the certified individual, consistent with department procedures.

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(4) The MPD may request the department to summarily suspend certification of an individual if the MPD believes that continued certification will be detrimental to patient care.

(5) In cases where the MPD recommends denial of recertification, the department will investigate the individual, and may revoke his or her certification.

(6) If an employing or sponsoring agency disciplines a certified individual for conduct or circumstances as described in RCW 18.130.070, the Uniform Disciplinary Act, the agency must report the cause and the action taken to the department.

## LICENSURE AND VERIFICATION

**AMENDATORY SECTION** (Amending Order 323, filed 12/23/92, effective 1/23/93)

**WAC 246-976-260 Licenses required.** ~~((+))~~ The department shall:

(a) ~~Establish and publish procedures for licensure of ambulance and aid services and ambulance and aid vehicles, consistent with the state plan and approved regional plans;~~

(b) ~~Not allow the transfer of licenses issued under this chapter.~~

(2) ~~Applicants for licensure as ambulance or aid services shall submit application to the department following department procedures, including:~~

(a) ~~Evidence of ability to comply with standards, rules, and regulations of this chapter;~~

(b) ~~Evidence of operation that is consistent with the state-wide and regional EMS/TC plans and prehospital patient care procedures;~~

(c) ~~Evidence of liability insurance coverage;~~

(d) ~~Description of the general area to be served and the number of vehicles to be used.~~

(3) ~~Licenses shall submit application for renewal of licensure to the department at least thirty days before the expiration of the current license.)~~ (1) The department will publish procedures to license ambulance and aid services and vehicles, to provide service that is consistent with the state plan and approved regional plans.

(2) To become licensed as an ambulance or aid service, an applicant must submit application forms to the department, including:

(a) A declaration that the service is able to comply with standards, rules, and regulations of this chapter;

(b) A declaration that staffing will meet the personnel requirements of RCW 18.73.150 and 18.73.170;

(c) A declaration that operation will be consistent with the state-wide and regional EMS/TC plans and approved patient care procedures;

(d) Evidence of liability insurance coverage;

(e) A description of the general area to be served and the number of vehicles to be used. The description includes:

(i) The services to be offered (e.g., emergency response and/or interfacility transports);

(ii) The dispatch process, including a backup plan if the primary unit is unavailable;

(iii) A plan for tiered response that is consistent with approved regional patient care procedures;

(iv) A plan for rendezvous with other services that is consistent with approved regional patient care procedures;

(v) A map of the proposed response area;

(vi) The level of service to be provided: BLS, ILS, or paramedic; and the scheduled hours of operation; and

(vii) For licensed ambulance services, a written plan to continue patient transport if a vehicle becomes disabled, consistent with regional patient care procedures.

(3) To renew a license, submit application forms to the department at least thirty days before the expiration of the current license.

(4) Licensed ambulance and aid services must comply with the approved prehospital trauma triage procedures defined in WAC 246-976-010.

**AMENDATORY SECTION** (Amending Order 323, filed 12/23/92, effective 1/23/93)

**WAC 246-976-270 Denial, suspension, revocation of license** ~~((—Notice, hearing))~~. (1) ~~((Under the provisions of the Administrative Procedure Act, chapter 34.05 RCW, and chapter 246-08 WAC, the department may suspend, modify, or revoke any ambulance or aid vehicle license issued under this chapter, or deny licensure to an applicant, when it finds failure to comply with the requirements of chapter 18.73 RCW, or other applicable laws or rules, or with this chapter.~~

(2) ~~The Uniform Disciplinary Act, chapter 18.130 RCW, governs the unlicensed practice, the issuance and denial of licenses, and the disciplining of persons who hold licenses to operate ambulance or aid services under this chapter. The secretary is authorized by RCW 18.130.040 to be the disciplining authority under this chapter.)~~ The department may suspend, modify, or revoke any ambulance or aid service license issued under this chapter, or deny licensure to an applicant when it finds:

(a) Failure to comply with the requirements of chapters 18.71, 18.73, 18.130, or 70.168 RCW, or other applicable laws or rules, or with this chapter;

(b) ~~((False, fraudulent, or misleading advertising, or any public claim of authorization to provide a level of service for which the licensee is not authorized or licensed;~~

(c) ~~((Failure to comply or ensure compliance with ((approved)) prehospital patient care protocols or regional patient care procedures;~~

(d) ~~((Failure to cooperate with the department in inspections or investigations;~~

(e) ~~((Failure to supply data as required in chapter 70.168 RCW and this chapter.~~

(3) ~~Licenses or applicants may request a hearing to contest department decisions on license denial, suspension, modification, or revocation by filing a written application in accordance with WAC 246-08-020.~~

(4) (2) Under the provisions of the Administrative Procedure Act, chapter 34.05 RCW, and the Uniform Disciplinary Act, chapter 18.130 RCW, the department may impose sanctions against a licensed service ~~((which has not been verified under this chapter, but which routinely responds to trauma incidents and/or renders care to patients of trauma in a manner that is not consistent with the approved regional plan. Such sanctions may include but are not limited to~~

~~action under RCW 18.73.190 and this chapter which may lead to revocation of the service's license, assessment of fines, and/or filing of misdemeanor charges. (a)) as provided in chapter 18.130 RCW. The department ((shall)) will not take action against a licensed, nonverified service under this section for providing emergency trauma care consistent with regional patient care procedures when the wait for the arrival of a verified service would place the life of the patient in jeopardy or seriously compromise patient outcome.~~

~~((b)) This section shall not restrict the authority of a provider licensed under chapter 18.73 RCW to provide services which it has been authorized to provide by state law, except as addressed by chapter 70.168 RCW and specified in the approved regional plan.))~~

**AMENDATORY SECTION** (Amending Order 323, filed 12/23/92, effective 1/23/93)

**WAC 246-976-290 Ground ambulance vehicle standards.** (1) Ground ambulance vehicles purchased and placed into service after December 31, 2000, must meet Federal Specification KKK-A-1822D, published by the General Services Administration, Federal Supply Service Bureau, November 1, 1994, except for color and placarding. Ground ambulance vehicles must also meet all applicable state and federal regulations for emergency vehicles.

(2) Essential equipment for patient and provider safety and comfort must be in good working order.

(3) Subsections (4) through (13) of this section are rescinded effective January 1, 2001.

(4) All ambulance vehicles ((shall)) must be clearly identified by appropriate emblems and markings on the front, side, and rear of the vehicle.

~~((2) Tires, spare tire, tire changing tools shall meet the following requirements:~~

~~((a)) (5) Tires ((shall)) must be in good condition with not less than two-thirty-seconds inch useable tread, appropriately sized to support the weight of the vehicle when loaded(;~~

~~(b) One inflated spare tire shall be furnished and stored in a protected area which provides access without removal of the patient;~~

~~(c) Tire changing tools shall be furnished. Minimum tools shall include a jack, jack handle, and wheel nut wrench. The jack shall be capable of raising any wheel of the loaded ambulance to an adequate height)).~~

~~((3)) (6) The electrical system ((shall)) must meet the following requirements:~~

~~(a) Interior lighting in the driver compartment ((shall)) must be designed and located so that no glare is reflected from surrounding areas to the driver's eyes or line of vision from the instrument panel, switch panel, or other areas which may require illumination while the vehicle is in motion;~~

~~(b) Interior lighting in the patient compartment ((shall)) must be adequate throughout the compartment, and provide an intensity of twenty foot-candles at the level of the patient((- Lights should be controllable from the patient compartment and the driver compartment));~~

~~(c) Exterior lights ((shall)) must comply with the appropriate sections of Federal Motor Vehicle Safety Standards,~~

~~and include body-mounted flood lights over the rear door which provide adequate loading visibility;~~

~~(d) Emergency warning lights ((shall)) must be provided in accordance with RCW 46.37.380, as administered by the state commission on equipment.~~

~~((4)) (7) Windshield wipers and washers ((shall)) must be dual, electric, multispeed, and maintained in good condition.~~

~~((5)) (8) Battery and generator system:~~

~~(a) ((The battery shall have)) Battery with a minimum seventy ampere hour rating. It must be located in a ventilated area sealed off from the vehicle interior, and completely accessible for checking and removal;~~

~~(b) ((The)) Generating system ((shall be)) capable of supplying the maximum built-in DC electrical current requirements of the ambulance. Extra fuses ((shall)) must be provided.~~

~~((6)) (9) Seat belts ((shall)) that comply with Federal Motor Vehicle Safety Standards 207, 208, 209, and 210. Restraints ((shall)) must be provided in all seat positions in the vehicle, including the attendant station.~~

~~((7)) (10) Mirrors ((shall be provided)) on the left side and right side of the vehicle. The location of mounting must ((be such as to)) provide maximum rear vision from the driver's seated position. ((There may be an interior rear view mirror to provide the driver with a view of occurrences in the patient compartment.~~

~~(8)) (11) One ABC two and one-half pound fire extinguisher ((shall be provided)).~~

~~((9)) (12) Ambulance body:~~

~~(a) The length of the patient compartment ((shall)) must be at least one hundred twelve inches in length, measured from the partition to the inside edge of the rear loading doors((- This length shall provide at least twenty inches, and not more than thirty inches, of unobstructed space at the head of the primary patient, measured from the technician's seat back rest to the forward edge of the cot));~~

~~(b) The width of the patient compartment, after cabinet and cot installation, ((shall)) must provide at least nine inches of clear walkway between cots or the squad bench((- The department recommends at least twenty five inches width of kneeling space alongside the primary cot be provided, measured at the floor for a height of nine inches, from the forward leading edge, half of the length back of the primary cot));~~

~~(c) The height of the patient compartment ((shall)) must be at least fifty-three inches at the center of the patient area, measured from floor to ceiling, exclusive of cabinets or equipment;~~

~~(d) There ((shall)) must be secondary egress from the curb side of the patient compartment;~~

~~(e) ((The back doors shall)) Back doors must open in a manner to increase the width for loading patients without blocking existing working lights of the vehicle;~~

~~(f) ((Steps may be provided at door openings if the floor is more than eighteen inches above the ground. Steps shall be of a design to prevent the accumulation of mud, ice, or snow, and shall have a nonskid surface;~~

~~(g)) The floor ((shall be)) at the lowest level permitted by clearances. It ((shall)) must be flat and unencumbered in the access and work area((- There shall be)), with no voids or~~

pockets in the floor to side wall areas where water or moisture can become trapped to cause rusting and/or unsanitary conditions;

~~((h))~~ (g) Floor covering ~~((shall be))~~ applied to the top side of the floor surface. It ~~((shall))~~ must withstand washing with soap and water or disinfectant without damage to the surface. All joints in the floor covering ~~((shall))~~ must have minimal void between matching edges ~~((and shall be))~~, cemented with a suitable water-proof and chemical-proof cement to eliminate the possibility of joints loosening or lifting;

~~((i))~~ The department recommends all interior fasteners, latches, hinges, etc., should be of a flush-type design. When doors are open, the hinges, latches, and door checks shall not protrude into the access area. All hangers or supports for equipment or other items should be flush with the surrounding surface when not in use.) (h) The finish of the entire patient compartment ~~((shall))~~ must be impervious to soap and water and disinfectants to permit washing and sanitizing;

~~((j))~~ (i) Exterior surfaces ~~((shall))~~ must be smooth, with appurtenances kept to a minimum;

~~((k))~~ (j) Restraints ~~((shall be))~~ provided for all litters. If the litter is floor supported on its own support wheels, a means ~~((shall))~~ must be provided to secure it in position. These restraints ~~((shall))~~ must permit quick attachment and detachment for quick transfer of patient.

~~((l))~~ (13) Vehicle brakes, tires, regular and special electrical equipment, windshield wipers, heating and cooling units, safety belts, and window glass, ~~((shall))~~ must be in good working order.

**AMENDATORY SECTION** (Amending Order 323, filed 12/23/92, effective 1/23/93)

**WAC 246-976-300 Ground ambulance and aid vehicles—Equipment.** Ground ambulance and aid services ~~((shall))~~ must provide ~~((minimum))~~ equipment listed in Table C on each licensed vehicle, ~~((including:))~~ when available for service.

Note: "asst" means assortment

| TABLE C: EQUIPMENT  | AID       |         |
|---|-----------|---------|
|   | AMBULANCE | VEHICLE |
| <b>AIRWAY MANAGEMENT</b>  |           |         |
| Airway Adjuncts   |           |         |
| Oral airway (adult: sm, med, lg)  | 1ea       | 1ea     |
| Oral airway (pediatric: 00, 0, 1,2,3,4)   | 1ea       | 1ea     |
| Suction   |           |         |
| Portable, manual  | 1         | 1       |
| Vehicle mounted and powered, providing:<br>Minimum of 30 L/min. & vacuum ><br>300 mm Hg | 1         | 0       |
| Tubing, suction   |           |         |
| Bulb syringe, pediatric   | 1         | 1       |
| <u>Rigid suction tips</u>   | 2         | 1       |
| Catheters as required by local protocol   |           |         |
| <del>((Adult (14 Fr x 22"))</del>   | 4         | 2       |
| <del>Pediatric (6, 8, 10 Fr)</del>  | 1ea       | 1ea     |
| <u>Rigid suction tips</u>   | 2         | 1       |

Note: "asst" means assortment

| TABLE C: EQUIPMENT  | AID                |                    |
|---|--------------------|--------------------|
|   | AMBULANCE          | VEHICLE            |
| <u>Water, rinsing</u>   | Yes                | 0                  |
| <del>Oxygen delivery))</del> <u>Water-soluble lubricant</u>   |                    |                    |
| Oxygen delivery system built in   | 1                  | 0                  |
| 3000L Oxygen cylinder, 500Lbs PSI minimum, <u>or equivalent liquid oxygen system</u>  | 1                  | 0                  |
| 300L Oxygen cylinder, 500Lbs PSI minimum, <u>or equivalent liquid oxygen system</u>   | 2                  | 1                  |
| Regulator, oxygen (0-15+ Liter)   | 1                  | 1                  |
| Cannula, nasal, adult   | 4                  | 2                  |
| <del>((O<sub>2</sub> mask, adult</del>  | 4                  | 2                  |
| <del>O<sub>2</sub> mask, pediatric</del>  | 2                  | 1))                |
| O <sub>2</sub> mask, nonbreather, adult   | 4                  | 2                  |
| O <sub>2</sub> mask, nonbreather, pediatric   | 2                  | 1                  |
| BVM, with O <sub>2</sub> reservoir  |                    |                    |
| Adult   | 1                  | <del>((0))</del> 1 |
| Pediatric (w/sizes neonatal to adult)   | 1                  | <del>((0))</del> 1 |
| Pocket mask or equivalent   | <del>((0))</del> 1 | 1                  |
| <b>PATIENT ASSESSMENT AND CARE</b>  |                    |                    |
| Assessment  |                    |                    |
| Sphygmomanometer  |                    |                    |
| Adult, large  | 1                  | 0                  |
| Adult, regular  | 1                  | 1                  |
| Pediatric   | 1                  | 0                  |
| <del>((Infant</del>   | 1                  | 0))                |
| Stethoscope, adult  | 1                  | 1                  |
| <del>((Pediatric</del>  | 1                  | 0))                |
| Thermometer, <del>((oral,))</del> hypothermia and hyperthermia  | 1ea                | 0                  |
| Flashlight, w/spare or rechargeable batteries & bulb  | 1                  | 1                  |
| <u>* Defibrillation capability appropriate to the level of personnel. (*Note: The requirement for defibrillation takes effect January 1, 2002.)</u> | 1                  | 1                  |
| Personal infection control and protective equipment as required by the department of labor and industries   |                    |                    |
| <del>((Gloves, exam, nonsterile (box)</del>   | 1                  | 1                  |
| Other equipment per WISHA requirements  | Yes                | Yes                |
| <b>MEDICAL EMERGENCIES)) TRAUMA EMERGENCIES</b>   |                    |                    |
| <u>Trauma registry identification bands</u>   | Yes                | Yes                |
| <u>Triage identification for 12 patients</u>  | Yes                | Yes                |
| Wound care  |                    |                    |
| Dressing, sterile   | asst               | asst               |
| Dressing, sterile, trauma   | <del>((4))</del> 2 | <del>((4))</del> 2 |
| Roller gauze bandage  | asst               | asst               |
| <del>((Triangular bandage</del>   | 4                  | 4))                |
| Medical tape  | asst               | asst               |
| Self adhesive bandage strips  | asst               | asst               |
| Cold packs  | 4                  | 2                  |
| Occlusive dressings   | 2                  | 2                  |
| Burn sheets   | 2                  | 2                  |
| Scissors, bandage   | 1                  | 1                  |
| Irrigation solution   | 2                  | 1                  |

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Note: "asst" means assortment

TABLE C: EQUIPMENT

|  | AMBULANCE               | AID VEHICLE        |
|--|-------------------------|--------------------|
| <b>Splinting</b>   |                         |                    |
| Backboard( <del>(, plywood or equiv))</del> with straps                                | 2                       | 1                  |
| <del>((Backboard))</del> Head immobilizer  | 1                       | 1                  |
| <del>((Immobilizer board, pediatric capable))</del><br>Pediatric immobilization device | 1                       | 0                  |
| <b>Extrication collars, rigid</b>  |                         |                    |
| Adult (small, medium, large)   |                         | <del>((1ea))</del> |
|  | <del>((2ea))</del> asst | asst               |
| Pediatric <u>or functionally equivalent</u><br><u>_____ sizes</u>                      | asst                    | asst               |
| Immobilizer, cervical/thoracic, adult  | 1                       | 0                  |
| Splint, traction, adult w/straps   | 1                       | 0                  |
| Splint, traction, pediatric, w/straps  | 1                       | 0                  |
| Splint, adult (arm and leg)  | 2ea                     | 1ea                |
| Splint, pediatric (arm and leg)  | 1ea                     | 1ea                |
| <b>General</b>   |                         |                    |
| Litter, wheeled, collapsible   | 1                       | 0                  |
| Pillows, plastic covered or disposable   | 2                       | 0                  |
| Pillow case  | 4                       | 0                  |
| Sheets   | 4                       | 0                  |
| Blankets   | <del>((4))</del> 2      | 2                  |
| Towels, cloth  | 4                       | 0                  |
| Emesis collection device   | 1                       | 1                  |
| Urinal   | 1                       | 0                  |
| Bed pan  | 1                       | 0                  |
| OB kit   | 1                       | 1                  |
| <b>Extrication</b>   |                         |                    |
| Shovel   | 1                       | 1                  |
| Hammer   | 1                       | 1                  |
| Adjustable wrench, 8"  | 1                       | 1                  |
| Hack saw, with blades  | 1                       | 1                  |
| Crowbar, pinch point, <del>((40"))</del> 36" minimum                                   | 1                       | 1                  |
| Screwdriver, straight tip, 10" minimum   | 1                       | 1                  |
| Screwdriver, 3 Phillips, 10" minimum   | 1                       | 1                  |
| Wrecking bar, 3' minimum   | 1                       | 1                  |
| Locking pliers   | 1                       | 1                  |
| Bolt cutters, 1/2" min. jaw spread   | 1                       | 1                  |
| Rope, utility, 50' x 3/8"  | 1                       | 1                  |

**AMENDATORY SECTION** (Amending Order 323, filed 12/23/92, effective 1/23/93)

**WAC 246-976-310 Ground ambulance and aid vehicles—Communications equipment.** (1) ~~((Ground ambulance and aid services shall))~~ Licensed services must provide each licensed ambulance and aid vehicle with communication equipment which:

- (a) Is consistent with state and ~~((approved))~~ regional plans;
- (b) Is in good working order;
- (c) Allows direct two-way communication between the vehicle and its ~~((system))~~ dispatch control point;

(d) Uses cellular phones only as a secondary means of communications; and

(e) Allows communication with ~~((the))~~ medical control ~~((system established in the state communication plan)).~~

(2) ~~((In addition to subsection (1) of this section, services shall))~~ Licensed services must provide each licensed ambulance with communication equipment which:

(a) Allows direct two-way communication ~~((, from both the driver's and patient's compartments,))~~ with all hospitals in the service area of the vehicle, from both the driver's and patient's compartment;

(b) Incorporates appropriate encoding and selective signaling devices; and

(c) When transporting patients, allows communications with medical control and designated EMS/TC receiving facilities ~~((state-wide)).~~

**AMENDATORY SECTION** (Amending Order 323, filed 12/23/92, effective 1/23/93)

**WAC 246-976-320 Air ambulance services.** (1) ~~((The department shall:~~

~~(a) Issue licenses to air ambulance services and aircraft which meet standards described in this section;~~

~~(b) Exclude from licensure requirements those services operating aircraft for primary purposes other than civilian air medical transport, but which may be called into service to initiate an emergency air medical transport of a patient to the nearest available treatment facility or rendezvous point with other means of transportation. Examples of services fitting this description include, but are not limited to: United States Army Military Assistance to Safety and Traffic, United States Navy, United States Coast Guard, Search and Rescue, and the United States Department of Transportation.~~

~~(c) Establish and publish minimum standards for air ambulance services, medical transport aircraft, and medical equipment required for licensure. Standards for aircraft shall be consistent with federal aviation administration regulations.~~

~~((2))~~ Air ambulance services ~~((shall))~~ must:

(a) Comply with all regulations in this chapter pertaining to ambulance services and vehicles, except that WAC ~~((246-976-280,))~~ 246-976-290~~((,))~~ and 246-976-300 are replaced for air ambulance services by subsection ~~((3))~~ (2)(b) and (c) of this section;

(b) Comply with the standards in this section for all types of transports, including inter-facility and prehospital transports;

~~((Be currently certified as an air taxi under federal aviation regulations Part 135, Air Taxi Operators and Commercial Operators of Small Aircraft. Air ambulance services shall comply with applicable federal aviation regulations contained in Parts 91 and 135, and conduct all maintenance activities in accordance with Part 43. Air ambulance services shall comply with any additional federal aviation administration regulations specifically dealing with air ambulance services))~~ Be in current compliance with all state and Federal Aviation Administration statutes and regulations that apply to air carriers, including, but not limited to, those regulations that apply to certification requirements, operations, equip-

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ment, crew members, and maintenance, and any specific regulations that apply to air ambulance services.

~~((3))~~ (2) Air ambulance services ~~((shall))~~ must provide:

(a) A physician director who is:

(i) Practicing medicine in the response area of the aircraft, as identified in the state EMS/TC plan;

(ii) Trained and experienced in emergency, trauma, and critical care;

~~((ii))~~ (iii) Knowledgeable of the operation of air medical services; and

~~((iii))~~ (iv) Responsible for supervising and evaluating the quality of patient care provided by the air medical flight personnel;

(b) Sufficient air medical personnel on each response to provide adequate patient care, specific to the mission, including:

(i) One specially trained, experienced registered nurse or paramedic; and

(ii) One other person who ~~((may))~~ must be a physician, nurse, physician's assistant, respiratory therapist, paramedic, EMT, or other appropriate specialist appointed by the physician director. If an air ambulance responds directly to the scene of an incident, at least one of the air medical personnel ~~((shall))~~ must be trained in prehospital emergency care;

(c) Aircraft that, when operated as air ambulances:

(i) Are configured ~~((in such a way))~~ so that the medical attendants ~~((have access to))~~ can access the patient ~~((in order))~~ to begin and maintain advanced life support and other treatment ~~((modalities))~~;

(ii) Allow loading and unloading the patient without excessive maneuvering or tilting of the stretcher;

(iii) Have appropriate communication equipment to insure internal crew and air-to-ground exchange of information between flight personnel and hospitals, medical control, the flight operations center, and air traffic control facilities;

(iv) Are equipped with:

(A) Appropriate navigational aids;

(B) Airway management equipment, including:

(I) Oxygen;

(II) Suction;

(III) Ventilation and intubation equipment, adult and pediatric;

(C) Cardiac monitor/defibrillator;

(D) Supplies, equipment, and medication as required by the program physician director, for emergency, cardiac, trauma, pediatric care, and other missions; and

(E) The ability to maintain appropriate patient temperature; and

(v) Have adequate interior lighting for patient care arranged so as not to interfere with the pilot's vision;

(d) If using fixed-wing aircraft, pressurized, multi-engine aircraft when appropriate to the mission;

(e) If using helicopter aircraft:

(i) A protective barrier sufficiently isolating the cockpit, ~~((in order))~~ to minimize in-flight distraction or interference;

(ii) Appropriate communication equipment to communicate with ground EMS/TC services and public safety vehicles, in addition to the communication equipment specified in (c)(iii) of this subsection.

~~((4))~~ (3) All air medical personnel ~~((shall))~~ must:

(a) Be certified in ACLS;

(b) Be trained in:

(i) Emergency, trauma, and critical care;

(ii) Altitude physiology;

(iii) EMS communications;

(iv) Aircraft and flight safety; and

(v) The use of all patient care equipment on board the aircraft;

(c) Be familiar with survival techniques appropriate to the terrain;

(d) Perform under protocols.

~~((5) In instances where))~~ (4) Exceptions:

(a) If aeromedical evacuation of a patient is necessary because of a life threatening condition and a licensed air ambulance is not available, ((patient transportation may be accomplished by)) the nearest available aircraft that can accommodate the patient may transport. The physician ordering the transport ~~((shall))~~ must justify the need for air transport of the patient in writing to the department within thirty days after the incident.

(b) Excluded from licensure requirements those services operating aircraft for primary purposes other than civilian air medical transport, but which may be called into service to initiate an emergency air medical transport of a patient to the nearest available treatment facility or rendezvous point with other means of transportation. Examples are: United States Army Military Assistance to Safety and Traffic, United States Navy, United States Coast Guard, Search and Rescue, and the United States Department of Transportation.

(5) Air ambulance services licensing or relicensing after December 31, 2000, must have and maintain accreditation by the Commission on Accreditation of Medical Transport Services (CAMTS, Box 1305, Anderson SC 29622) for aeromedical transport.

(6) Subsections (2), (3) and (4) of this section are rescinded effective January 1, 2001, except that subsection (3)(a)(i) of this section remains in effect, requiring a physician director practicing medicine in the response area of the aircraft.

AMENDATORY SECTION (Amending Order 323, filed 12/23/92, effective 1/23/93)

**WAC 246-976-330 Ambulance and aid services—Record requirements.** (1) Each ambulance and aid ~~((vehicle))~~ service ~~((shall))~~ must maintain a record of:

(a) Current certification levels of all personnel;

(b) Make, model, and license number of all vehicles; and

(c) Each patient contact with at least the following information:

(i) Names and certification levels of all personnel;

(ii) Date and time of medical emergency;

(iii) Age of patient;

(iv) Applicable components of system response time as defined in this chapter;

(v) Patient vital signs;

(vi) Procedures performed on the patient;

(vii) Mechanism of injury or type of illness;

(viii) Patient destination;

(ix) ~~For trauma patients, other data points identified in ((this chapter)) WAC 246-976-430 for the trauma registry.~~

(2) Transporting agencies ~~((shall))~~ must leave a copy of the patient care record at the receiving facility.

(3) ~~((Patient records are confidential. Disclosure of patient information shall be governed by applicable state and federal regulations on confidentiality.~~

(4)) Licensed services ~~((shall))~~ must make all records available for inspection and duplication upon request of the department.

**AMENDATORY SECTION** (Amending Order 323, filed 12/23/92, effective 1/23/93)

**WAC 246-976-340 Ambulance and aid services—Inspections and investigations.** (1) The department ~~((shall))~~ may conduct periodic, unannounced inspections of licensed ambulances and aid vehicles and services.

(2) If the service is also verified in accordance with WAC 246-976-390; the department ~~((shall))~~ will include a review for compliance with verification standards as part of the inspections described in this section.

(3) Licensed services shall make available to the department and provide copies of any printed or written materials relevant to the inspection, verification review, or investigative process in a timely manner.

**((VERIFICATION))**

**AMENDATORY SECTION** (Amending Order 323, filed 12/23/92, effective 1/23/93)

**WAC 246-976-390 Verification of trauma care services.** (1) The department ~~((shall))~~ will:

(a) ~~((Develop and provide))~~ Publish procedures ((and application forms)) for verification. Verification will expire with the period of licensure. The application for verification will be incorporated in the application for licensure;

(b) ~~((Establish and publish standards for verification of))~~ Verify prehospital trauma care services in the following categories:

(i) Aid service((:)); Basic, intermediate and advanced (paramedic) life support;

(ii) Ground ambulance service((:)); Basic, intermediate and advanced (paramedic) life support;

(iii) ~~((Aid service, intermediate life support;~~

(iv) ~~Ambulance service, intermediate life support;~~

(v) ~~Aid service, paramedic;~~

(vi) ~~Ambulance service, paramedic;))~~ Air ambulance service. After December 31, 2000, the department will consider that a service accredited by CAMTS meets the requirements of subsections (5), (7) and (10) of this section;

(c) Review the minimum response times for verified prehospital trauma services at least biennially, considering data available from the trauma registry and with the advice of the steering committee;

(d) Forward applications for verification to the appropriate regional council for review and comment;

(e) Approve an applicant to provide verified prehospital trauma care, based on satisfactory evaluations as described in this section;

~~((e))~~ (f) Notify the regional council and the MPD in writing of the name, location, and level of verified services;

~~((f))~~ (g) Renew approval of a verified service upon reapplication, if the service continues to meet standards established in this chapter and ~~((the needs identified in))~~ verification remains consistent with the regional ~~((EMS/TC))~~ plan.

(2) ~~((For licensed aid services, the department shall:~~

(a) ~~Establish and review biennially the minimum number of aid services needed to provide verified nontransport trauma care services based upon distribution and level of service identified for each response area in the approved regional plan;~~

(b) ~~Evaluate applicants for aid service trauma verification based upon demonstrated ability of the provider to meet standards defined in this section.~~

(3) ~~For licensed ambulance services, the department shall:~~

(a) ~~Establish and review biennially the minimum and maximum number of verified ambulance services needed in the state and within each region to assure adequate availability and avoid inefficient duplication and lack of coordination of verified transport trauma care service based upon distribution and level of service identified for each response area identified in the approved regional plan;~~

(b) ~~Evaluate applicants for ambulance trauma service verification based upon:~~

(i) ~~Demonstrated ability of the provider to meet standards defined in this section;~~

(ii) ~~The maximum number of ambulance services for each response area identified in the approved regional plans;~~

(iii) ~~Preference for verification of existing licensed EMS/TC agencies, until January 1, 1995;~~

(iv) ~~Recommendations from:~~

(A) ~~EMS systems established by ordinance, resolution, interlocal agreement, or contract;~~

(B) ~~Local government; and~~

(C) ~~Local and regional EMS/TC councils;~~

(v) ~~Verification shall be renewed upon reapplication, if the service continues to meet standards established in this chapter, and the needs identified in the regional plan.~~

(4) ~~The regional councils shall:~~

(a) ~~Identify the need for and distribution of verified aid services needed to assure adequate availability of prehospital aid service within the region for each response area, based upon agency response time standards, geography, topography, and population density for:~~

(i) ~~Aid service, basic life support;~~

(ii) ~~Aid service, intermediate basic life support;~~

(iii) ~~Aid service, advanced life support;~~

(b) ~~Identify the need for and distribution of verified ambulance services needed to assure adequate availability and avoid inefficient duplication and lack of coordination of prehospital ambulance service within the region for each response area based upon agency response time standards, geography, topography, and population density for:~~

(i) ~~Ambulance, basic life support;~~

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~~(ii) Ambulance, intermediate life support;  
(iii) Ambulance, advanced life support.  
(5) Licensed ambulance and aid services applying to become verified prehospital trauma care services shall~~) The department will identify the need for and recommend distribution and level of care of prehospital services to assure adequate availability and avoid inefficient duplication and lack of coordination of prehospital services within the region. The department will identify minimum and maximum numbers of prehospital services, based on the approved regional and state plans. The department will:

(a) Establish and review biennially the minimum and maximum number of prehospital services based upon distribution and level of service identified for each response area in the approved regional plan.

(b) Evaluate an applicant for trauma verification based upon demonstrated ability of the provider to meet standards defined in this section 24-hours every day.

(c) Verify the trauma capabilities of a licensed prehospital service if it determines that the applicant:

(i) Proposes services that are identified in the regional plan for ground services, or the state plan for air ambulance services, in the proposed response areas,

(ii) Agrees to operate under approved regional patient care procedures and prehospital patient care protocols.

(3) Regional council responsibilities regarding verification are described in WAC 246-976-960.

(4) To apply for verification, a licensed ambulance or aid service must submit application on forms provided by the department, including:

(a) Documentation required for licensure specified by WAC 246-976-260(2);

(b) ((By July 1, 1995,)) A policy that a trauma training program is required for all personnel responding to trauma incidents. The program ((shall)) must meet learning objectives established by the department and be approved by the MPD;

(c) Documentation that the provider has the ability twenty-four hours every day to deliver personnel and equipment required for verification to the scene of a trauma ((injury)) within the agency response times identified in this section; and

TABLE D: EQUIPMENT FOR VERIFIED TRAUMA SERVICES

(NOTE: "ASST" MEANS ASSORTMENTS)

AIRWAY MANAGEMENT

Airway Adjuncts

~~((Oral airway (adult: sm, med, lg)~~

~~Oral airway (pediatric: 00,0,1,2,3,4)~~

~~Adjunctive airways, per protocol~~

~~Laryngoscope handle, spare batteries~~

~~Adult blades, set~~

~~Pediatric blades, straight (0,1,2)~~

~~Pediatric blades, curved (2)~~

~~McGill forceps, adult & pediatric~~

~~ET tubes, adult (±1/2 mm)~~

~~(d) ((By July 1, 1995,)) Documentation that the provider ((is participating)) will participate in an approved regional quality assurance program.~~

~~((6)) (5) Verified aid services ((shall)) must provide personnel to attend the patient on each trauma response including:~~

~~(a) ((Aid service,)) Basic life support: At least one individual, first responder or above;~~

~~(b) ((Aid service,)) Intermediate life support: ((At least one IV/airway technician; or two individuals, one IV technician and one airway technician;)~~

~~(i) At least one ILS technician; or~~

~~(ii) At least one IV/airway technician; or~~

~~(iii) At least two individuals, one IV technician and one airway technician.~~

~~(c) ((Aid service,)) Advanced life support - Paramedic: At least one paramedic.~~

~~((7)) (6) Verified ambulance services ((shall)) must provide personnel to attend the patient on each trauma response including:~~

~~(a) ((Ambulance,)) Basic life support: At least two certified individuals — one EMT plus one first responder;~~

~~(b) ((Ambulance,)) Intermediate life support:~~

~~(i) One ILS technician, plus one EMT; or~~

~~(ii) One IV/airway technician, plus one EMT; or~~

~~((8)) (iii) One IV technician and one airway technician ((both of whom shall be in attendance in the patient compartment, plus a driver));~~

~~(c) ((Ambulance,)) Advanced life support - Paramedic: At least two certified individuals — one paramedic and one EMT.~~

~~((9) Minimum equipment standards for licensure of basic life support (BLS) units as identified in WAC 246-976-300 shall be the minimum standards for verified BLS units.~~

~~((9)) (7) Verified BLS vehicles must carry equipment identified in WAC 246-976-300, Table C.~~

~~(8) Verified ((aid and ground ambulance services shall)) ILS and paramedic vehicles must provide equipment ((on each vehicle, including for intermediate life support (ILS) and paramedic (PAR) level of service)) identified in Table D, in addition to meeting the requirements of WAC 246-976-300:~~

|                    | AMBULANCE      |                    | AID VEHICLE    |                |
|--------------------|----------------|--------------------|----------------|----------------|
|                    | PAR            | ILS                | PAR            | ILS            |
| <del>1ea</del>     | <del>1ea</del> | <del>1ea</del>     | <del>1ea</del> | <del>1ea</del> |
| <del>1ea</del>     | <del>1ea</del> | <del>1ea</del>     | <del>1ea</del> | <del>1ea</del> |
| <del>((0)) 1</del> | <del>1</del>   | <del>((0)) 1</del> | <del>1</del>   | <del>1</del>   |
| <del>1</del>       | <del>1</del>   | <del>1</del>       | <del>1</del>   | <del>1</del>   |
| <del>1</del>       | <del>1</del>   | <del>1</del>       | <del>1</del>   | <del>1</del>   |
| <del>1ea</del>     | <del>1ea</del> | <del>1ea</del>     | <del>1ea</del> | <del>1ea</del> |
| <del>1ea</del>     | <del>1ea</del> | <del>1ea</del>     | <del>1ea</del> | <del>1ea</del> |
| <del>1</del>       | <del>1</del>   | <del>1</del>       | <del>1</del>   | <del>1</del>   |
| <del>1ea</del>     | <del>1ea</del> | <del>1ea</del>     | <del>1ea</del> | <del>1ea</del> |



TABLE D: EQUIPMENT FOR VERIFIED TRAUMA SERVICES

(NOTE: "ASST" MEANS ASSORTMENTS)

|   | AMBULANCE  |            | AID VEHICLE |            |
|---|------------|------------|-------------|------------|
|   | PAR        | ILS        | PAR         | ILS        |
| ET tubes, pediatric, with stylet  |            |            |             |            |
| Uncuffed (2.5 - 5.0 mm)   | 1ea        | 1ea        | 1ea         | 1ea        |
| Cuffed or uncuffed (6.0 mm)   | 1ea        | 1ea        | 1ea         | 1ea        |
| <u>End-tidal CO<sub>2</sub> detector</u>  | <u>1ea</u> | <u>1ea</u> | <u>1ea</u>  | <u>1ea</u> |
| <u>Oxygen saturation monitor</u>  | <u>1ea</u> | <u>1ea</u> | <u>1ea</u>  | <u>1ea</u> |
| Suction   |            |            |             |            |
| Portable, (( <del>manual and</del> )) powered   | 1          | 1          | 1           | 1          |
| (( <del>Vehicle mounted and powered; providing: Minimum of 30 L/min. &amp; vacuum &gt; 300 mm Hg</del> )) | +          | +          | 0           | 0          |
| Tubing, suction   | +          | +          | +           | +          |
| Bulb syringe, pediatric   | +          | +          | +           | +          |
| Catheters, suction  |            |            |             |            |
| Adult (14 Fr x 22")   | 4          | 4          | 2           | 2          |
| Pediatric (6,8,10 Fr)   | 1ea        | 1ea        | 1ea         | 1ea        |
| Rigid suction tips  | 2          | 2          | +           | +          |
| Water, rinsing  | Yes        | Yes        | 0           | 0          |
| Oxygen delivery   |            |            |             |            |
| Oxygen delivery system, built in  | +          | +          | 0           | 0          |
| 3000L Oxygen cylinder, 500Lbs PSI minimum   | +          | +          | 0           | 0          |
| 300L Oxygen cylinder, 500Lbs PSI minimum  | 2          | 2          | +           | +          |
| Regulator, oxygen (0-15 Liter)  | +          | +          | +           | +          |
| Cannula, nasal, adult   | 4          | 4          | 2           | 2          |
| O <sub>2</sub> mask, adult  | 4          | 4          | 2           | 2          |
| O <sub>2</sub> mask, pediatric  | 2          | 2          | +           | +          |
| O <sub>2</sub> mask, nonrebreather, adult   | 4          | 4          | 2           | 2          |
| O <sub>2</sub> mask, nonrebreather, pediatric   | 2          | 2          | +           | +          |
| BVM, w/O <sub>2</sub> reservoir   |            |            |             |            |
| Adult   | +          | +          | +           | +          |
| Pediatric, (w/sizes neonatal to adult)  | +          | +          | +           | +          |
| PATIENT ASSESSMENT AND CARE   |            |            |             |            |
| ((Assessment))  |            |            |             |            |
| Sphygmomanometer  |            |            |             |            |
| Adult, large  | 1          | 1          | 1           | 1          |
| ((Adult, regular  | +          | +          | +           | +          |
| Pediatric   | 1          | 1          | 1           | 1          |
| ((Infant  | +          | +          | +           | +          |
| Stethoscope   |            |            |             |            |
| Adult   | +          | +          | +           | +          |
| Pediatric   | +          | +          | +           | +          |
| Thermometer, oral and hypothermia   | 1ea        | 1ea        | 0           | 0          |
| Flashlight, w/spare or rechargeable batteries & bulb  | +          | +          | +           | +          |
| Personal infection control  |            |            |             |            |
| Gloves, exam, nonsterile (box)  | +          | +          | +           | +          |
| Other equipment per WISHA requirements  | Yes        | Yes        | Yes         | Yes        |

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TABLE D: EQUIPMENT FOR VERIFIED TRAUMA SERVICES

(NOTE: "ASST" MEANS ASSORTMENTS)

MEDICAL EMERGENCIES

Wound care

|                              | AMBULANCE |      | AID VEHICLE |      |
|------------------------------|-----------|------|-------------|------|
|                              | PAR       | ILS  | PAR         | ILS  |
| Dressing, sterile            | asst      | asst | asst        | asst |
| Dressing, sterile, trauma    | 4         | 4    | 4           | 4    |
| Roller gauze bandage         | asst      | asst | asst        | asst |
| Triangular bandage           | 4         | 4    | 4           | 4    |
| Medical tape                 | asst      | asst | asst        | asst |
| Self-adhesive bandage strips | asst      | asst | asst        | asst |
| Cold packs                   | 4         | 4    | 2           | 2    |
| Occlusive dressings          | 2         | 2    | 2           | 2    |
| Burn sheets                  | 2         | 2    | 2           | 2    |

Scissors, bandage

|                     |   |   |   |   |
|---------------------|---|---|---|---|
| Irrigation solution | 2 | 2 | 1 | 1 |
|---------------------|---|---|---|---|

Splinting

|   |      |      |      |       |
|---|------|------|------|-------|
| Backboard, plywood or equiv with straps | 2    | 2    | 1    | 1     |
| Backboard head immobilizer              | 1    | 1    | 1    | 1     |
| Immobilizer board, pediatric capable    | 1    | 1    | 1    | 1     |
| Extrication collars, rigid              |      |      |      |       |
| Adult (small, medium, large)            | 2ea  | 2ea  | 1ea  | 1ea   |
| Pediatric                               | asst | asst | asst | asst  |
| Extrication device (immobilizer) adult  | 1    | 1    | 1    | 1     |
| Splint, traction, adult with straps     | 1    | 1    | 1    | 1     |
| Splint, traction, pediatric, w/straps   | 1    | 1    | 1    | 1     |
| Splint, adult (arm and leg)             | 2ea  | 2ea  | 1ea  | 1ea   |
| Splint, pediatric (arm and leg)         | 1ea  | 1ea  | 1ea  | 1ea)) |

TRAUMA EMERGENCIES

IV access

|   |      |           |      |           |
|---|------|-----------|------|-----------|
| ((Isotonic solution Administration sets | 4L   | 4L        | 2L   | 2L))      |
| Adult                                   | 1    | 1         | 1    | 1         |
| Pediatric, w/volume control             | 4    | 4         | 2    | 2         |
| Catheters, intravenous (14-24 ga)       | asst | asst      | asst | asst      |
| Needles                                 |      |           |      |           |
| Hypodermic                              | asst | asst      | asst | asst      |
| Intraosseous, per protocol              | 2    | 2         | 1    | 1         |
| Sharps container                        | 1    | 1         | 1    | 1         |
| Syringes                                | asst | asst      | asst | asst      |
| Glucose measuring supplies              | Yes  | ((0)) Yes | Yes  | ((0)) Yes |
| Pressure infusion device                | 1    | 1         | 1    | 1         |

((Cardiac care

|  |   |   |   |   |
|--|---|---|---|---|
| Monitor/defibrillator (manual capable) with necessary supplies | 1 | 0 | 1 | 0 |
|--|---|---|---|---|

General

|  |   |   |   |   |
|--|---|---|---|---|
| Litter, wheeled, collapsible, w/straps | 1 | 1 | 0 | 0 |
| Pillows (plastic cover or disposable)  | 2 | 2 | 0 | 0 |
| Pillow case                            | 4 | 4 | 0 | 0 |

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TABLE D: EQUIPMENT FOR VERIFIED TRAUMA SERVICES

(NOTE: "ASST" MEANS ASSORTMENTS)

|  | AMBULANCE |     | AID VEHICLE |     |
|--|-----------|-----|-------------|-----|
|  | PAR       | ILS | PAR         | ILS |
| Sheets                                 | 4         | 4   | 0           | 0   |
| Blankets                               | 4         | 4   | 2           | 2   |
| Towels, cloth                          | 4         | 4   | 0           | 0   |
| Emesis collection device               | †         | †   | †           | †   |
| Urinal                                 | †         | †   | 0           | 0   |
| Bed pan                                | †         | †   | 0           | 0   |
| OB kit                                 | †         | †   | †           | †   |
| <b>Extrication</b>                     |           |     |             |     |
| Shovel                                 | †         | †   | †           | †   |
| Hammer                                 | †         | †   | †           | †   |
| Adjustable wrench, 8"                  | †         | †   | †           | †   |
| Hack saw, with blades                  | †         | †   | †           | †   |
| Crowbar, pinch point, 40" minimum      | †         | †   | †           | †   |
| Screwdriver, straight tip, 10" minimum | †         | †   | †           | †   |
| Screwdriver, 3 Phillips, 10" minimum   | †         | †   | †           | †   |
| Wrecking bar, 3' minimum               | †         | †   | †           | †   |
| Locking pliers                         | †         | †   | †           | †   |
| Bolt cutters, 1/2" min. jaw spread     | †         | †   | †           | †   |
| Rope, utility, 50' x 3/8"              | †         | †   | †           | †)  |

Medications according to local patient care protocols

(9) Verified air ambulance services ~~((shall))~~ must meet equipment requirements described in WAC 246-976-320.

(10) ~~((By January 1994, all verified trauma services shall participate in the regional quality assurance program established by RCW 70.168.090(2)).~~

~~((11))~~ Verified aid services ~~((shall))~~ must meet the following minimum agency response times for response areas as defined by the department and identified in the ~~((approved))~~ regional plan:

(a) To urban response areas: Eight minutes or less, eighty percent of the time;

(b) To suburban response areas: Fifteen minutes or less, eighty percent of the time;

(c) To rural response areas: Forty-five minutes or less, eighty percent of the time;

(d) To wilderness response areas: As soon as possible.

~~((12))~~ (11) Verified ground ambulance services ~~((shall))~~ must meet the following minimum agency response times for response areas as defined by the department and identified in the ~~((approved))~~ regional plan:

(a) To urban response areas: Ten minutes or less, eighty percent of the time;

(b) To suburban response areas: Twenty minutes or less, eighty percent of the time;

(c) To rural response areas: Forty-five minutes or less, eighty percent of the time;

(d) To wilderness response areas: As soon as possible.

~~((13))~~ A verified prehospital trauma care service, or an applicant for verification, may request a variance from the requirements of this section.

~~((14))~~ The department may:

~~((a))~~ Grant a variance from ambulance and aid service verification requirements for a period not to exceed one year if the department determines:

~~((i))~~ No detriment to public health and safety will result from the variance; and

~~((ii))~~ Compliance with the provisions of this section will cause a reduction or loss of existing prehospital services;

~~((b))~~ Renew a variance. If a renewal is granted, the verified service shall prepare a plan to bring the provider or region into compliance and the expected date of compliance, consistent with the regional EMS/TC plan.) (12) Verified air ambulance services must meet minimum agency response times as identified in the state plan.

AMENDATORY SECTION (Amending Order 323, filed 12/23/92, effective 1/23/93)

**WAC 246-976-400 Verification—Noncompliance with standards.** If the department finds that a verified prehospital trauma care service is out of compliance with verification standards:

(1) The department shall promptly notify in writing: The service, the MPD, the local and regional EMS/TC councils.

(2) ~~((The service shall,))~~ Within thirty days of the department's notification ((by the department)), the service must submit a corrective plan to the department, the MPD and the regional council outlining proposed action to ((bring the service into)) return to compliance.

(3) ~~((The MPD and the regional council shall, within thirty days of receipt of the service's corrective plan, forward their recommendations on the plan to the department.~~

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(4) The department shall, within thirty days, review the plan and recommendations of the regional council and MPD, and notify the service of acceptance or rejection.

(5) The regional council may:

(a) Seek assistance and funding from the department and others to provide training or grants necessary to bring the verified prehospital trauma service into compliance; and/or

(b) Appeal to the department for modification of the regional plan if it is unable to assure continued compliance with the regional plan.

(6) The department shall monitor the service's progress in fulfilling the terms of the approved plan.

(7) If the service is either unable or unwilling to comply with the verification standards, under the provisions of chapter 34.05 RCW, the department may suspend or revoke the verification. The department shall promptly notify the regional council and the MPD of any revocation or suspension of verification.) If the MPD or the regional council receive information that a service is out of compliance with the regional plan, they may forward their recommendations for corrections to the department.

(4) The department will review the plan within thirty days, including consideration of any recommendations from the MPD or regional council. The department will notify the service whether the plan is accepted or rejected.

(5) The department will monitor the service's progress in fulfilling the terms of the approved plan.

### TRAUMA REGISTRY

AMENDATORY SECTION (Amending Order 323, filed 12/23/92, effective 1/23/93)

**WAC 246-976-420 Trauma registry—Department responsibilities.** ((The department shall:

(1) Establish a state-wide data registry to collect and analyze data on the incidence, severity, and causes of trauma, including traumatic brain injury for the purposes of:

(a) ~~Monitoring and providing information necessary to evaluate major trauma patient care and outcome;~~

(b) ~~Assessing compliance of prehospital providers, health care facilities, hospitals, and rehabilitation services with the standards of state trauma system operation and designation;~~

(c) ~~Providing information necessary for resource planning and management;~~

(d) ~~Providing data for injury surveillance, analysis, and prevention programs; and~~

(e) ~~Providing a resource for research and education.~~

(2) Establish criteria to identify patients to be included in the state trauma registry by:

(a) All licensed prehospital providers;

(b) Health care facilities, both designated (all levels) and nondesignated;

(c) Designated trauma rehabilitation services;

(d) Medical examiner reports;

(e) Other sources outside of the EMS/TC system which may include but not be limited to:

(i) Death certificates;

(ii) Washington Fire Incident Report System;

(iii) Commission's Hospital Abstract Reporting System (CHARS); and

(iv) Law enforcement agency records.

(3) Establish, publish, and periodically review the required data elements to be submitted to provide information regarding injury, trauma care, and system operation, in the following categories:

(a) Demographic;

(b) Anatomic;

(c) Physiologic;

(d) Severity;

(e) Epidemiologic;

(f) Resource utilization;

(g) Quality assurance;

(h) Outcome; and

(i) Financial.

(4) Require a case specific patient identifier common to all data sources used in the registry;

(5) Provide procedures for electronic submission of data, including specifications for necessary software; or provide paper forms for manual submission of data;

(6) For data quality assurance:

(a) Develop detailed protocols for quality control, consistent with the department's most current data quality guidelines;

(b) Perform validity studies to assess the completeness and accuracy of case identification and data collection;

(c) Provide a report on completeness and accuracy of data submitted for each provider submitting data to the registry.

(7) Conclude a pilot of the trauma registry by July 1993, which assesses the impact of data reporting on hospital and prehospital participants, and evaluates the appropriateness of the inclusion criteria and required data elements; and

(8) Evaluate requests from regional EMS/TC councils for collection of voluntarily submitted additional data elements from agencies and facilities in that region.) (1) **Purpose:** The department maintains a trauma registry, as required by RCW 70.168.060 and 70.168.090. The purpose of this registry is to:

(a) Provide data for injury surveillance, analysis, and prevention programs;

(b) Monitor and evaluate the outcome of care of major trauma patients, in support of state-wide and regional quality assurance and system evaluation activities;

(c) Assess compliance with state standards for trauma care;

(d) Provide information for resource planning, system design and management;

(e) Provide a resource for research and education.

(2) **Confidentiality:** It is essential for the department to protect information regarding specific patients and providers. Data elements related to the identification of individual patient's, provider's, and facility's care outcomes shall be confidential, shall be exempt from RCW 42.17.250 through 42.17.450, and shall not be subject to discovery by subpoena or admissible as evidence.

(a) The department may release confidential information from the trauma registry in compliance with applicable laws and regulations. No other person may release confidential information from the trauma registry without express written permission from the department.

(b) The department may approve requests for trauma registry data from qualified agencies or individuals, consistent with applicable statutes and rules. The department may charge reasonable costs associated with such requests.

(c) The data elements indicated as confidential in Tables E, F and G below are considered confidential.

(d) The department will establish criteria defining situations in which additional registry information is confidential, in order to protect confidentiality for patients, providers, and facilities.

(e) This paragraph does not limit access to confidential data by approved regional quality assurance programs established under chapter 70.168 RCW and described in WAC 246-976-910.

(3) Inclusion criteria: The department will establish inclusion criteria to identify those injured patients that providers must report to the trauma registry.

(a) For all licensed prehospital providers these criteria will include injured patients:

(i) Who were dead at the scene;

(ii) Who died enroute; or

(iii) Who met the criteria of the prehospital trauma triage (destination) procedures.

(b) For designated trauma services these criteria will include all patients who were discharged with ICD diagnosis codes of 800.0 - 904.99, 910 - 959.9 (injuries), 994.1 (drowning), 994.7 (asphyxiation), or 994.8 (electrocution) and:

(i) For whom the hospital trauma resuscitation team was activated;

(ii) Who were dead on arrival at your facility;

(iii) Who were dead at discharge from your facility;

(iv) Who were transferred into your facility from another facility;

(v) Who were transferred out of your facility to another acute care facility; or

(vi) Who were admitted as inpatients to your facility and have a length of stay greater than two days or forty-eight hours.

(c) For all licensed rehabilitation services, these criteria will include all patients who were included in the trauma registry for acute care.

(4) Other data: The department and regional quality assurance programs may request data from medical examiners and coroners in support of the registry.

(5) Data linking: To link data from different sources, the department will establish procedures to assign a unique identifying number (trauma band number) to each trauma patient. All providers reporting to the trauma registry must include this trauma number.

(6) Data submission: The department will establish procedures and format for providers to submit data electronically. These will include a mechanism for the reporting agency to check data for validity and completeness before data is sent to the registry.

(7) Data quality: The department will establish mechanisms to evaluate the quality of trauma registry data. These mechanisms will include at least:

(a) Detailed protocols for quality control, consistent with the department's most current data quality guidelines.

(b) Validity studies to assess the timeliness, completeness and accuracy of case identification and data collection. The department will report quarterly on the timeliness, accuracy and completeness of data.

(8) Registry reports:

(a) Annually, the department will report:

(i) Summary statistics and trends for demographic and related information about trauma care, for the state and for each EMS/TC region;

(ii) Outcome measures, for evaluation of clinical care and system-wide quality assurance and quality improvement programs.

(b) Semiannually, the department will report:

(i) Trends, patient care outcomes, and other data, for each EMS/TC region and for the state, for the purpose of regional evaluation;

(ii) On all patient data entered into the trauma registry during the reporting period;

(iii) Aggregate regional data to the regional EMS/TC council, excluding any confidential or identifying data.

(c) The department will provide:

(i) Provider-specific raw data to the provider that originally submitted it;

(ii) Periodic reports on financial data;

(iii) Registry reports to all providers that have submitted data;

(iv) For the generation of quarterly reports to all providers submitting data to the registry, for the purpose of planning, management, and quality assurance.

AMENDATORY SECTION (Amending Order 323, filed 12/23/92, effective 1/23/93)

WAC 246-976-430 Trauma registry—Provider responsibilities. ~~((1) All licensed prehospital services shall:~~

~~(a) Use the following criteria for inclusion of patient data in the trauma registry:~~

~~(i) Trauma victims dead at scene; and~~

~~(ii) All patients meeting trauma triage criteria who are transported to a health care facility;~~

~~(b) Submit required registry data via electronic transfer; or, if authorized in writing by the department, on approved paper forms.~~

~~(2) The first licensed service on the scene shall be responsible for submitting the following data on all patients identified in subsection (1) of this section, treated during each calendar quarter. Data shall arrive at the registry in an approved format no later than ninety days after the end of the quarter:~~

~~(a) Run sheet number;~~

~~(b) Name or name code, when available;~~

~~(c) Date of birth when available;~~

~~(d) Age;~~

~~(e) Sex;~~

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(f) Agency incident number;  
 (g) Patient's trauma identification number;  
 (h) Agency identification number;  
 (i) First agency on scene (yes/no);  
 (j) Transporting agency identification;  
 (k) Level of transporting agency (BLS/ALS);  
 (l) Incident county code;  
 (m) Response area code of incident (urban, suburban, rural, wilderness);  
 (n) Date of incident;  
 (o) Time:  
 (i) Call received;  
 (ii) Dispatched;  
 (iii) Arrived at scene;  
 (p) First scene:  
 (i) Systolic blood pressure;  
 (ii) Respiratory rate;  
 (iii) Pulse;  
 (q) Glasgow coma score—eye, verbal, and motor;  
 (r) Systolic blood pressure less than ninety mm Hg in field (yes/no);  
 (s) Mechanism of injury;  
 (t) Prehospital trauma system activation (yes/no);  
 (u) Extrication required;  
 (v) Patient entrapped (yes/no);  
 (w) Safety restraint or device used;  
 (x) Field interventions done; and  
 (y) Additional information if patient died at scene:  
 (i) Patient home zip code;  
 (ii) Patient race and ethnicity when available.

(3) The transporting service shall be responsible for submitting the following data on all patients identified in subsection (1) of this section, treated during each calendar quarter. Data shall arrive at the registry in an approved format no later than ninety days after the end of the quarter:

(a) Run sheet number or file number;  
 (b) Name or name code;  
 (c) Date of birth, when available;  
 (d) Age;  
 (e) Sex;  
 (f) Agency incident number;  
 (g) Patient's trauma identification number;  
 (h) Agency identification number;  
 (i) First agency on scene identification number;  
 (j) Transporting agency identification;  
 (k) Level of transporting agency (BLS/ALS);  
 (l) Intra-facility transport;  
 (m) Incident county code;  
 (n) Response area code of incident (urban, suburban, rural, wilderness);  
 (o) Date of incident;  
 (p) First hospital transported to (code);  
 (q) Second hospital transported to (code);  
 (r) Intra-field rendezvous transport agency identification number;  
 (s) Time of:  
 (i) Call received;  
 (ii) Dispatch;  
 (iii) Arrival at scene;  
 (iv) Departure from scene;

(v) Arrival at intra-field destination or rendezvous;  
 (vi) Arrival at first hospital;  
 (vii) Departure from first hospital;  
 (viii) Arrival at second hospital;  
 (t) First:  
 (i) Systolic blood pressure;  
 (ii) Respiratory rate;  
 (iii) Pulse;  
 (iv) Glasgow coma score—eye, verbal, and motor;  
 (u) Systolic blood pressure less than ninety mm Hg in field;  
 (v) Mechanism of injury;  
 (w) Trauma triage criteria met;  
 (x) Prehospital trauma system activation (yes/no);  
 (y) Extrication required;  
 (z) Patient entrapped (yes/no);  
 (aa) Safety restraint/device used;  
 (bb) Field interventions done;  
 (cc) Receiving hospital contacted (code);  
 (dd) Diverted;  
 (ee) Mode of transport; and  
 (ff) Additional information if patient dies in route:  
 (i) Patient home zip code;  
 (ii) Patient race and/or ethnicity, when available.

(4) Licensed ambulance services transporting patients between facilities shall be responsible for submitting the following data on all patients identified in subsection (1) of this section, treated during each calendar quarter. Data shall arrive at the registry in an approved format no later than ninety days after the end of the quarter:

(a) Run sheet number;  
 (b) Patient's trauma identification number;  
 (c) Agency identification number;  
 (d) Inter-facility transfer (yes/no);  
 (e) Mode of transport;  
 (f) Level of transport (BLS/ALS);  
 (g) Time:  
 (i) Call received;  
 (ii) Arrived at hospital;  
 (h) Originating facility (code);  
 (i) Destination facility (code).

(5) Designated trauma care facilities at all levels shall:

(a) Use the following criteria for inclusion of patient data in the trauma registry:

(i) All trauma patients dead on arrival at health care facility;  
 (ii) All trauma patients discharged deceased from health care facility;  
 (iii) All trauma patients transferred to another facility;  
 (iv) Other patients with all three of the following:  
 (A) Emergency admit, UB-82; and  
 (B) Length of stay greater than two days or forty eight hours; and  
 (C) Discharge diagnosis ICD-9-CM codes of 800-904.99 or 910-959.9;

(b) Submit required registry data via electronic transfer; or, if authorized in writing by the department, on approved paper forms;

(c) Submit the following data for patients identified in (a) of this subsection, who were discharged during each cal-

endar quarter. Data shall arrive at the registry in an approved format no later than ninety days after the end of the quarter:

- (i) Identification of facility;
- (ii) Unique patient identification number assigned to the patient by the facility;
- (iii) Arrival via EMS system;
- (iv) Prehospital run sheet number, when available;
- (v) Date of ED arrival;
- (vi) Time of ED arrival;
- (vii) Date of incident;
- (viii) Initial hospital;
- (ix) Facility patient was transferred from;
- (x) Patient information:
  - (A) Name or name code;
  - (B) Date of birth;
  - (C) Sex;
  - (D) Race and ethnicity;
  - (E) Patient's trauma identification number;
  - (F) Social Security number;
  - (G) Home zip code number;
  - (H) Organ donor;
  - (xi) Mechanism of injury;
  - (xii) Safety restraint/device used;
  - (xiii) Prehospital index score on admission;
  - (xiv) Time of first contact with ED physician;
  - (xv) Trauma team activated (yes/no);
  - (xvi) Time of call to surgeon;
  - (xvii) Time of arrival of surgeon in ED;
  - (xviii) First systolic blood pressure in ED;
  - (xix) First temperature in ED;
  - (xx) First pulse rate in ED;
  - (xxi) First spontaneous respiration rate in ED;
  - (xxii) Lowest systolic blood pressure in ED;
  - (xxiii) Glasgow coma score in ED—eye, verbal, and motor;
  - (xxiv) Patient intubated at first GCS;
  - (xxv) Patient pharmacologically paralyzed at first GCS;
  - (xxvi) ED procedures performed;
  - (xxvii) Time of ED discharge;
  - (xxviii) ED discharge disposition;
  - (xxix) Admitting service;
  - (xxx) CT scan of head done (yes/no);
  - (xxxii) Date of head CT scan;
  - (xxxiii) Time of head CT scan;
  - (xxxiii) For each operation:
    - (A) Date and time patient arrived in operating room;
    - (B) Date and time operation started;
    - (C) Most recent ICD codes;
    - (xxxiv) Length of primary stay in intensive care unit;
    - (xxxv) Length of readmission stay in intensive care unit;
    - (xxxvi) Co-morbidity complications;
    - (xxxvii) Physical therapy consult;
    - (xxxviii) Date of physical therapy consult;
    - (xxxix) Rehabilitation consult;
    - (xl) Date of rehabilitation consult;
    - (xli) Disability at acute care discharge:
      - (A) Feeding;
      - (B) Locomotion;
      - (C) Expression;
      - (xlii) Glasgow outcome score at discharge;

- (xl) Date of facility discharge;
- (xli) Time of facility discharge;
- (xlii) Discharge disposition;
- (xliii) Rehabilitation facility identification number;
- (xliiii) Autopsy done (yes/no);
- (xliv) Date of death;
- (xlv) Time of death;
- (xlvi) Most recent ICD diagnosis codes/discharge codes;
- (xlvii) E-code;
- (xlviii) Occupational injury;
- (xlix) Safety restraint/device used; and
- (l) Payer source;
- (d) Submit reimbursement information on trauma registry patients annually, including:
  - (i) Total billed charges;
  - (ii) Remitted reimbursement by each payer category; and
  - (iii) Ratio of cost to charges, by department.
- (6) Designated rehabilitation facilities shall:
  - (a) Inclusion patient data for the trauma registry on all patients whose primary admission diagnosis is trauma, including ICD diagnosis codes of 800–904.99 or 910–959.9;
  - (b) Submit the following data for patients identified in (a) of this subsection, who were discharged during each calendar quarter. Data shall arrive at the registry in an approved format no later than ninety days after the end of the quarter:
    - (i) Rehabilitation facility identification number;
    - (ii) Trauma tag/identification number;
    - (iii) Name or name code;
    - (iv) Social Security number;
    - (v) Sex;
    - (vi) Date of birth;
    - (vii) Date of admission to rehabilitation;
    - (viii) First admit (yes/no);
    - (ix) Continuing admit (yes/no);
    - (x) Impairment code, from the national uniform data set;
    - (xi) Source of admission;
    - (xii) Level of cognitive function on admission (Rancho scale);
    - (xiii) Tracheostomy;
    - (xiv) Ventilator dependent;
    - (xv) Feeding tube;
    - (xvi) Admission functional independence measure, from the national uniform data set (FIM or WEE FIM);
    - (xvii) Complications;
    - (xviii) Premorbid physiological, cognitive, and mental conditions;
    - (xix) Highest grade completed;
    - (xx) Level of cognitive function on discharge (Rancho scale);
    - (xxi) Functional independence measure on discharge, from the national uniform data set (FIM or WEE FIM score);
    - (xxii) Discharged with tracheostomy;
    - (xxiii) Discharged ventilator dependent;
    - (xxiv) Discharged with feeding tube;
    - (xxv) Discharge due to medical problem (yes/no);
    - (xxvi) Date of discharge due to medical problem;
    - (xxvii) Readmitted after medically required interruption;
    - (xxviii) Date of readmission after interruption;
    - (xxix) Patient did not return after interruption;

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- ~~(xxx) Discharged to;~~
- ~~(xxxi) Social support system;~~
- ~~(xxxii) Discharge date from rehabilitation;~~
- ~~(xxxiii) Rehabilitation services ordered at discharge;~~
- ~~(xxxiv) Community support system; and~~
- ~~(xxxv) Payer source—primary and secondary;~~
- ~~(e) Submit reimbursement information on trauma registry patients annually, including:~~
  - ~~(i) Total billed charges;~~
  - ~~(ii) Remitted reimbursement by each payer category; and~~
  - ~~(iii) Ratio of cost to charges, by department.~~
- ~~(7) Medical examiners and coroners may:~~
  - ~~(a) Submit data to the registry on all patients with injury listed as an underlying cause or contributing factor to death on the death certificate;~~
  - ~~(b) Submit the following data for all patients meeting the inclusion criteria identified in (a) of this subsection:~~
    - ~~(i) Patient:~~
      - ~~(A) Name or name code;~~
      - ~~(B) Date of birth;~~
      - ~~(C) Social Security number;~~
      - ~~(D) Patient's trauma identification number;~~
      - ~~(E) Gender;~~
      - ~~(F) Race and/or ethnicity;~~
      - ~~(G) Date of incident;~~
      - ~~(H) Date of death; and~~
      - ~~(I) Home zip code;~~
    - ~~(ii) Medical examiner number/coroner identification number;~~
    - ~~(iii) Medical examiner/coroner facility identification number;~~
    - ~~(iv) Autopsy done;~~
    - ~~(v) Mechanism of injury;~~
    - ~~(vi) Organ donor;~~
    - ~~(vii) Cause of death; and~~

~~(viii) Most recent ICD diagnosis code or equivalent description:)) (1) Trauma care providers, prehospital and hospital, must place a trauma ID band on trauma patients, if not already in place from another agency.~~

~~(2) All trauma care providers must submit required data to the trauma registry in an approved format.~~

~~(3) All trauma care providers must protect the confidentiality of data in their possession and as it is transferred to the department.~~

~~(4) All trauma care providers must correct and resubmit records which fail the department's validity tests described in WAC 246-976-420(6). You must send corrected records to the department within three months of notification.~~

~~(5) Licensed prehospital services must:~~

~~(a) Assure personnel use the trauma ID band.~~

~~(b) Report data as shown in Table E for trauma patients defined in WAC 246-976-420.~~

~~(c) Report incidents occurring in a calendar quarter by the end of the following quarter. The department encourages more frequent data reporting.~~

~~(6) Designated trauma services must:~~

~~(a) Assure personnel use the trauma ID band.~~

~~(b) Report data elements shown in Table F for all patients defined in WAC 246-976-420.~~

~~(c) Report patients discharged in a calendar quarter by the end of the following quarter. The department encourages more frequent data reporting.~~

~~(7) Designated trauma rehabilitation services must:~~

~~(a) Report data on all patients who were included in the trauma registry for acute care.~~

~~(b) Report either:~~

~~(i) Data elements shown in Table G; or~~

~~(ii) If the service submits data to the uniform data set for medical rehabilitation, provide a copy of the data to the department.~~

**TABLE E: Prehospital Data Elements for the Washington Trauma Registry**

| <b>Data Element</b>   | <b>Type of patient</b> | <b>Pre-Hosp No-Trans</b> | <b>Pre-Hosp Transport</b> | <b>Inter-Facility</b> |
|---|------------------------|--------------------------|---------------------------|-----------------------|
| <u>Note: (C) identifies elements that are confidential. See WAC 246-976-420 (2)(c).</u> |                        |                          |                           |                       |
| <b>Incident Information</b>   |                        |                          |                           |                       |
| <u>Agency identification number (C)</u>   |                        | X                        | X                         | X                     |
| <u>Date of response (C - day only)</u>  |                        | X                        | X                         | X                     |
| <u>Run sheet number (C)</u>   |                        | X                        | X                         | X                     |
| <u>Agency incident number (C)</u>   |                        | X                        | X                         | X                     |
| <u>First agency on scene identification number (C)</u>                                  |                        | X                        | X                         |                       |
| <u>Transporting agency identification</u>   |                        | X                        | X                         |                       |
| <u>Level of transporting agency</u>   |                        | X                        | X                         | X                     |
| <u>Mode of transport</u>  |                        | X                        | X                         | X                     |
| <u>Incident county code</u>   |                        | X                        | X                         |                       |
| <u>Incident Zip Code</u>  |                        | X                        | X                         |                       |
| <u>Incident location (type)</u>   |                        | X                        | X                         |                       |
| <u>Incident response area type</u>  |                        | X                        | X                         |                       |



**TABLE E: Prehospital Data Elements for the Washington Trauma Registry**

| <b>Data Element</b>                             | <b>Type of patient</b> | <b>Pre-Hosp No-Trans</b> | <b>Pre-Hosp Transport</b> | <b>Inter-Facility</b> |
|---|------------------------|--------------------------|---------------------------|-----------------------|
| <b>Patient Information</b>                      |                        |                          |                           |                       |
| Patient's trauma identification band number (C) |                        | X                        | X                         | X                     |
| Name (C)  |                        | X                        | X                         | X                     |
| Date of birth (C), or Age                       |                        | X                        | X                         | X                     |
| Sex   |                        | X                        | X                         | X                     |
| If patient died at scene: Patient home Zip Code |                        | X                        | X                         |                       |
| Mechanism of injury                             |                        | X                        | X                         |                       |
| Illness/Injury type code                        |                        | X                        | X                         |                       |
| Safety restraint or device used                 |                        | X                        | X                         |                       |
| <b>Transportation</b>                           |                        |                          |                           |                       |
| Transported from (code) (C - if hospital ID)    |                        |                          | X                         | X                     |
| Transported to (code) (C - if hospital ID)      |                        |                          | X                         | X                     |
| If rendezvous, assisting agency ID number       |                        |                          | X                         | X                     |
| Reason for destination decision                 |                        |                          | X                         | X                     |
| <b>Times</b>                                    |                        |                          |                           |                       |
| Call received                                   |                        | X                        | X                         | X                     |
| Dispatched                                      |                        | X                        | X                         | X                     |
| Code Response to scene?                         |                        | X                        | X                         | X                     |
| Arrived at scene                                |                        | X                        | X                         | X                     |
| Departed from scene                             |                        |                          | X                         | X                     |
| Code response to destination?                   |                        |                          | X                         | X                     |
| Arrival at destination                          |                        |                          | X                         | X                     |
| <b>First Vital Signs</b>                        |                        |                          |                           |                       |
| Time  |                        | X                        | X                         | X                     |
| Systolic blood pressure                         |                        | X                        | X                         | X                     |
| Respiratory rate                                |                        | X                        | X                         | X                     |
| Pulse   |                        | X                        | X                         | X                     |
| Glasgow coma score                              |                        | X                        | X                         | X                     |
| <b>Trauma Triage Criteria</b>                   |                        |                          |                           |                       |
| Vital signs, consciousness level                |                        | X                        | X                         |                       |
| Anatomy of injury                               |                        | X                        | X                         |                       |
| Biomechanics of injury                          |                        | X                        | X                         |                       |
| Other risk factors                              |                        | X                        | X                         |                       |
| Gut feeling of medic                            |                        | X                        | X                         |                       |
| Prehospital trauma system activation?           |                        | X                        | X                         |                       |

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**TABLE E: Prehospital Data Elements for the Washington Trauma Registry**

| <b>Data Element</b>                    | <b>Type of patient</b> | <b>Pre-Hosp No-Trans</b> | <b>Pre-Hosp Transport</b> | <b>Inter-Facility</b> |
|--|------------------------|--------------------------|---------------------------|-----------------------|
| <b>Other Severity Measures</b>         |                        |                          |                           |                       |
| <u>Blunt/Penetrating injury</u>        |                        | X                        | X                         |                       |
| <u>Respiratory effort</u>              |                        | X                        | X                         |                       |
| <u>Consciousness</u>                   |                        | X                        | X                         |                       |
| <u>Time (interval) for extrication</u> |                        | X                        | X                         |                       |
| <b>Treatment: EMS interventions</b>    |                        | X                        | X                         | X                     |

**TABLE F: Hospital Data Elements for the Washington Trauma Registry**

All licensed hospitals must submit the following data for patients identified in WAC 246-976-420(3):

Note: (C) identifies elements that are confidential. See WAC 246-976-420(2).

**Record Identification**

Identification of reporting facility (C):

Date and time of arrival at reporting facility (C - day only):

Unique patient identification number assigned to the patient by the reporting facility (C):

Patient's trauma identification band number (C):

**Patient Identification**

Name (C):

Date of birth (C - day only):

Sex:

Race:

Social Security number (C):

Home zip code:

**Prehospital Incident Information**

Date of incident (C - day only):

Arrival via EMS system?:

Transporting agency ID number:

Transporting agency run number (C):

Mechanism of injury:

City and county of incident:

If transfer in, facility patient was transferred from (C):

Occupational injury?:

Safety restraint/device used:

**ED or Admitting Information**

Time ED physician called:

ED physician called "code"?:

Time ED physician available for patient care:

Time trauma team activated:

Level of trauma team activation:

Time trauma surgeon called:

Time trauma surgeon available for patient care:

Vital Signs in ED

Patient dead on arrival at your facility?:

First and last systolic blood pressure:

First and last temperature:

First and last pulse rate:

First and last spontaneous respiration rate:

Lowest systolic blood pressure:

Glasgow coma scores (eye, verbal, motor):

Injury Severity scores

Prehospital Index (PHI) score:

Revised Trauma Score (RTS) on admission:

For pediatric patients:

Pediatric Trauma Score (PTS) on admission:

Pediatric Risk of Mortality (PRISM) score on admission:

Pediatric Risk of Mortality - Probability of Survival (PRISM P(s)):

Pediatric Overall Performance Category (POPC):

Pediatric Cerebral Performance Category (PCPC):

ED procedures performed:

Time of ED discharge:

ED discharge disposition, including

If admitted, the admitting service:

If transferred out, ID of receiving hospital

**Diagnostic and Consultative Information**

Date and time of head CT scan:

Date of physical therapy consult:

Date of rehabilitation consult:

Blood alcohol content:

Toxicology screen results:

Co-morbid factors/Preexisting conditions:

**Surgical Information**

For the first operation:

Date and time patient arrived in operating room:

Date and time operation started:

OR procedure codes:

For later operations:

Date of operation

OR Procedure Codes

**Critical Care Unit Information**

Date and time of admission for primary stay in critical care unit:

Date and time of discharge from primary stay in critical care unit:

Length of readmission stay(s) in critical care unit:

**Other procedures performed (not in OR)****Discharge Status**

Date and time of facility discharge (C - day only):

Most recent ICD diagnosis codes/discharge codes, including nontrauma codes:  
E-codes, primary and secondary:  
Glasgow Score at discharge:  
Disability at discharge (Feeding/Locomotion/Expression)

### **Discharge disposition**

If transferred out, ID of facility patient was transferred to (C)  
If patient died in your facility  
Date and time of death (C - day only):  
Was an autopsy done?:  
Was case referred to coroner or medical examiner?  
Did coroner or medical examiner accept jurisdiction?  
Was patient evaluated for organ donation?

### **Financial Information (All Confidential)**

For each patient  
Total billed charges:  
Payer sources (by category):  
Reimbursement received (by payer category):  
Annually, submit ratio-of-costs-to-charges, by department.

### **TABLE G: Data Elements for Designated Rehabilitation Services**

#### **Services**

Designated trauma rehabilitation services must submit the following data for patients identified in WAC 246-976-420(3).

Note: (C) identifies elements that are confidential. WAC 246-976-420(2)

#### **Rehabilitation services, Levels I and II**

#### **Patient Information**

Facility ID (C)  
Facility Code  
Patient Code  
Trauma tag/identification Number (C)  
Date of Birth (C - day only)  
Social Security Number (C)  
Patient Name (C)  
Patient Sex

#### **Care Information**

Date of Admission (C - day only)  
Admission Class  
Date of Discharge (C - day only)  
Impairment Group Code  
ASIA Impairment Scale

#### **Diagnosis (ICD-9) Codes**

Etiologic Diagnosis  
Other significant diagnoses  
Complications/comorbidities  
Diagnosis for transfer or death

#### **Other Information**

Date of onset  
Admit from (Type of facility)  
Admit from (ID of facility)  
Acute trauma care by (ID of facility)

Prehospital living setting  
Prehospital vocational category  
Discharge-to-living setting

### **Functional Independence Measure (FIM) - One set on admission and one on discharge**

Self Care  
Eating  
Grooming  
Bathing  
Dressing - Upper  
Dressing - Lower  
Toileting  
Sphincter control  
Bladder  
Bowel  
Transfers  
Bed/chair/wheelchair  
Toilet  
Tub/shower  
Locomotion  
Walk/wheelchair  
Stairs  
Communication  
Comprehension  
Expression  
Social cognition  
Social interaction  
Problem solving  
Memory

### **Payment Information (all confidential)**

Payer source - primary and secondary  
Total Charges  
Remitted reimbursement by category

#### **Rehabilitation, Level III**

#### **Patient Information**

Facility ID (C)  
Patient number (C)  
Trauma tag/identification Number (C)  
Social Security Number (C)  
Patient Name (C)

#### **Care Information**

Date of Admission (C - day only)

#### **Impairment Group Code**

#### **Diagnosis (ICD-9) Codes**

Etiologic Diagnosis  
Other significant diagnoses  
Complications/comorbidities

#### **Other Information**

Admit from (Type of facility)  
Admit from (ID of facility) (C)  
Acute trauma care given by (ID of facility) (C)  
Inpatient trauma rehabilitation given by (ID of facility) (C)  
Discharge-to-living setting  
**Payment Information (all confidential)**  
Payer source - primary and secondary

Total ChargesRemitted reimbursement by category**SYSTEM ADMINISTRATION**

**AMENDATORY SECTION** (Amending WSR 98-04-038, filed 1/29/98, effective 3/1/98)

**WAC 246-976-890 Interhospital transfer guidelines and agreements.** ~~((Facilities providing))~~ Designated trauma ~~((care))~~ services ~~((shall))~~ must:

(1) Have written guidelines for the identification and transfer of patients with special ~~((trauma))~~ care needs exceeding the capabilities of the trauma ~~((care))~~ service.

(2) Have written transfer agreements with other designated trauma ~~((care))~~ services ~~((which include))~~. The agreements must address the responsibility of the transferring hospital ~~((and of))~~, the receiving hospital, and the prehospital transport agency, including a mechanism ~~((for assignment of))~~ to assign medical control during interhospital transfer.

(3) Have written guidelines to identify trauma patients who are transferred in from other facilities, whether admitted through the emergency department or directly into other hospital services.

(4) Use verified prehospital trauma services for interfacility transfer of trauma patients.

**AMENDATORY SECTION** (Amending Order 323, filed 12/23/92, effective 1/23/93)

**WAC 246-976-910 ~~((EMS and trauma care system))~~ Regional quality assurance and improvement program.** ~~((1))~~ The department shall:

~~((a))~~ Provide guidelines for regional EMS/TC system quality assurance to evaluate regional trauma care delivery, patient care outcomes, and compliance with the requirements of this chapter; and

~~((b))~~ Review and approve regional quality assurance activities:

~~((2))~~ Levels I, II, and III trauma care facilities shall establish and participate in regional EMS/TC systems quality assurance programs.

~~((3))~~ The regional quality assurance program:

~~((a))~~ Shall include at least one member of each designated facility's medical staff, an EMS provider, and a member of the EMS/TC regional council; and

~~((b))~~ In regions with facilities jointly designated under WAC 246-976-470 (3)(b), shall include at least one member who does not reside or work in the region.

~~((4))~~ The regional quality assurance program shall invite the MPD and all other health care providers and facilities providing trauma care in the region, including nondesignated facilities and nonverified prehospital services, to participate in the regional trauma quality assurance program.

~~((5))~~ The regional quality assurance program shall include a written plan for implementation including:

~~((a))~~ Scope of all services offered in the region;

~~((b))~~ Ongoing assessment of performance of the regional EMS and trauma care system, based on data supplied by the trauma registry and other sources, including:

~~((i))~~ Trauma care delivery;

~~((ii))~~ Patient care outcomes, including pediatric and adult patient outcomes;

~~((iii))~~ Unexpected deaths; and

~~((iv))~~ Compliance with the requirements of chapter 70.168 RCW, and this chapter;

~~((e))~~ Identification and analysis of trends, patient care outcomes, and other information, based on trauma registry data;

~~((d))~~ Periodic assessment of data concerning aspects of patient care;

~~((e))~~ Policies regarding confidentiality of data elements related to identification of provider's and facility's care outcomes, in accordance with chapter 70.168 RCW;

~~((f))~~ Policies regarding confidentiality and release of patient care quality assurance committee minutes, records, and reports in accordance with RCW 70.168.090(4), including a requirement that each attendee of a regional quality assurance committee meeting is informed in writing of the confidentiality requirement. Information identifying individual patients shall not be publicly disclosed without the patient's consent;

~~((g))~~ Policies regarding confidentiality of documentation of the results of inquiries involving patient care issues; and

~~((h))~~ Provision for feedback to the department and the regional council on identified EMS/TC issues and concerns.)) (1) The department will:

~~((a))~~ Develop guidelines for a regional EMS/TC system quality assurance and improvement program including:

~~((i))~~ Purpose and principles of the program;

~~((ii))~~ Establishing and maintaining the program;

~~((iii))~~ Process;

~~((iv))~~ Membership of the quality assurance and improvement program committee;

~~((v))~~ Authority and responsibilities of the quality assurance and improvement program committee;

~~((b))~~ Review and approve written regional quality assurance and improvement plans;

~~((c))~~ Provide trauma registry data to regional quality assurance and improvement programs in the following formats:

~~((i))~~ Quarterly standard reports;

~~((ii))~~ Ad hoc reports as requested according to department guidelines.

~~((2))~~ Levels I, II, and III, and Level I, II and III pediatric trauma care services must:

~~((a))~~ Establish, coordinate and participate in regional EMS/TC systems quality assurance and improvement programs;

~~((b))~~ Ensure participation in the regional quality assurance and improvement program of:

~~((i))~~ Their trauma service director or codirector; and

~~((ii))~~ The RN who coordinates the trauma service;

~~((c))~~ Ensure maintenance and continuation of the regional quality assurance and improvement program.

~~((3))~~ The regional quality assurance and improvement program committee must include:

~~((a))~~ At least one member of each designated facility's medical staff;

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(b) The RN coordinator of each designated trauma service;

(c) An EMS provider.

(4) The regional quality assurance program must invite the MPD and all other health care providers and facilities providing trauma care in the region, to participate in the regional trauma quality assurance program.

(5) The regional quality assurance and improvement program may invite:

(a) One or more regional EMS/TC council members;

(b) A trauma care provider who does not work or reside in the region.

(6) The regional quality assurance and improvement program must include a written plan for implementation including:

(a) Operational policies and procedures that detail committee actions and processes;

(b) Audit filters for adult and pediatric patients;

(c) Monitoring compliance with the requirements of chapter 70.168 RCW and this chapter;

(d) Policies and procedures for notifying the department and the regional EMS/TC council of identified regional or state-wide trauma system issues, and any recommendations;

(e) Policies regarding confidentiality of:

(i) Information related to provider's and facility's clinical care, and patient outcomes, in accordance with chapter 70.168 RCW;

(ii) Quality assurance and improvement committee minutes, records, and reports in accordance with RCW 70.168.090(4), including a requirement that each attendee of a regional quality assurance and improvement committee meeting is informed in writing of the confidentiality requirement. Information identifying individual patients may not be publicly disclosed without the patient's consent.

AMENDATORY SECTION (Amending Order 323, filed 12/23/92, effective 1/23/93)

WAC 246-976-920 Medical program director. ((†) The department shall:

(a) In conjunction with the state EMS/TC committee, evaluate, certify, and terminate certification of MPDs for a county, group of counties, or cities with populations over four hundred thousand, in coordination with the recommendations of the local medical community and local EMS/TC council;

(b) Withdraw certification of MPDs on receipt of written resignation;

(c) Defend and hold harmless MPDs, delegates, or agents for any act or omission committed or omitted in good faith in the performance of his or her duties.

((2)) (1) The MPD ((shaH)) must:

(a) Be knowledgeable in the administration and management of prehospital emergency medical care and services;

(b) Provide medical control and direction of EMS/TC certified personnel in their medical duties, by oral or written communication;

(c) Develop and adopt written prehospital patient care protocols to direct EMS/TC certified personnel in patient care. These protocols ((shall be based upon the assessment of

the patients' medical needs. The protocols shall meet or exceed state-wide minimum standards for trauma and other prehospital care services)) may not conflict with regional patient care procedures or with the authorized care of the certified prehospital personnel as described in WAC 246-976-182;

(d) Establish protocols for storing, dispensing, and administering controlled substances, in accordance with state and federal regulations and guidelines;

(e) ((Consult)) Participate with the local and regional EMS/TC councils and emergency communications centers to develop and ((approve)) revise regional patient care procedures;

(f) Participate with the local and regional EMS/TC councils to develop and revise regional plans and make timely recommendations to the regional council;

(g) Work within the parameters of the approved regional patient care procedures and the regional plan;

((g)) (h) Supervise training of all EMS/TC certified personnel;

((h)) (i) Develop protocols for special training described in WAC ((246-976-040)) 246-976-021(5);

((i)) (j) Periodically audit the ((educational)) medical care performance((, skill maintenance, and field performance)) of EMS/TC certified personnel((, for quality assurance purposes));

((j)) (k) Recommend to the department certification, recertification, or denial of certification of EMS/TC personnel;

((k)) (l) Recommend to the department disciplinary action to be taken against EMS/TC personnel, which may include modification, suspension, or revocation of certification;

((l) Review and make recommendations)) (m) Recommend to the department ((for)) individuals applying for recognition ((or renewal of recognition)) as senior ((EMT)) EMS instructors.

((3)) (2) In accordance with department policies and procedures, the MPD may:

(a) Delegate ((in writing any duties, other than those described above in subsection (2)(e), (j), and (k) of this section, to other physicians)) duties to other physicians, except for duties described in subsection (1)(c), (k), and (l) of this section. The delegation must be in writing;

(i) The MPD ((shaH)) must notify the department in writing of the names and duties of individuals so delegated, within fourteen days;

(ii) The MPD may remove delegated authority at any time, which shall be effective upon written notice to the delegate and the department;

(b) Delegate ((in writing)) duties relating to training, evaluation, or examination of certified EMS/TC personnel, to qualified nonphysicians. The delegation must be in writing;

(c) Enter into EMS/TC medical control agreements with other MPDs;

(d) Recommend denial of certification to the department for any ((student)) applicant the MPD ((deems)) can document is unable to function as an EMS provider, ((despite)) regardless of successful completion of ((MPD approved)) training, evaluation, or examinations; and

(e) ~~((Require)) Utilize~~ examinations to determine the knowledge and abilities of IV technicians, airway technicians, intermediate life support technicians, or paramedics prior to recommending applicants for certification or recertification. ~~((If such examinations are required, the MPD shall conduct at least one examination annually, and may conduct examinations more often if necessary.~~

~~(4)) (3) The department may withdraw the certification of an MPD ((when:~~

~~(a) The MPD fails to maintain eligibility under this chapter;~~

~~(b) The MPD fails to perform the duties assigned under this chapter;~~

~~(c) The MPD demonstrates unwillingness or inability to perform duties under this chapter;~~

~~(d) The local EMS/TC council or the local medical community recommends revocation to the department)) for failure to comply with the Uniform Disciplinary Act (chapter 18.130 RCW) and other applicable statutes and regulations.~~

AMENDATORY SECTION (Amending Order 323, filed 12/23/92, effective 1/23/93)

**WAC 246-976-930 General responsibilities of the department.** ~~((1) The department shall establish:~~

~~(a) The minimum and maximum number of hospitals and health care facilities in the state and within each EMS/TC planning and service region that may provide designated trauma care services based upon approved regional EMS/TC plans;~~

~~(b) The minimum and maximum number of prehospital providers in the state and within each EMS/TC planning and service region that may provide verified trauma care services based upon approved regional EMS/TC plans.~~

~~(2) The department shall designate hospitals and health care facilities to provide designated trauma care services in accordance with needs identified in the state-wide EMS/TC plan.~~

~~(3) The department shall design and establish the state-wide trauma care registry as authorized in RCW 70.168.090.~~

~~(4) The department shall develop prehospital trauma triage procedures and interfacility transfer guidelines, for adult and pediatric patients, and review them biennially with the advice of the steering committee.~~

~~(5) The department shall create:~~

~~(a) An EMS/TC licensing and certification advisory committee of eleven members, and appoint members, including a balance of physicians, one of whom is an MPD, and individuals regulated under RCW 18.71.205 and 18.73.081, an administrator from a city or county EMS/TC system, a member of the steering committee, and one consumer. All members except the consumer shall be knowledgeable in specific and general aspects of EMS/TC. Members shall be appointed for a period of three years. The terms of those members representing the same field shall not expire at the same time;~~

~~(b) Regional EMS/TC councils and appoint members, including a balance of hospital and prehospital trauma care and EMS providers, local elected officials, consumers, local law enforcement representatives, local government agencies,~~

~~physicians, EMS/TC educators, and prevention specialists involved in the delivery of EMS/TC services recommended by the local EMS/TC councils within the region.~~

~~(6) The department shall develop standards and a process and schedule for biennial update of regional and state-wide planning.~~

~~(7)) In addition to the requirements described in chapters 18.71, 18.73, and 70.168 RCW, and elsewhere in this chapter:~~

~~(1) The department shall review, recommend changes to, and approve regional plans and regional patient care procedures based on the requirements of this chapter and recommendations from the steering committee, and upon consideration of the needs of ((trauma)) patients ((whose care may require resources from more than one region and/or from adjacent states.~~

~~(8) The department shall develop and publish a state-wide EMS/TC plan that:~~

~~(a) Identifies state-wide EMS/TC objectives and priorities and identifies equipment, facility, personnel, training, prevention, and other needs required to create and maintain a state-wide EMS/TC system;~~

~~(b) Is formulated by incorporating the regional EMS/TC plans required under chapter 70.168 RCW;~~

~~(c) Shall be updated every two years and shall be made available to the state board of health in sufficient time to be considered in preparation of the biennial state health report required in RCW 43.20.050;~~

~~(d) Includes a state EMS/TC communication plan for formulating the system based on regional plans and legislative intent. The communications system plan shall:~~

~~(i) Provide for a communication network to support medical control;~~

~~(ii) Establish guidelines for EMD training for all EMS dispatch personnel; and~~

~~(iii) Establish minimum communications equipment levels for licensed ambulance and aid vehicles;~~

~~(e) Provides for interagency coordination, administration, and regulation of the state-wide EMS/TC communications plan.~~

~~(9) From available funds, the department shall make EMS systems development grants to regional councils:~~

~~(a) To support regional EMS/TC council operations;~~

~~(b) To support regional council matching grant programs described in WAC 246-976-960 (1)(f), giving priority to achievement of minimum standards of this chapter, and other purposes and priorities established with the advice of the steering committee)).~~

~~((10)) (a) The department may approve regional plans which include standards that are consistent with chapter 70.168 RCW and other state and federal laws, but which exceed the requirements of this chapter.~~

~~(b) The department will develop a process for biennial update of regional and state-wide planning. The process will include provisions to amend regional plans between biennial updates.~~

~~(2) The department will publish prehospital trauma triage procedures which include assessment of the patient's:~~

~~(a) Vital signs and level of consciousness;~~

~~(b) Anatomy of injury;~~

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(c) Biomechanics of the injury; and  
 (d) Comorbid and associated risk factors.  
 (3) The department may approve pilot programs and projects which have:

- (a) Stated objectives;
- (b) A specified beginning and ending date;
- (c) An identified way to measure the outcome;
- (d) A review process;
- (e) A work plan with a time line;
- (f) If training of EMS/TC personnel is involved, consistency with the requirements of WAC 246-976-021(5).

(4) The department ((shall)) will review ((biennially)) at least every four years:

(a) Rules, policies, and standards for EMS/TC, with the advice of the steering committee;

(b) Rules and standards for licensure of services and vehicles, and for certification of EMS/TC personnel, with the advice of the L&C committee;

~~((c) Minimum response times for verified prehospital trauma care services, considering data available from the trauma registry and with the advice of the steering committee.~~

(11) The department shall develop a format for evaluating the performance of MPDs consistent with WAC 246-976-920.

~~(12) The department shall develop and maintain the trauma prevention and education program as an integral component of the EMS/TC system.~~

~~(13) The department may:~~

~~(a) Recognize as an affiliated EMS services, those organizations which are not required to be licensed under chapter 18.73 RCW, but which are:~~

~~(i) Recommended for affiliation by the local EMS/TC council and the MPD;~~

~~(ii) Identified in the regional plan as part of the EMS/TC system;~~

~~(b) Approve pilot programs and projects which have:~~

- ~~(i) Stated objectives;~~
- ~~(ii) A specified beginning and ending date;~~
- ~~(iii) An identified way of measuring the outcome;~~
- ~~(iv) A review process;~~
- ~~(v) A work plan with a time line;~~
- ~~(vi) Consistency with regional and state plans;~~
- ~~(vii) If training of certified EMS/TC personnel involved, consistency with the requirements of WAC 246-976-040;~~

~~(e) Appoint a communications advisory committee, with members who are users of EMS/TC communications and providers of EMS/TC services.))~~

AMENDATORY SECTION (Amending Order 323, filed 12/23/92, effective 1/23/93)

WAC 246-976-940 Steering committee. In addition to the requirements of chapter 70.168 RCW and elsewhere in this chapter, the EMS/TC steering committee ((shall)) will:

(1) Review and comment on the department's rules, policies, and standards ~~((for EMS/TC at least biennially));~~

(2) ~~((Review and comment on rules proposed by the department for EMS/TC;~~

~~(3)) Review and comment on the department's budget for the EMS/TC system at least biennially;~~

~~((4) Advise the department regarding EMS/TC needs and proposed funding throughout the state;~~

~~(5) Review the regional EMS/TC plans and recommend changes to the department before the department adopts the plans;~~

~~(6) Advise the department on disbursement of grants to regional councils and nonprofit agencies for the development, implementation, and enhancement of the EMS/TC system; and~~

~~(7) Review the department's prehospital triage guidelines and inter-facility transfer guidelines biennially.))~~ (3) Periodically review and recommend changes to:

(a) The department's prehospital triage procedures;

(b) Regional patient care procedures;

(c) Regional plans; and

(d) Inter-facility transfer guidelines.

AMENDATORY SECTION (Amending Order 323, filed 12/23/92, effective 1/23/93)

WAC 246-976-950 Licensing and certification committee. In addition to the requirements of RCW 18.73.050, the licensing and certification committee ((shall: (1) Review and comment on proposed licensing and certification rules under chapters 18.71 and 18.73 RCW;

~~(2)) will review and comment biennially on the department's EMS/TC rules and standards pertaining to licensure of vehicles and services, verification of services, and to certification of individuals(;~~

~~(3) Assist the department, at the department's request, to fulfill any duty or exercise any power under this chapter pertaining to EMS/TC licensing and certification)).~~

AMENDATORY SECTION (Amending Order 323, filed 12/23/92, effective 1/23/93)

WAC 246-976-960 Regional emergency medical services and trauma care councils. ((1) Regional councils shall:

~~(a) At least semiannually, identify and analyze trends and patient care outcomes, based on trauma registry data provided by the department, to evaluate the EMS/TC system and its component subsystems;~~

~~(b) Develop and submit to the department regional EMS/TC plans to:~~

~~(i) Assess and analyze regional EMS/TC needs;~~

~~(ii) Identify personnel, agencies, facilities, equipment, training, prevention programs, and education to meet regional and local needs;~~

~~(iii) Identify specific activities necessary to meet state-wide standards and patient care outcomes and develop a plan of implementation for regional compliance;~~

~~(iv) Establish and review agreements with regional providers necessary to meet state standards;~~

~~(v) Establish agreements with providers outside the region to facilitate patient transfer;~~

~~(vi) Include a regional budget identifying the amount, source, and purpose of all gifts and payments;~~

~~(vii) Establish the number and level of facilities to be designated, consistent with department guidelines and based on availability of resources and the distribution of trauma within the region;~~

~~(viii) Identify the need for and recommend distribution and level of care of prehospital services, to assure adequate availability and avoid inefficient duplication and lack of coordination of prehospital services within the region;~~

~~(ix) Include other specific elements defined by the department;~~

~~(x) Identify EMS/TC services and resources currently available within the region;~~

~~(xi) Describe how the roles and responsibilities of the MPD are coordinated with those of the regional EMS/TC council;~~

~~(xii) Describe and recommend improvements in medical control communications and EMS/TC dispatch, with at least the elements of the state communication plan described in WAC 246-976-930 (1)(i)(iv); and~~

~~(xiii) Include a schedule for implementation;~~

~~(e) In developing or updating its plan:~~

~~(i) Seek and consider the recommendations of:~~

~~(A) Local EMS/TC councils;~~

~~(B) Counties, cities, or other governmental bodies that have established an EMS/TC system by ordinance, resolution, interlocal agreement, or contract; and~~

~~(ii) Use the regional and state analyses provided by the department based on trauma registry data and other appropriate sources;~~

~~(d) Advise the department on matters relating to the delivery of EMS/TC within the region;~~

~~(e) Provide data required by the department to assess the effectiveness of the EMS/TC system;~~

~~(f) Provide matching grants from funds made available by the department. These funds shall:~~

~~(i) Not exceed fifty percent of the cost of the proposal for which the grant is made; except, the department may waive or modify the matching requirement if it determines insufficient local funding exists and the public health and safety would be jeopardized if the proposal were not funded;~~

~~(ii) Be made available to any public or private nonprofit agency which in the judgment of the council will best fulfill the purpose of the grant;~~

~~(iii) Be awarded to:~~

~~(A) Establish, develop, expand, and improve the EMS/TC system;~~

~~(B) Purchase EMS/TC equipment;~~

~~(C) Provide training and continuing education for EMS/TC personnel;~~

~~(D) Research and development activities pertaining to EMS/TC;~~

~~(E) Develop, implement, and evaluate prevention programs; or~~

~~(F) Accomplish other purposes as approved by the department;~~

~~(g) Adopt patient care procedures in consultation with the MPDs, local councils, and emergency communications centers. The patient care procedures shall identify the level of medical care personnel to be dispatched to an emergency scene, procedures for triage of patients, the level of trauma~~

~~care facility to first receive the patient, and the name and location of other trauma care facilities to receive the patient should an interfacility transfer be necessary. Procedures on interfacility transfer of patients shall be consistent with the transfer procedures in chapter 70.170 RCW, and:~~

~~(i) Identify types and expected volume of trauma that may exceed regional capabilities, taking into consideration resources available in other regions and adjacent states;~~

~~(ii) Include a description of activation of the trauma system.~~

~~(2) In areas where no local EMS/TC council exists, the regional EMS/TC council shall have all the authority, duties, and responsibilities of the local council, as described in WAC 246-976-970.~~

~~(3) Regional councils may:~~

~~(a) Apply for, receive, and accept gifts and other payments, including property and service, from any governmental or other public or private entity or person;~~

~~(b) Use these funds for any activities related to the design, maintenance, or enhancements of the EMS/TC system in the region; or~~

~~(c) Establish regional standards in the plan, including response times for verified services, which exceed the minimum requirements of this chapter.~~

~~(4) An EMS/TC provider who disagrees with the regional plan may appeal to the steering committee before the department approves the plan.)) (1) In addition to meeting the requirements of chapter 70.168 RCW and elsewhere in this chapter, regional EMS/TC councils must:~~

~~(a) Identify and analyze system trends to evaluate the EMS/TC system and its component subsystems, using trauma registry data provided by the department;~~

~~(b) Develop and submit to the department regional EMS/TC plans to:~~

~~(i) Identify the need for and recommend distribution and level of care (basic, intermediate or advanced life support) for verified aid and ambulance services for each response area. The recommendations will be based on criteria established by the department relating to agency response times, geography, topography, and population density;~~

~~(ii) Identify EMS/TC services and resources currently available within the region;~~

~~(iii) Describe how the roles and responsibilities of the MPD are coordinated with those of the regional EMS/TC council and the regional plan;~~

~~(iv) Describe and recommend improvements in medical control communications and EMS/TC dispatch, with at least the elements of the state communication plan described in RCW 70.168.060 (1)(h);~~

~~(v) Include a schedule for implementation.~~

~~(2) In developing or modifying its plan, the regional council must seek and consider the recommendations of:~~

~~(a) Local EMS/TC councils;~~

~~(b) EMS/TC systems established by ordinance, resolution, interlocal agreement or contract by counties, cities, or other governmental bodies.~~

~~(3) In developing or modifying its plan, the regional council must use regional and state analyses provided by the department based on trauma registry data and other appropriate sources;~~



(4) Approved regional plans may include standards, including response times for verified services, which exceed the requirements of this chapter.

(5) An EMS/TC provider who disagrees with the regional plan may bring its concerns to the steering committee before the department approves the plan.

(6) The regional council must adopt regional patient care procedures as part of the regional plans. In addition to meeting the requirements of RCW 18.73.030(14) and 70.168.015(23):

(a) For all emergency patients, regional patient care procedures must identify:

(i) Guidelines for rendezvous with agencies offering higher levels of service if appropriate and available, in accordance with the regional plan.

(ii) The type of facility to receive the patient, as described in regional patient destination and disposition guidelines.

(iii) Procedures to handle types and volumes of trauma that may exceed regional capabilities, taking into consideration resources available in other regions and adjacent states.

(b) For major trauma patients, regional patient care procedures must identify procedures to activate the trauma system.

(7) Matching grants made under the provisions of chapter 70.168 RCW may include funding to:

(a) Develop, implement, and evaluate prevention programs; or

(b) Accomplish other purposes as approved by the department.

AMENDATORY SECTION (Amending Order 323, filed 12/23/92, effective 1/23/93)

**WAC 246-976-970 Local emergency medical services and trauma care councils.** (1) ~~If a county or group of counties ((may)) creates a local EMS/TC council, it must be~~ composed of representatives of hospital and prehospital trauma care and EMS providers, local elected officials, consumers, local law enforcement officials, local government agencies, physicians, and prevention specialists involved in the delivery of EMS/TC.

~~(2) In addition to meeting the requirements of chapter 70.168 RCW and this chapter, local EMS/TC councils ((shall)) must:~~

~~(a) ((Review, evaluate, and provide recommendations to the regional EMS/TC council regarding the provision of EMS/TC in the region, and provide recommendations on the regional EMS/TC plan;~~

~~(b) Recommend individuals to the department for membership on the regional EMS/TC council;~~

~~(c) Participate with the MPD((;)) and emergency communication centers((; and the regional EMS/TC council)) in making recommendations to the regional council about the development of regional patient care procedures; and~~

~~((d)) (b) Review senior EMS instructor applications and make recommendations to the department ((for individuals applying for recognition or renewal of recognition as senior EMT instructors)).~~

(c) Review applications for initial training classes and OTEP programs, and make recommendations to the department.

(3) Local EMS/TC councils may make recommendations to the department regarding certification and termination of MPDs, as provided in RCW 18.71.205(4).

AMENDATORY SECTION (Amending WSR 93-20-063, filed 10/1/93, effective 11/1/93)

**WAC 246-976-990 Fees and fines.** (1) The department shall assess individual health care facilities submitting a proposal to be designated as a level I general trauma care facility a fee, not to exceed seven thousand dollars, to help defray the costs to the department of inspections and review of applications.

(2) The department shall assess individual health care facilities submitting a proposal to be designated as a level II general trauma care facility a fee, not to exceed six thousand dollars, to help defray the costs to the department of inspections and review of applications.

(3) The department shall assess individual health care facilities submitting a proposal to be designated as a level III general trauma care facility a fee, not to exceed one thousand nine hundred fifty dollars, to help defray the costs to the department of inspections and review of applications.

(4) The department shall assess individual health care facilities submitting a proposal to be designated as a level I pediatric trauma care facility a fee, not to exceed nine thousand two hundred dollars, to help defray the costs to the department of inspections and review of applications.

(5) The department shall assess individual health care facilities submitting a proposal to be designated as a level II pediatric trauma care facility a fee, not to exceed eight thousand dollars, to help defray the costs to the department of inspections and review of applications.

(6) The department shall assess individual health care facilities submitting a proposal to be designated as a level III pediatric trauma care facility a fee, not to exceed two thousand dollars, to help defray the costs to the department of inspections and review of applications.

(7) The department shall assess health care facilities submitting a joint proposal to be jointly designated as a level I general or pediatric trauma care facility a fee, of at least seven thousand dollars, and based upon a determined hourly rate and per diem expense per inspection team member, not to exceed fourteen thousand five hundred dollars to help defray the costs to the department of inspections and review of applications.

(8) The department shall assess health care facilities submitting a joint proposal to be jointly designated as a level II general or pediatric trauma care facility a fee, of at least six thousand dollars, and based upon a determined hourly rate and per diem expense per inspection team member, not to exceed twelve thousand five hundred dollars to help defray the costs to the department of inspections and review of applications.

(9) The department shall assess health care facilities submitting a joint proposal to be jointly designated as a level III general or pediatric trauma care facility a fee, of at least one

thousand nine hundred fifty dollars, and based upon a determined hourly rate and per diem expense per inspection team member, not to exceed three thousand one hundred dollars to help defray the costs to the department of inspections and review of applications.

(10) The department shall assess health care facilities submitting a proposal to be designated at multiple levels to provide adult and pediatric care a fee, not to exceed nine thousand two hundred dollars to help defray the costs to the department of inspections and review of applications.

(11) The department shall not assess such fees to health care facilities applying to provide level IV and V trauma care services.

(12) ~~((The department may assess fines for ambulance or aid services failing to license within the specified periods. Delinquent fines shall be one hundred dollars for a service and twenty-five dollars per vehicle, and shall not exceed five hundred dollars.))~~ If an ambulance or aid service fails to comply with the requirements of chapters 18.71, 18.73, 70.168 RCW, the Uniform Disciplinary Act, or with the requirements of this chapter, the department may notify the appropriate local, state or federal agencies.

PROPOSED

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

- WAC 246-976-020 First responder training—Course contents, registration, instructor qualifications.
- WAC 246-976-025 First responder—Continuing medical education.
- WAC 246-976-030 Emergency medical technician training—Course content, registration, and instructor qualifications.
- WAC 246-976-035 Emergency medical technician—Continuing medical education.
- WAC 246-976-040 Specialized training.
- WAC 246-976-045 Levels of intermediate life support personnel and advanced life support paramedics.
- WAC 246-976-050 Intravenous therapy technician training—Course content, registration, instructor qualifications.
- WAC 246-976-055 Intravenous therapy technicians—Continuing medical education.
- WAC 246-976-060 Airway technician training—Course content, registration, instructor qualifications.

- WAC 246-976-065 Airway technician—Continuing medical education.
- WAC 246-976-070 Combined intravenous therapy and airway technician training—Course content, registration, instructor qualifications.
- WAC 246-976-075 IV therapy/airway technician—Continuing medical education.
- WAC 246-976-076 Intermediate life support training—Course content, registration, instructor qualifications.
- WAC 246-976-077 Intermediate life support technicians—Continuing medical education.
- WAC 246-976-080 Paramedic training—Course content.
- WAC 246-976-085 Paramedic—Continuing medical education.
- WAC 246-976-110 Senior EMT instructor—Qualifications and responsibilities.
- WAC 246-976-120 Disciplinary action—Training personnel.
- WAC 246-976-140 Certification and recertification—General requirements.
- WAC 246-976-150 Certification and recertification—First responder.
- WAC 246-976-160 Certification and recertification—Emergency medical technician.
- WAC 246-976-165 Levels of certified intermediate life support personnel and paramedics.
- WAC 246-976-170 Certification and recertification—Intravenous therapy technicians.
- WAC 246-976-180 Certification and recertification—Airway technicians.
- WAC 246-976-181 Certification and recertification—Intermediate life support technician.
- WAC 246-976-190 Recertification—IV and airway technicians.
- WAC 246-976-200 Certification and recertification—Paramedics.
- WAC 246-976-210 Certification—Reciprocity, challenges, and reinstatement.

- WAC 246-976-220 EMS personnel—Scope of care authorized, prohibited.
- WAC 246-976-230 Certification—Reversion, revocation, suspension, modification, or denial.
- WAC 246-976-240 Notice of decision and hearing.
- WAC 246-976-280 Ground ambulance and aid services—Personnel requirements.
- WAC 246-976-350 Ambulance and aid services—Variances from requirements.
- WAC 246-976-370 Ambulance and aid services—Prehospital trauma triage procedures.
- WAC 246-976-440 Trauma registry—Reports.
- WAC 246-976-450 Access and release of trauma registry information.

Enforcement: Neal Shulman, 110 Union Street #500, Seattle, WA 98101, (206) 689-4078.

Name of Proponent: Puget Sound Clean Air Agency, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: The state implementation plan will be updated to reflect these amendments.

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

Explanation of Rule, its Purpose, and Anticipated Effects: For Section 3.07, Regulation II: This proposal deletes this section, since there are no longer any petroleum solvent dry cleaning systems in our jurisdiction that use more than 15,000 gallons, and any new dry cleaning system must meet all Notice of Construction requirements, including using best available control technology.

For Appendix A, Regulation III: Reporting requirements and annual fees depend on the use of Regulation III, Appendix A "Acceptable Source Impact Levels," a list of toxic air contaminants. These proposed changes clarify the list of chemicals and their EPA hazardous air pollutant (HAP) list designations including:

- (1) A separate column has been added for synonyms,
- (2) HAP compound references are italicized as well as placed in square brackets, and
- (3) Parenthetical synonyms that were previously omitted from the alphabetical list have been added with their parentheses removed.

Proposal Changes the Following Existing Rules: This proposal deletes Section 3.07 of Regulation II; and clarifies the list of chemicals in Appendix A of Regulation III and their EPA hazardous air pollutant list designations.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This agency is not subject to the small business economic impact provision of the Administrative Procedure Act.

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

Hearing Location: PSCAA Offices, 110 Union Street, #500, Seattle, WA 98101, on March 9, 2000, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Agency Receptionist, (206) 689-4010, by March 2, 2000, TDD (800) 833-6388, or (800) 833-6385 (Braille).

Submit Written Comments to: Dennis McLerran, PSCAA, 110 Union Street, #500, Seattle, WA 98101, fax (206) 343-7522, by February 28, 2000.

Date of Intended Adoption: March 9, 2000.

January 18, 2000

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 00-04 issue of the Register.

**WSR 00-03-082**  
**PROPOSED RULES**  
**PUGET SOUND**  
**CLEAN AIR AGENCY**  
 [Filed January 19, 2000, 10:16 a.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 70.94.141(1).

Title of Rule: Delete Regulation II, Section 3.07; and amend Regulation III, Appendix A.

Purpose: To delete Section 3.07 since there are no longer any petroleum solvent dry cleaning systems in our jurisdiction that use more than 15,000 gallons. To clarify the list of chemicals in Appendix A and their EPA hazardous air pollutant (HAP) list designations.

Other Identifying Information: Section 3.07 - Petroleum Solvent Dry Cleaning Systems. Appendix A - Acceptable Source Impact Levels.

Statutory Authority for Adoption: Chapter 70.94 RCW.

Statute Being Implemented: RCW 70.94.141.

Summary: To delete Section 3.07 of Regulation II; and to clarify the chemical list in Appendix A of Regulation III.

Reasons Supporting Proposal: Any new dry cleaning system must meet all Notice of Construction requirements, including using best available control technology so Section 3.07 of Regulation II is no longer needed. Emission reporting and annual fee payment require clarity in the chemical list in Appendix A.

Name of Agency Personnel Responsible for Drafting: John Anderson, 110 Union Street #500, Seattle, WA 98101, (206) 689-4051; Implementation: Dave Kircher, 110 Union Street #500, Seattle, WA 98101, (206) 689-4050; and

**PROPOSED**

**WSR 00-03-088**  
**PROPOSED RULES**  
**HORSE RACING COMMISSION**

[Filed January 19, 2000, 11:27 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-22-016.

Title of Rule: WAC 260-34-030, 260-34-080, 260-34-090, 260-34-100, 260-34-140, and 260-34-150, drug and alcohol testing of licensees and employees.

Purpose: Amend existing rules to add clarifying language.

Statutory Authority for Adoption: RCW 67.16.040.

Summary: Adding language to existing rules to clarify and update to conform with model rules.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Bruce Batson, Olympia, Washington, (360) 459-6462.

Name of Proponent: Washington Horse Racing Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Amend existing rules to further clarify and add language to conform to accepted model rules.

Proposal Changes the Following Existing Rules: Amends existing rules to clarify and conform to model set of rules that have become nationally accepted.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The changes will not affect more than 20% or less than 10% of the population. A small business economic impact statement was not prepared.

RCW 34.05.328 does not apply to this rule adoption.

Hearing Location: Doubletree Hotel at SeaTac, 18740 Pacific Highway South, Seattle, WA, on February 26, 2000, at 10:00 a.m.

Submit Written Comments to: Bruce Batson, Executive Secretary, Washington Horse Racing Commission, 7912 Martin Way, Suite D, Olympia, 98516, fax (360) 459-6462, by February 25, 2000.

Date of Intended Adoption: February 26, 2000.

January 19, 2000

Bruce Batson

Executive Secretary

by Patty Sorby

**AMENDATORY SECTION** (Amending Order 89-02, filed 6/9/89)

**WAC 260-34-030 Testing.** The board of stewards of the horse racing commission or the commission, acting through the executive secretary, may require any licensee, employee of any racing association, or employee of the horse racing commission, or applicant, who is, or may be, responsible for the conduct of, or officiating of, a race, or whose duties include the training, exercising, riding, driving, or caring for a horse while the horse is on any association premises to participate in a horse racing meet, or on grounds licensed by the horse racing commission, to provide blood and/or urine sam-

ples for the purpose of drug or alcohol analysis under any of the following circumstances:

~~((1) As part of a physical examination described in WAC 260-32-160, as close as practicable prior to the testee's participation in his/her first race meeting of a calendar year.))~~

~~((2))~~ 1 When the board of stewards finds that there is reasonable suspicion to believe that the proposed testee has used any controlled substance unless such controlled substance was obtained directly and used pursuant to a valid medical prescription from a duly licensed physician or dentist acting in the course of his or her professional practice or, alcohol in excess of the limits prescribed in this chapter.

~~((3))~~ 2 At the discretion of the stewards when the proposed testee has a documented history of an unexplained positive test which indicates illegal drug usage or when the proposed testee has a documented history of violating chapter 69.41, 69.45 or 69.50 RCW, WAC 260-34-020 or similar drug-related violation.

**AMENDATORY SECTION** (Amending Order 89-02, filed 6/9/89)

**WAC 260-34-080 Testing procedure.** (1) When the drug testing is required as described in WAC 260-34-030(1), the following procedure will be used:

(a) The licensee, employee, or applicant will report as instructed by the board of stewards to a drug testing facility approved by the commission. When on site drug testing is available the board of stewards may direct the licensee, employee or applicant to submit to such on site drug testing. Such testing will be conducted by a commission security inspector in accordance with procedures approved by the commission. ~~((to the specified physician where a member of the medical staff designated by the physician will supervise the sample being given.))~~ A qualified member of the drug testing facility will supervise the sample being given. When on site drug testing is available the commission security inspector or their designee will supervise the sample being given. The supervision need not include actual observance of the delivery of the sample but the sample shall be taken under such circumstances that the integrity of the sample is maintained without unnecessarily interfering with the individual rights of the person tested, including the right to be free from unnecessary embarrassment. Intentional contamination of the sample by any person tested which is likely to prevent appropriate analysis of the sample shall be grounds for the suspension or revocation of the person tested.

(b) The urine sample will be at least 75 ml in volume. The urine sample will be divided into two parts of at least 25 ml and 50 ml in the presence of the person tested. If the licensee, employee, or applicant is unable to provide 75 ml of urine, the licensee, employee, or applicant may waive in writing the division of the sample and preservation of an untested portion of the sample as provided in (c) of this subsection and subsection (4) of this section. If the person tested is unable to provide a sufficiently large sample, either 75 ml or 50 ml with a waiver, the person shall not be suspended, but shall not participate in racing until such time as he or she is able to provide sufficient urine and completes the test. All portions of the sample shall be placed in containers and sealed with dou-

ble identification tags in the presence of the person being tested.

(c) The 25 ml (or more) container will be preserved pursuant to subsection (3) of this section by the medical facility obtaining the sample. Both licensee, employee, or applicant and member of the medical staff, chief of security, or designated representative of the horse racing commission will sign the tag to attest to the sealing and labeling of the sample.

(d) The 50 ml (or more) container will be prepared for transportation as follows: One portion of the container's tag bearing a printed identification number shall remain with the sealed container. The other portion of such tag bearing the same printed identification number, shall be detached in the presence of the person tested and a member of the medical staff, the chief of security or designated representative of the horse racing commission. The licensee, employee, or applicant will initial or sign the designated portion of the tag to attest witnessing such action. The member of the medical staff, the chief of security or designated representative of the horse racing commission will also sign the detached portion of the tag to attest witnessing such action. The sample will then be handled in a manner consistent with an evidentiary chain of custody throughout the transportation and laboratory testing process. The sample and the tag identifying the sample which is to be provided to the laboratory for analysis shall not identify the person by name, but only by number assigned and recorded by the members of the medical staff, chief of security, or designated representative of the horse racing commission.

(2) When the testing is to be done as a result of reasonable suspicion or the result of mandatory testing being conducted after a positive test, the same procedure for handling the specimens shall be utilized as in subsection (1) of this section, but the sample may be taken at the track and witnessed by the chief of security or designated representative of the horse racing commission. The witness must be of the same sex as the person being tested. After the sample is taken, divided and sealed, the chief of security or designated representative of the horse racing commission will be responsible for the evidentiary chain of custody and transportation of one portion of the sample to the laboratory and storage of the other portion pursuant to subsection (3) of this section. The chief of security of the horse racing commission will maintain a checklist of procedures to implement these steps; the checklist will be marked as the steps are carried out and it will be maintained as part of security records.

(3) Each portion of the sample supplied by the person tested will be preserved by the ~~((member of the medical staff))~~ approved laboratory, chief of security, representative of the horse racing commission, or laboratory for ~~((thirty))~~ three days unless there is a positive test result. If there is a positive test result, the samples will be preserved for a period of two years or until released by the executive secretary of the horse racing commission after all hearings and appeals have been terminated. The samples will be preserved in a secured location by refrigeration or freezing for the first ~~((thirty))~~ three days and thereafter by freezing.

(4) Either or both portions of the sample may be retested at the request of the licensee, employee, or applicant at either the laboratory used by the horse racing commission or a

~~((separate equally or better))~~ qualified ~~((and reputable))~~ laboratory designated by the licensee, employee, or applicant and approved by the commission. If the untested sample is transported for testing, transportation will be performed at the direction of the board of stewards, the chief of security or designated representative of the horse racing commission using an evidentiary chain of custody. None of the originally untested 25 ml portion is required to be saved after testing for retesting. The licensee, employee, or applicant is responsible for all costs of transporting and testing or retesting a sample at his or her request.

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

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

AMENDATORY SECTION (Amending Order 89-02, filed 6/9/89)

**WAC 260-34-090 A positive test.** A drug test shall be positive when the presence of a controlled substance is confirmed by two independent tests performed on the same sample supplied by a licensee, employee, or applicant. The tests used will be the E.M.I.T. screen test, followed by a gas chromatography/mass spectrometry confirmatory test, or other tests which the scientific community recognizes are equally or more accurate and reliable. ~~((If marijuana or its derivatives, salts, isomers, or salts of isomers are detected in a drug test, such a result will not be reported positive unless found at levels of at least one hundred nanograms per milliliter.))~~

A positive drug test shall be reported by the laboratory to the presiding steward at the track. On receiving written notice from the laboratory that a specimen has been found positive for a controlled substance, the presiding steward shall initiate the following procedure:

(1) Written notice shall be given to the licensee, employee or applicant, setting a hearing by the board of stewards in accordance with WAC 260-24-440 within the next two racing days or seven calendar days, whichever is less, after service of the notice. The hearing may be held within a shorter or longer period of time if the licensee, employee, or applicant named and the board of stewards agree. Service shall be to the licensee, employee, or applicant personally, by leaving the notice at the person's residence with someone of reasonable age and discretion residing therein, or by mail to the person's last known address. If by mail, service shall be deemed completed on the third day after mailing.

(2) The hearing shall be conducted before the board of stewards pursuant to WAC 260-24-440. At the hearing, the licensee, employee, or applicant shall be provided an opportunity to explain the positive test.

(3) The board of stewards' hearing shall be closed and the facts therein will be kept confidential unless for use with respect to any subsequent contested hearing or order by the horse racing commission or judicial hearing with regard to such facts. Closure of the hearing and confidentiality of the proceedings may be waived by the licensee, employee, or

applicant. The board may issue a public ruling which complies with the confidentiality requirements of this section and WAC 260-34-100.

(4) Lacking a satisfactory explanation and documentation or upon the licensee, employee, or applicant agreeing with the test results, the board of stewards shall suspend the licensee, employee, or applicant until:

(a) A negative test can be submitted by that licensee, employee, or applicant and the results reviewed by the board of stewards; and

(b) The licensee, employee, or applicant is referred to an approved agency for a drug evaluation interview and completes the evaluation.

(i) If the evaluation concludes that the licensee, employee, or applicant is not addicted or habituated, and if the board of stewards determines that the licensee's, employee's, or applicant's condition is not detrimental to the best interests of racing, the licensee, employee, or applicant shall be allowed to participate in racing provided he or she agrees that further testing may be done as described in WAC 260-34-030(3).

(ii) If such drug evaluation concludes that the licensee, employee, or applicant is addicted or habituated, or the board of stewards determines that the licensee's, employee's, or applicant's condition is detrimental to the best interests of racing, the licensee, employee, or applicant shall not be allowed to participate in racing until such time as he or she can produce a negative test result and show official documentation that he or she has successfully completed a certified drug rehabilitation program approved by the board of stewards, in consultation with the executive secretary of the horse racing commission. The licensee, employee, or applicant must agree to further testing as described in WAC 260-34-030(3).

(5) For a second positive drug test in the calendar year, the licensee, employee, or applicant shall be suspended for the balance of the calendar year or one hundred twenty days, whichever is greater, and the person is required to complete a certified drug rehabilitation program approved by the board of stewards in consultation with the executive secretary of the horse racing commission before applying for a reinstatement of license. The licensee, employee, or applicant must agree to further testing as described in WAC 260-34-030(3).

(6) When any licensee, employee, or applicant has a history of more than two violations of WAC 260-34-020 or positive drug tests, the horse racing commission may, pursuant to a hearing conducted under chapter 260-08 WAC, declare such person detrimental to the best interests of racing and revoke that person's license or application. Reapplication shall not be permitted for such period of months or years as the commission determines is necessary to ensure the person's freedom from use of controlled substances and not until meeting the requirements of subsection (5) of this section.

**AMENDATORY SECTION** (Amending Order 89-02, filed 6/9/89)

**WAC 260-34-100 Confidentiality of test results.** The executive secretary of the horse racing commission shall maintain all test results and records, both negative and posi-

tive, confidential. He or she shall document the process which will ensure the confidentiality of the handling of such results. Information contained in the test results shall remain confidential at all times except for use with respect to any contested hearing or order by the horse racing commission, stewards ruling or judicial hearing with regard to such an order. Access to the reports of any test results shall be limited to the executive secretary, the board of stewards, the chief of security of the commission at the track, the physician or member of the medical staff obtaining and preserving samples, the laboratory and the person being tested, except in the instance of a contested commission hearing. The information obtained as a result of a test being required under the rules of the horse racing commission shall be considered privileged and shall be used for administrative purposes only and, further, shall be exempt from use as evidence in any criminal prosecution involving the violation of offenses listed in chapter 69.50 RCW.

**AMENDATORY SECTION** (Amending Order 88-05, filed 8/19/88)

**WAC 260-34-140 Alcohol levels determined.** For the purpose of this chapter, licensees and employees shall be considered to have consumed alcohol in violation of WAC 260-34-030 or 260-34-110 when a test reveals the testee has .08 micrograms or more of alcohol per 210 liters of breath as shown by analysis of his breath, blood or other body substance. No jockey, assistant starter, outrider, trainer, assistant trainer, pony person, exercise rider, groom, valet or racing official, acting in any of those capacities, shall have a blood alcohol content of .04 micrograms or more of alcohol per 210 liters.

**AMENDATORY SECTION** (Amending Order 88-05, filed 8/19/88)

**WAC 260-34-150 Alcohol testing.** The testing of any licensee or employee to determine blood level of alcohol shall be ~~((by the method and procedure approved by the Washington state patrol))~~ approved by the horse racing commission according to industry standards, or by a blood alcohol test if requested by the licensee or employee, such blood alcohol test must be supervised in a manner prescribed by the horse racing commission. If a blood test is requested, the expense ~~((of same))~~ shall be borne by the requesting licensee or employee.

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

WSR 00-03-089

PROPOSED RULES

HORSE RACING COMMISSION

[Filed January 19, 2000, 11:29 a.m.]

Original Notice.

PROPOSED

Preproposal statement of inquiry was filed as WSR 99-22-019.

Title of Rule: WAC 260-40-100 Performance records.

Purpose: Add language to existing rule to conform to model rules.

Statutory Authority for Adoption: RCW 67.16.040.

Summary: Adds language to existing rule to bring into conformance with accepted model rules.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Bruce Batson, Olympia, Washington, (360) 459-6462.

Name of Proponent: Washington Horse Racing Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Add language to conform to accepted model rules.

Proposal Changes the Following Existing Rules: Adding additional language to existing rule to conform to nationally accepted model rules.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The changes will not affect more than 20% or less than 10% of the population. A small business economic impact statement was not prepared.

RCW 34.05.328 does not apply to this rule adoption.

Hearing Location: Doubletree Hotel at SeaTac, 18740 Pacific Highway South, Seattle, WA, on February 26, 2000, at 10:00 a.m.

Submit Written Comments to: Bruce Batson, Executive Secretary, Washington Horse Racing Commission, 7912 Martin Way, Suite D, Olympia, 98516, fax (360) 459-6461, by February 25, 2000.

Date of Intended Adoption: February 26, 2000.

January 19, 2000

Bruce Batson

Executive Secretary

by Patty Sorby

**AMENDATORY SECTION** (Amending WSR 95-18-016, filed 8/24/95)

**WAC 260-40-100 Performance records.** It is the intent of the commission that the public be provided with all relevant information regarding a horse's recent racing and workout record; Therefore: (1) ~~((A horse which during the past calendar year, has started in a race which is not reported in the daily racing form and/or equibase shall not be entered at a Washington track unless and until the owner or trainer shall have furnished to the racing secretary, at entry time, performance records as hereinafter designated. Such performance records shall show where and when said horse raced; the distance; the weight carried; amount earned; said horse's finishing position and time.))~~ The owner/and or trainer of any horse which has started at a track not reported in the Daily Racing Form or Equibase since its last start at a recognized track, must furnish the racing secretary prior to the entry of such horse to any race in this State, performance records of said horse's races during the past year, or their last two starts, including published races, showing date, distance, finishing

position and time. If such records are unavailable, the horse will be ineligible to start.

(2) ~~((In a maiden race, a horse which at any time, has started in a race which is not reported in the daily racing form and/or equibase shall not be entered at a Washington track unless and until the owner or trainer shall have furnished to the racing secretary at entry time, complete performance records as hereinafter designated. Such performance records shall show where and when said horse raced; the distance; the weight carried; amount earned; said horse's finishing position and time.))~~ For thoroughbreds, a horse which wins a race at a Class C track within the State, shall not be penalized for such winnings in races run at any other meeting other than a Class C track. The maiden classification will be lost at any track whose results are published in the Daily Racing Form or Equibase. A horse which wins a race at a track with results not reported in the Daily Racing Form or Equibase, outside this state, shall not be penalized for such winnings except at Class C tracks. For other breeds, all wins, including the maiden wins, shall be counted in considering eligibility at all racing association meets in the state of Washington if the win is recognized by the Arabian Jockey Club, the American Quarter Horse Association, the Appaloosa Horse Club, or other breed registry as authorized by the commission.

(3) ~~((Performance records for races which are not reported in the daily racing form and/or equibase shall be published in the official program of the racing association or posted and announced no later than the time that wagering opens for that day's racing. No horse may be permitted to enter in a race whose recent workouts have not been properly recorded with the commission.))~~ All wins shall be considered in eligibility requirements of horses running at Class C racing association meets.

(4) ~~((For thoroughbreds, all races at Class C racing association meets in the state of Washington shall not be counted in considering eligibility of horses running at Class A and Class B racing association meets. However, the maiden allowance shall be lost by the winning of any race at a track whose complete official results are carried by the daily racing form and/or equibase. For all other breeds, all wins, including maiden wins, shall be counted in considering eligibility at all racing association meets in the state of Washington if the win is recognized by the arabian jockey club, the American quarter horse association, the appaloosa horse club, or other breed performance registry as authorized by the commission.))~~ Workouts requirements. The commission shall designate, before each race meeting, the minimum workout requirements for said race meeting to ensure the integrity of the industry to the wagering public.

~~((5) All wins shall be considered in eligibility requirements of horses running at Class C racing association meets.))~~

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.

PROPOSED

**WSR 00-03-090**  
**PROPOSED RULES**  
**HORSE RACING COMMISSION**  
 [Filed January 19, 2000, 11:30 a.m.]

**Original Notice.**

Preproposal statement of inquiry was filed as WSR 99-03-014.

Title of Rule: WAC 260-75-020 Satellite locations applications and 260-75-030 Satellite location policies and procedures.

Purpose: Additional language, bring into conformance with accepted model rules.

Statutory Authority for Adoption: RCW 67.16.040.

Summary: Add language to chapter to further describe procedural language to application process.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Bruce Batson, Olympia, Washington, (360) 459-6462.

Name of Proponent: Washington Horse Racing Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: To add language to chapter to further define application process for adding satellites to live race tracks schedule.

Proposal does not change existing rules.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The changes will not affect more than 20% or less than 10% of the population. A small business economic impact statement was not prepared.

RCW 34.05.328 does not apply to this rule adoption.

Hearing Location: Doubletree Hotel at SeaTac, 18740 Pacific Highway South, Seattle, WA, on February 26, 2000, at 10:00 a.m.

Submit Written Comments to: Bruce Batson, Executive Secretary, Washington Horse Racing Commission, 7912 Martin Way, Suite D, Olympia, 98516, fax (360) 459-6461, by February 25, 2000.

Date of Intended Adoption: February 26, 2000.

January 19, 2000

Bruce Batson  
Executive Secretary  
by Patty Sorby

**NEW SECTION****WAC 260-75-020 Satellite locations applications.**

Each application for a satellite location from a racing association shall be submitted on the satellite application form provided by the commission. The application form must be completed in every respect, containing all the information and attachments requested. The application includes an association satellite application, satellite location application and a satellite location application—personal history statement.

(1) The association satellite application is to be completed by the sponsoring association.

(2) The satellite location is to be completed by the proposed satellite location. The application shall be signed under oath by an individual attesting that the information set

forth in the application and any accompanying materials is true, accurate and complete. The following person(s) shall sign the application: (a) The highest ranking officer/official of a charitable, nonprofit or profit seeking corporation;

(b) The principal owner of a sole proprietorship;

(c) All partners of a partnership or general partner of a limited partnership; and

(d) The executive secretary may also require the following persons to sign the application:

(i) The chairman of the board of directors or trustees;

(ii) The person in charge of financial records; and/or

(iii) Persons with a substantial interest in the applicant business or charitable/nonprofit organization.

(3) The satellite location application—personal history statement is to be completed by each individual owner and spouse or each officer of the of a charitable, nonprofit or profit seeking corporation and any stockholder having 10% or more corporate stock.

(4) The commission will consider only those applications that have been fully completed. The following reasons will cause an application to be incomplete:

(a) Failure to provide all information requested on the application form and/or attachments;

(b) Failure to provide supplemental information requested during the application investigation;

(5) The commission may disclose to the public or discuss at a public meeting all information set forth in the application and all supplemental information submitted subject to the exemptions in chapter 42.17 RCW and other applicable laws including, but not limited to, chapter 10.97 RCW: Provided, That consistent with chapter 10.97 RCW, the commission may disclose conviction data of an applicant or licensee.

(6) In addition to other information required by the commission, each applicant shall provide the following information on or attached to the application:

(a) Copy of corporate applicants' articles of incorporation and bylaws; or, if not a corporation, a copy of any bylaws and other documents which set out the organizational structure and purposes of the organization;

(b) A copy of a nonprofit or charitable applicant's Internal Revenue Service tax exemption letter if one has been obtained;

(c) Details and copies of all lease or rental arrangements, whether oral or written, between the applicant and the owner of premises upon which the satellite activity will be conducted, if such premises are leased or rented.

(7) Before each race meet, on a form approved by the commission, the association shall submit a renewal application for each satellite location.

(8) An association shall inform the commission immediately if any changes are made to the original application.

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

**NEW SECTION**

**WAC 260-75-030 Satellite location policies and procedures.** (1) Each association shall develop internal control policies and procedures for its satellite locations. These pro-



cedures shall include controls for satellite location assets including maintaining a log of daily cash balances. The policies and procedures shall be filed with the commission.

(2) Each satellite location shall have a location manager designated by the host racing association. All location managers and mutuel clerks shall be licensed by the commission. The host association shall not activate any terminal for any person that is not currently licensed or approved by the commission.

(3) All satellite locations shall be periodically reviewed by the commission to ensure that the internal control policies and procedures are followed. This may include a review of the log of cash balances, including conducting a physical count of the cash balance by a commission official.

### WSR 00-03-091

#### PROPOSED RULES

#### HORSE RACING COMMISSION

[Filed January 19, 2000, 11:31 a.m.]

#### Original Notice.

Preproposal statement of inquiry was filed as WSR 99-22-021.

Title of Rule: WAC 260-52-060 Camera and photographs.

Purpose: Bring into conformance with model rules, update.

Statutory Authority for Adoption: RCW 67.16.040.

Summary: Update language to include new technologies.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Bruce Batson, Olympia, Washington, (360) 459-6462.

Name of Proponent: Washington Horse Racing Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: To add language to existing rule to allow use of new technologies. Bring into conformance with model rules.

Proposal Changes the Following Existing Rules: Adds language to allow use of new technologies.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The changes will not affect more than 20% or less than 10% of the population. A small business economic impact statement was not prepared.

RCW 34.05.328 does not apply to this rule adoption.

Hearing Location: Doubletree Hotel at SeaTac, 18740 Pacific Highway South, Seattle, WA, on February 26, 2000, at 10:00 a.m.

Submit Written Comments to: Bruce Batson, Executive Secretary, Washington Horse Racing Commission, 7912 Martin Way, Suite D, Olympia, 98516, fax (360) 459-6461, by February 25, 2000.

Date of Intended Adoption: February 26, 2000.

January 19, 2000

Bruce Batson

Executive Secretary

by Patty Sorby

### AMENDATORY SECTION (Amending Rule 203, filed 1/30/67)

**WAC 260-52-060 Camera and photographs.** (1) On all tracks proper cameras shall be installed as an aid to the stewards, placing and patrol judges, however, in all cases, the cameras are merely an aid and the decisions of the ((judges)) stewards are to be final. The photograph or video image of each finish shall be posted in at least one conspicuous place as promptly as possible after each race where a photo finish occurs.

(2) The association shall keep on file for the duration of the meeting each plate or film or tape of each race for reference or reproduction upon request of the commission.

### WSR 00-03-092

#### PROPOSED RULES

#### HORSE RACING COMMISSION

[Filed January 19, 2000, 11:32 a.m.]

#### Original Notice.

Preproposal statement of inquiry was filed as WSR 99-22-022.

Title of Rule: WAC 260-70-700 Penalties relating to permitted medication.

Purpose: Amend existing rules to conform to nationally accepted model rules.

Statutory Authority for Adoption: RCW 67.16.040.

Summary: Add language changing adding flexibility to third offense of medication rules.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Bruce Batson, Olympia, Washington, (360) 459-6462.

Name of Proponent: Washington Horse Racing Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Update rule to conform to accepted model rules.

Proposal Changes the Following Existing Rules: Adds amending language to a third offense of medication violation.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The changes will not affect more than 20% or less than 10% of the population. A small business economic impact statement was not prepared.

RCW 34.05.328 does not apply to this rule adoption.

Hearing Location: Doubletree Hotel at SeaTac, 18740 Pacific Highway South, Seattle, WA, on February 26, 2000, at 10:00 a.m.

Submit Written Comments to: Bruce Batson, Executive Secretary, Washington Horse Racing Commission, 7912

PROPOSED

Martin Way, Suite D, Olympia, 98516, fax (360) 459-6461, by February 25, 2000.

Date of Intended Adoption: February 26, 2000.

January 19, 2000

Bruce Batson

Executive Secretary

by Patty Sorby

AMENDATORY SECTION (Amending WSR 96-10-001, filed 4/17/96)

**WAC 260-70-700 Penalties relating to permitted medication.** (1) Should the laboratory analysis of urine or blood taken from a horse, show the presence of more than one approved nonsteroidal anti-inflammatory drug (NSAID) in violation of these rules or the presence of phenylbutazone or oxyphenbutazone, naproxen or meclufenamic acid in excess of the quantities authorized by the rules, the stewards or commission shall levy the following penalties against each person found responsible:

(a) For a first offense within a 365 day period, a fine of \$300;

(b) For a second offense within a 365 day period, \$750;

(c) For a third offense within a 365 day period, a fine of \$((750)) 1,000 with a ~~((sixty-day suspension.))~~ 15 to 60 day suspension.

(2) Should the laboratory analysis of urine or blood taken from a horse show the presence of furosemide (Lasix®) without permission from the official veterinarian, the stewards or commission shall treat the violation as a Class 4 offense.

(3) Detection of any unreported permitted medication, drug, or substance by the primary testing laboratory may be grounds for disciplinary action.

(4) As reported by the primary testing laboratory, failure of any test sample to show the presence of permitted medication, drug or substance when such permitted medication, drug or substance was required to be administered may be grounds for disciplinary action.

**WSR 00-03-093**

**PROPOSED RULES**

**HORSE RACING COMMISSION**

[Filed January 19, 2000, 11:32 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-22-024.

Title of Rule: WAC 260-88-010 Appeal to the commission.

Purpose: Add language to existing rule to clarify submission of an appeal.

Statutory Authority for Adoption: RCW 67.16.040.

Summary: Add language to existing rule to further describe the requirement for submitting an appeal to the commission.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Bruce Batson, Olympia, Washington, (360) 459-6462.

Name of Proponent: Washington Horse Racing Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Add additional language to existing rule to clarify specifications for submitting an appeal to the commission.

Proposal Changes the Following Existing Rules: Adds additional clarifying language.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The changes will not affect more than 20% or less than 10% of the population. A small business economic impact statement was not prepared.

RCW 34.05.328 does not apply to this rule adoption.

Hearing Location: Doubletree Hotel at SeaTac, 18740 Pacific Highway South, Seattle, WA, on February 26, 2000, at 10:00 a.m.

Submit Written Comments to: Bruce Batson, Executive Secretary, Washington Horse Racing Commission, 7912 Martin Way, Suite D, Olympia, 98516, fax (360) 459-6461, by February 25, 2000.

Date of Intended Adoption: February 26, 2000.

January 19, 2000

Bruce Batson

Executive Secretary

by Patty Sorby

AMENDATORY SECTION (Amending WSR 92-17-002, filed 8/5/92)

**WAC 260-88-010 Appeal to the commission.** ~~((+))~~ Any person against whom a ruling is made by the stewards may appeal the ruling to the commission. However, a decision concerning the disqualification or non-disqualification of a horse due to a foul or riding infraction during the running of a race is final and may not be appealed.

~~((1))~~ ~~((Such [an] appeal))~~ Appeals must be ~~((made in writing at the))~~ filed with an office of the commission within twenty ~~((five))~~ days of the date of the stewards' ruling.

~~((3))~~ ~~The appeal shall be signed by the person making it and must set [forth] [for the] alleged errors in the stewards' ruling.)~~

(2) The appeal must include: the name, address, telephone number and the signature of the person making the appeal and a statement of the basis of the appeal.

~~((4))~~ ~~(3)~~ The appeal shall be accompanied by an appearance deposit in the amount of \$100.00. At the time and place scheduled for the hearing before the commission, and at such time as the appellant appears for the hearing, the deposit shall be refunded. Should the appellant fail to appear for the hearing without a showing of good cause, the deposit shall be forfeited.

(4) The commission will conduct an adjudication according to the provisions of Chapter 34.05 RCW Administrative Procedure Act and Chapter 260-08 WAC Practice and Procedure.

(5) On notification by the commission that an appeal has been filed, the stewards shall forward to the commission the record of the proceeding on which the appeal is based.

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~~((5))~~ (6) Any person bringing an appeal will be heard in person or by counsel. A person bringing an appeal may submit his or her case entirely in writing, provided this is specified at the time of the filing of the appeal with the commission and this procedure is given written approval by the commission.

~~((6))~~ (7) All communications to the commission with respect to an appeal must be in writing, and all papers filed with the commission shall be the property of the commission.

~~((7))~~ (8) An appeal from a decision of a racing official to the commission shall not affect such decision until the appeal has been acted upon by the commission, unless otherwise ordered by the commission or by a court of competent jurisdiction. Upon a showing of good cause, the commission may stay the effect of any ruling of the stewards pending commission review of the ruling. The granting of such a stay shall carry no presumption as to the validity of the stewards' ruling. The commission may lift such a stay pending appeal if appropriate.

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

**WSR 00-03-094**  
**PROPOSED RULES**  
**DEPARTMENT OF LICENSING**

[Filed January 19, 2000, 11:34 a.m.]

**Original Notice.**

Preproposal statement of inquiry was filed as WSR 00-01-036.

Title of Rule: Chapter 308-96A WAC, General provisions for registration of vehicles.

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 46.01.110, 46.16.135, 46.16.225, 46.16.490, 46.17.276.

Summary: Amending WAC 308-96A-005 Terminology.

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, 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 March 8, 2000, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Patrick J. Zlateff by March 7, 2000, 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 March 7, 2000.

Date of Intended Adoption: April 4, 2000.

January 18, 2000

Deborah McCurley, Administration  
Title and Registration Services

**AMENDATORY SECTION** (Amending WSR 97-10-003, filed 4/24/97, effective 5/25/97)

**WAC 308-96A-005 Terminology—Definitions.**

Terms used in chapter 46.16 RCW and this chapter shall have the following meanings except where otherwise defined, and unless where used the context ((thereof)) clearly indicates to the contrary(:

(1) The terms "license or licensing" and "register or registering" are synonymous and mean the act of registration of a vehicle pursuant to chapter 46.16 RCW.

(2) The terms "tonnage," "declared gross weight," and "combined gross weight" are used interchangeably when referring to license fees for trucks, motor trucks, truck tractors, road tractors, tractors, bus, auto stage, or for hire vehicles with seating capacity of more than six.

(3) "No bill" or "special mailer" means the notice to renew a license provided by the department in lieu of a renewal notice. The special mailer requires additional or corrective information prior to the registration renewal.

(4) "Prebill" or "renewal notice" means the notice to renew a vehicle license provided by the department.

(5) "Current year" means the current registration year unless otherwise stated.

(6) "Month of expiration" or "expiration month" means the calendar month during which a registration year ends.

(7) "Fleet" means a group of vehicles registered in the same owner name and which have been assigned the same fleet identifier code by the department.

(8) "License fee" means the fees required for the act of licensing a vehicle pursuant to chapter 46.16 RCW. License fee does not include special license plate fees and fees collected by the department for other jurisdictions.

(9) "Day of expiration" or "expiration day" means the day of the month that a vehicle registration, gross weight license, or tabs expire).

(1) "Agent" means any county auditor, or other individual or business entity other than a subagent appointed to carry

out vehicle licensing and titling functions for the department. (RCW 46.01.140.)

(2) "Application" means a form provided or approved by the department to apply for different types of services and documents.

(3) "Cab and chassis" is a truck manufactured and sold with only a cab and the frame and running gear. (WAC 308-96A-145.)

(4) "Current year" means the current registration year unless otherwise stated. (WAC 308-96A-260.)

(5) "Expiration day and month."

(a) "Day of expiration" or "expiration day" means the day of the month on which the vehicle registration, gross weight license, or tabs expire.

(b) "Month of expiration" or "expiration month" means the calendar month during which a registration year ends. (WAC 308-96A-260.)

(6) "Department" means the department of licensing. (RCW 46.04.162.)

(7) "Parking ticket disposition" means the requested action as determined by the jurisdiction to add failure-to-pay parking violations, or to remove paid parking violations from a vehicle record. (RCW 46.16.216.)

(8) "Disabled persons parking placard expiration date" means:

(a) The last day of the month specified on a temporary placard; or

(b) Not less than five years from the end of month and year of issuance of a permanent placard, as specified by the department on the placard. (RCW 46.16.381.)

(9) "Fixed load vehicle" a fixed load vehicle is specified in RCW 46.16.070 and described in WAC 308-96A-099.

(10) "Fleet" means a group of five or more vehicles registered in the same owner name and which have been assigned the same fleet identifier code by the department and has an expiration date of December 31st of each year. (WAC 308-56A-161.)

(11) "Identification card" means the identification card referred to in RCW 46.16.381(3) for disabled parking privileges and is used for identification of persons with disabilities.

(12) "Jurisdiction seal" means a method of verifying authenticity of court documents, which is provided by the jurisdiction that issued the citation. A jurisdiction seal is an embossed seal or stamp provided by the jurisdiction. (WAC 308-96A-345.)

(13) "License or licensing" and "register or registering" are synonymous and mean the act of registration under chapter 46.16 RCW.

(14) "License tab fees" means the fees required for the act of licensing a vehicle under chapter 46.16 RCW.

(15) "Licensed physician" for the purpose of disabled person parking privileges, means, chiropractic physicians, naturopaths, medical doctors, osteopathic physicians and podiatric physicians. Licensed physician does not include persons licensed in the professions of dentistry and optometry. (RCW 46.16.381(1).)

(16) "Municipality" in reference to parking tickets means every court having jurisdiction over offenses committed under RCW 46.20.270. (WAC 308-96A-345.)

(17) "NCIC" means the National Crime Information Center.

(18) "Special mailer" means the notice sent by the department in lieu of a renewal notice. The special mailer indicates additional or corrective information that must be provided at the time of registration renewal.

(19) "One hundred twenty day notice" in reference to parking violations means a warning notice "notice of parking tickets" that contains a list of parking violations that must be satisfied prior to the registration renewal date. (RCW 46.16.216.)

(20) "Parking violation" means any standing, stopping or parking violation per RCW 46.20.270(3).

(21) "Parking violation list" means a computerized list containing all outstanding parking violations, which have been processed by the department. (WAC 308-96A-345.)

(22) "Permanent" in reference to disabled person parking privileges means a licensed physician has certified that a qualifying condition is expected to last at least five years. (RCW 46.16.381. WAC 308-96A-306.)

(23) "Permit" in reference to disabled person parking privileges means the proof provided by the department in the form of placard(s), special license plate(s) and an identification card indicating eligibility for disabled person parking privileges. (RCW 46.16.381.)

(24) "Personal use vehicle" in reference to disabled veteran's, prisoners of war and congressional medal of honor plates, means passenger vehicles, motor homes, motorcycles, and trucks with designated gross vehicle weight at no more than twelve thousand pounds. Registration ownership must be in the name of the individual and not in the business name. (WAC 308-96A-046.)

(25) "Prebill" or "renewal notice" means the notice to renew a vehicle license provided by the department approximately sixty days prior to the current expiration year.

(26) "Private carriers" means those entities contracting with public transportation authorities to transport persons with disabilities described in RCW 46.16.381. (WAC 308-96A-316.)

(27) "Privilege" in reference to disabled person's parking privileges means the right to utilize the benefits associated with the permit. (RCW 46.16.381, 46.61.582 and 70.84.090. WAC 308-96A-306.)

(28) "Public transportation authorities" means those entities operating motor vehicles owned or leased by Washington state, or a town, city, county, municipality, or metropolitan or municipal corporation within the state, or United States government agencies or Indian nations used for the primary purpose of transporting persons with disabilities described in RCW 46.16.381.

(29) "Rental car" means a rental car as defined in RCW 46.04.465.

(30) "Signature" means any memorandum, mark, sign or subscriptions made with intent to authenticate an application. (RCW 9A.04.110(23).)

(31) "Scale weight" means the weight of a vehicle as it stands without a load. (RCW 46.16.070 and 46.16.111.)

(32) "Subagent" means individual(s), business, organization, or political entity appointed by the director to provide

vehicle and vessel licensing and titling services under contract with the agent as described in RCW 46.01.140.

(33) "Tab" means a decal issued by the department that is affixed to the license plate(s) for a specific vehicle.

(34) "Tonnage," "declared gross weight" and "declared combined gross weight" are used interchangeably when referring to the amount of weight declared by an owner when licensing a vehicle in the truck/commercial use class. (RCW 46.16.070 and 46.16.111.)

(35) "Transit permit" means a document that authorizes an individual to operate a vehicle on a public highway of this state solely for the purpose of obtaining necessary documentation to complete and apply for a Washington certificate of ownership or registration. (WAC 308-96A-026.)

(36) "Vehicle database record" means the electronic record stored on the department's motor vehicle database reflecting vehicle and ownership information.

PROPOSED



**WSR 00-03-001**  
**EXPEDITED ADOPTION**  
**DEPARTMENT OF REVENUE**

[Filed January 5, 2000, 3:32 p.m.]

Title of Rule: WAC 458-20-261 Exemptions and credits for ride sharing, public transportation, and nonmotorized commuting.

Purpose: To explain the circumstances under which persons may claim tax exemptions and credits related to ride sharing.

Statutory Authority for Adoption: RCW 82.32.300, 82.04.4453, and 82.16.048.

Statute Being Implemented: RCW 82.04.355, 82.04.-4453, 82.04.4454, 82.04.4455, 82.08.0287, 82.12.0282, 82.16.047, 82.16.048, and 82.16.049.

Summary: The rule is being amended to reflect changes made to the ride share credit program by the 1999 legislature.

Reasons Supporting Proposal: RCW 82.04.4453 and 82.16.048 provide that the Department of Revenue adopt a rule to tell taxpayers how to claim credits against the B&O tax and public utility tax for financial incentives paid to or on behalf of employees. This amendment will keep those instructions to taxpayers consistent with the changes in the law.

Name of Agency Personnel Responsible for Drafting: Greg Potegal, 711 Capitol Way South, #303, Olympia, WA, (360) 753-1971; Implementation: Claire Hesselholt, 711 Capitol Way South, #303, Olympia, WA, (360) 753-3446; and Enforcement: Russell Brubaker, 711 Capitol Way South, #303, Olympia, WA, (360) 586-0257.

Name of Proponent: Department of Revenue, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: No comments or recommendations are submitted.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The rule explains the circumstances under which persons may claim tax exemptions and credits related to ride sharing. The rule describes the sales, use, B&O, and public utility tax exemptions which apply in connection with ride-sharing activities. It describes the B&O and public utility tax credit programs available to employers who provide financial incentives for employees to use ride sharing, public transportation, and nonmotorized commuting. The rule also explains the procedures to be used to claim the B&O and public utility tax credits.

Proposal Changes the Following Existing Rules: The amendment, consistent with 1999 changes in law, provides that property managers, in addition to employers, may claim the credit. It updates the amount of the annual cap on credits, again consistent with 1999 changes in the law. The changes were contained in chapter 402, laws of 1999.

**NOTICE**

**THIS RULE IS BEING PROPOSED TO BE ADOPTED USING AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR**

THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS RULE BEING ADOPTED USING THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Greg Potegal, Department of Revenue, P.O. Box 47467, Olympia, WA 98504-7467, fax (360) 664-0693, e-mail gregp@dor.wa.gov, AND RECEIVED BY March 21, 2000.

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.

January 5, 2000  
 Claire Hesselholt  
 Rules Manager  
 Legislation and Policy Division

AMENDATORY SECTION (Amending WSR 99-08-035, filed 3/31/99, effective 5/1/99)

**WAC 458-20-261 Exemptions and credits for ride sharing, public transportation, and nonmotorized commuting.** (1) **Introduction.** This section explains the various tax credits and exemptions which apply in connection with ride sharing, public transportation, and nonmotorized commuting.

(2) **Definitions.** For purposes of this section, the following definitions apply, unless otherwise required by the context.

(a) "Ride sharing" and "commuter ride sharing" mean a car pool or van pool arrangement whereby one or more fixed groups not exceeding fifteen persons each including the drivers, and (i) not fewer than five persons including the drivers, or (ii) not fewer than four persons including the drivers where at least two of those persons are confined to wheelchairs when riding, are transported in a passenger motor vehicle with a gross vehicle weight not exceeding ten thousand pounds, excluding special rider equipment. The transportation must be between their places of abode or termini near such places, and their places of employment or educational or other institutions, each group in a single daily round trip where the drivers are also on the way to or from their places of employment or educational or other institution. The terms include ride sharing on Washington state ferries.

(b) "Ride sharing for persons with special transportation needs" means an arrangement whereby a group of persons with special transportation needs, and their attendants, is transported by a public social service agency or a private, nonprofit transportation provider as defined in RCW 81.66.010(3) in a passenger motor vehicle as defined by the department of licensing to include small buses, cutaways, and modified vans not more than twenty-eight feet long. The driver need not be a person with special transportation needs.

(c) "Persons with special transportation needs" means those persons, including their personal attendants, who because of physical or mental disability, income status, or

EXPEDITED ADOPTION

age are unable to transport themselves or to purchase appropriate transportation.

(d) "Public transportation" means the transportation of passengers by means other than chartered or sightseeing bus, together with necessary passenger terminals and parking facilities or other properties necessary for passenger and vehicular access to and from such people moving systems. It includes passenger services of the Washington state ferries.

(e) "Nonmotorized commuting" means commuting to and from the workplace by an employee by walking or running or by riding a bicycle or other device not powered by a motor. It does not include teleworking.

(3) **Business and occupation tax and public utility tax exemptions.** Amounts received from providing commuter ride sharing and ride sharing for persons with special transportation needs are exempt from the business and occupation tax and from the public utility tax. RCW 82.04.355 and 82.16.047.

(4) **Retail sales tax exemption.** RCW 82.08.0287 provides a retail sales tax exemption for sales of passenger motor vehicles as ride-sharing vehicles.

(a) Sales tax does not apply to sales of passenger motor vehicles used for commuter ride sharing or ride sharing for persons with special transportation needs if the vehicles are exempt from motor vehicle excise tax under RCW 82.44.015 for thirty-six consecutive months beginning within thirty days of application for exemption from sales tax. If the vehicle is used as a ride-sharing vehicle for less than thirty-six consecutive months, the registered owner must notify the department of revenue and pay the tax.

(b) Vehicles with five or six passengers, including driver, used for commuter ride sharing must be operated within a county having a commute trip reduction plan under chapter 70.94 RCW in order to be purchased without payment of sales tax. In addition, for the exemption to apply at least one of the following conditions must apply:

(i) The vehicle must be operated by a public transportation agency for the general public;

(ii) The vehicle must be used by a major employer, as defined in RCW 70.94.524, as an element of its commute trip reduction program for their employees; or

(iii) The vehicle must be owned and operated by individual employees and must be registered either with the employer as part of its commute trip reduction program or with a public transportation agency serving the area where the employees live or work.

(5) **Use tax exemption.** RCW 82.12.0282 provides a use tax exemption for the use of passenger motor vehicles as ride-sharing vehicles.

(a) Use tax does not apply to the use of passenger motor vehicles used for commuter ride sharing or ride sharing for persons with special transportation needs if the vehicles are exempt from motor vehicle excise tax under RCW 82.44.015 for thirty-six consecutive months beginning within thirty days of application for exemption from use tax. If the vehicle is used as a ride-sharing vehicle for less than thirty-six consecutive months, the registered owner must notify the department of revenue and pay the tax.

(b) Vehicles with five or six passengers, including driver, used for commuter ride sharing must be operated within a county having a commute trip reduction plan under chapter 70.94 RCW in order to be purchased without payment of sales tax. In addition, for the exemption to apply at least one of the following conditions must apply:

(i) The vehicle must be operated by a public transportation agency for the general public;

(ii) The vehicle must be used by a major employer, as defined in RCW 70.94.524, as an element of its commute trip reduction program for their employees; or

(iii) The vehicle must be owned and operated by individual employees and must be registered either with the employer as part of its commute trip reduction program or with a public transportation agency serving the area where the employees live or work.

(6) **Business and occupation tax and public utility tax credit.** Employers in Washington are allowed a credit against their business and occupation tax and public utility tax liability for amounts paid to or on behalf of employees for ride sharing in vehicles carrying two or more persons, using public transportation, or using nonmotorized commuting. Property managers who manage worksites in Washington are allowed a credit against their business and occupation tax and public utility tax liability for amounts paid to or on behalf of persons employed at those worksites for ride sharing in vehicles carrying two or more persons, using public transportation, or using nonmotorized commuting. RCW 82.04.4453 and 82.16.048. ~~((Employers must provide incentives before June 30, 2000, to be eligible for the credit. The credit program expires December 31, 2000.))~~ Property managers became eligible for these credits on July 25, 1999. Chapter 402, Laws of 1999.

(a) In ~~((most cases))~~ general, the amount of the credit for employers is equal to the amount paid to or on behalf of each employee multiplied by fifty percent, but may not exceed sixty dollars per employee per year. For property managers, the amount of the credit, in most cases, is equal to the amount paid to or on behalf of each person employed at the worksite, but may not exceed sixty dollars per employee per year. However, for ride sharing in vehicles carrying two persons, the credit for both employers and property managers is equal to the amount paid to or on behalf of each employee multiplied by thirty percent, but may not exceed sixty dollars per employee per year. The credit is based upon amounts paid to or on behalf of individual employees, and may not be based upon an average of amounts paid to or on behalf of employees for qualifying purposes.

(b) The credit may not exceed the amount of business and occupation tax or public utility tax that would otherwise be due for the same calendar year after all other credits are applied.

(c) ~~((An employer))~~ A person may not receive credit for amounts paid to or on behalf of the same employee under both the business and occupation tax and the public utility tax.

(d) A person may not take a credit for amounts claimed for credit by other persons.

EXPEDITED ADOPTION



~~(e)~~ The total credit received by ~~((an employer))~~ a person against both the business and occupation tax and the public utility tax may not exceed one hundred thousand dollars for a calendar year.

~~((e))~~ ~~(f)~~ The total credit granted to all ~~((employers))~~ persons under both the business and occupation tax and the public utility tax may not exceed ~~((one))~~ two million ~~((five))~~ two hundred fifty thousand dollars for a calendar year. The total credit granted may be limited to less than two million two hundred fifty thousand dollars for any particular calendar year, depending on the availability of funding.

~~((f))~~ ~~(g)~~ No credit or portion of a credit denied because of exceeding the limitations in ~~((d) or (e))~~ ~~(e)~~ or (f) of this subsection may be used against tax liability for other calendar years.

**(7) Credit procedures.** This subsection explains the procedures used in the credit program described in subsection (6) of this rule.

(a) Persons apply for the credit by completing a ride share credit reporting schedule and filing it with the combined excise tax return covering the period for which the credit is claimed. The ride share credit reporting schedule is available upon request from the department of revenue.

(b) Persons may not apply for the credit more frequently than once per quarter nor less frequently than once per year against taxes due for the same calendar year in which the amounts for which credit is claimed were paid to or on behalf of employees.

(c) Credit must be claimed by the due date of the last tax return for the calendar year in which the payment to or on behalf of employees was made.

(i) Credit not previously claimed may not be claimed for the first time on supplemental or amended tax returns filed after the due date of the last tax return for the calendar year in which the payment to or on behalf of employees was made.

(ii) If the department of revenue has granted an extension of the due date for the last tax return for the calendar year in which the payment to or on behalf of employees was made, the credit must be claimed by the extended due date.

(d) The department of revenue tabulates the amount of credit taken by all ~~((employers))~~ persons on a quarterly basis. If the annual ~~((maximum))~~ allowable amount of ~~((one million five hundred thousand dollars in))~~ credit is exceeded in a given quarter, no further credit will be allowed in succeeding quarters in the same calendar year. For the quarter in which the maximum is exceeded, the department of revenue calculates the amount of credit available at the beginning of the quarter and determines the proportional share of that amount for every ~~((employer))~~ person who has claimed a credit in the quarter. ~~((Employers))~~ These persons are billed for the difference between the amount of credit they claimed and the prorated amount of credit for which they are eligible.

**(8) Examples.** The following examples identify a number of facts and then state a conclusion. These examples should be used only as a general guide. The tax results of other situations must be determined after a review of all of the facts and circumstances.

(a) An employer pays one hundred eighty dollars for a yearly bus pass for one employee. For another employee, the

employer buys a bicycle helmet and bicycle lock for a total of fifty dollars. This is the total expenditure during a calendar year of amounts paid to or on behalf of employees in support of ride sharing, using public transportation, and using non-motorized commuting. The employer may claim a credit of sixty dollars for the amount spent for the employee using the bus pass. Fifty percent of one hundred eighty dollars is ninety dollars, but the credit is limited to sixty dollars per employee. The employer may claim a credit of twenty-five dollars (fifty percent of fifty dollars) for the amount spent for the employee who bicycles to work. Even though fifty percent of two hundred thirty dollars, the amount spent on both employees, works out to be less than sixty dollars per employee, the credit is computed by looking at actual spending for each employee and not by averaging the spending for both employees.

(b) An employer provides parking spaces for the exclusive use of ride-sharing vehicles. Amounts spent for signs, painting, or other costs related to the parking spaces do not qualify for the credit. This is because the credit is for financial incentives paid to or on behalf of employees. While the parking spaces support the use of ride-sharing vehicles, they are not financial incentives and do not involve amounts paid to or on behalf of employees.

(c) As part of its commute trip reduction program, an employer pays the cab fare for an employee who has an emergency and must leave the workplace but has no vehicle available because he or she commutes by ride-sharing vehicle. The cab fare qualifies for the credit, if it does not cause the sixty dollar limitation to be exceeded, because it is an amount paid on behalf of a specific employee.

(d) An employer pays the property manager for a yearly bus pass for one employee who works at the worksite managed by the property manager. The property manager in turn pays the amount received from the employer to a public transportation agency to purchase the bus pass. Either the employer or the property manager, but not both, may take the credit for this expenditure.



**WSR 00-03-003**  
**PERMANENT RULES**  
**SECRETARY OF STATE**  
 [Filed January 6, 2000, 2:06 p.m.]

Date of Adoption: January 6, 2000.

Purpose: To conform to state and national political party rules and to facilitate the use of presidential primary results by political parties in their selection of delegates.

Citation of Existing Rules Affected by this Order: Amending WAC 434-219-020, 434-219-120, 434-219-160, 434-219-180, 434-219-210, 434-219-220, 434-219-230, 434-219-240, 434-219-250, 434-219-260, 434-219-270, 434-219-280, 434-219-290, 434-219-310, and 434-219-320.

Statutory Authority for Adoption: RCW 29.19.070.

Adopted under notice filed as WSR 99-22-074 on November 2, 1999.

Changes Other than Editing from Proposed to Adopted Version: WAC 434-219-160 and 434-219-210, these sections were modified so that at the polling location either the voter or precinct election official may mark or punch the code that corresponds to the oath signed by the voter.

WAC 434-219-255, we added language stating that write-in votes cast for persons who, in the judgment of the county auditor, do not possess the qualification for the office of President of the United States shall not be counted. The qualifications are then quoted from Article II, Section 1 of the United States Constitution.

WAC 434-219-290, this particular section was changed so that write-in vote totals by congressional and legislative districts need to be certified and sent to the secretary of state no later than the tenth day following the primary. No later than [the] twentieth day following the primary totals for all valid write-in votes cast for each candidate and the total of all write-in votes not tabulated shall be certified by congressional and legislative districts.

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 6, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 4, Amended 9, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 6, Amended 15, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 6, 2000

Donald F. Whiting

Assistant Secretary of State

AMENDATORY SECTION (Amending WSR 96-03-141, filed 1/24/96, effective 2/24/96)

**WAC 434-219-020 Definitions.** As used in this chapter:

(1) "County auditor" means the county auditor in a non-charter county or the officer, irrespective of title, having the overall responsibility to maintain voter registration information and conduct state and local elections in a charter county, and his or her deputies or staff where the context indicates;

(2) "Major political party" means a political party of which at least one nominee for president, vice-president, United States senator, or state-wide office received at least five percent of the total vote cast at the last preceding state general election for that office in an even-numbered year;

(3) "Ballot" means, as the context implies, either:

(a) The issues and offices to be voted upon in a jurisdiction or portion of a jurisdiction at a presidential primary;

(b) A facsimile of the contents of a particular ballot, whether printed on a paper ballot or ballot card or as part of a voting device;

(c) A physical or electronic record of the choices of an individual voter at a presidential primary;

(d) A physical document on which the voter's choices are to be recorded;

(4) (~~"Paper ballot" means a piece of paper on which the ballot for a presidential primary has been printed, on which a voter may record his or her choices for any candidate or for or against any measure, and that is to be tabulated manually;~~

~~(5) "Ballot card" means any type of card or piece of paper of any size on which a voter may record his or her choices for any candidate and for or against any measure, and that is to be tabulated on a vote tallying system;))~~ "Political party ballot" means a ballot composed of a list of names of candidates belonging to the same major political party and who have been certified by the secretary of state as provided in RCW 29.19.030.

(5) "Unaffiliated ballot" means a ballot composed of a list of all the candidates certified by the secretary of state as provided in RCW 29.19.030.

(6) "Physically separate ballot" means a ballot specific to a single political party or an unaffiliated ballot. When physically separate ballots are used, all ballots must be issued to each absentee voter unless the voter signs the appropriate oath requesting only one ballot.

(7) "Consolidated ballot" means a single sheet of ballot paper or card upon which multiple ballots may be listed. Such ballots must clearly identify each separate ballot by type and, if used at a polling place, must also be capable of being coded so that only votes cast for candidates matching the oath signed by the voter are counted. Consolidated mail ballots may be coded in the same manner as polling place ballots.

(8) "Voting system" means a voting device, vote tallying system, or combination of these together with ballots and other supplies or equipment used to conduct a presidential primary or to canvass votes cast in a presidential primary;

~~((7))~~ (9) "Voting device" means a piece of equipment used for the purpose of marking, or to facilitate the marking, of a ballot to be tabulated by a vote tallying system, or a piece of mechanical or electronic equipment used to directly record

votes and to accumulate results for a number of issues or offices from a series of voters; ~~((and~~

~~((8)))~~ (10) "Vote tallying system" means a piece of mechanical or electronic equipment and associated data processing software used to tabulate votes cast on ballot cards or otherwise recorded on a voting device or to prepare that system to tabulate ballot cards or count votes;

~~((9)))~~ (11) "Ad-hoc committee" means the committee created under RCW 29.19.020 that has the authority to change the date of the presidential primary.

AMENDATORY SECTION (Amending WSR 96-03-141, filed 1/24/96, effective 2/24/96)

**WAC 434-219-120 Certification of candidates.** In the event the secretary determines a petition bears sufficient signatures he or she shall include the name of that candidate in the official certification of candidates to the county auditors. This certification shall be completed and transmitted to the county auditors not later than the thirty-fourth ~~((day))~~ day prior to the primary.

AMENDATORY SECTION (Amending WSR 96-03-141, filed 1/24/96, effective 2/24/96)

**WAC 434-219-160 Political party and unaffiliated ballots—~~((Separation of political parties))~~ Arrangement.** ~~((Separate ballots for each major political party shall be provided as follows:~~

~~(1) Where a paper ballot is used, a separate ballot shall be prepared for each major political party containing the names of the candidates of that party certified by the secretary of state under WAC 434-75-120;~~

~~(2) Where a ballot card is used, separate ballot cards shall be provided for each major political party. Counties shall employ separate voting devices within each polling place for each major political party. Ballot cards must contain a machine readable pre-punch or a machine readable ballot code to distinguish, within each precinct, each ballot type used.)~~ Ballots for each major political party and unaffiliated ballots shall be provided as follows:

(1) Where candidate names are listed on physically separate ballots, each ballot shall be identified by color and either the name of the political party or as an unaffiliated ballot. Each separate ballot shall contain a machine readable code to distinguish each ballot type within each precinct.

(2) Where candidate names are listed on a consolidated ballot, they shall be printed in such a manner that each party's group of candidates is clearly distinguishable and identified by party name. The unaffiliated ballot may be listed in a separate listing or may be considered a combination of the party ballots. The order of the parties shall be the same as the order in which candidate names are listed on partisan general election ballots.

At a polling place, each ballot must be coded so that only votes cast for candidates of the party matching the oath signed by the voter are counted.

The code shall be a response position on the consolidated ballot identifying one of the major political parties or the unaffiliated status. Its purpose will be to exclude any vote

cast on the ballot that does not correspond to the party or unaffiliated status indicated by the voter on the response position. The voter must mark or punch the appropriate response position corresponding to the oath or declaration on the absentee ballot return envelope. If the vote is cast at a polling place, the voter or precinct election official shall mark or punch the code. If the code is marked or punched by the voter, the precinct election official shall ensure that the code matches the oath or declaration as signed in the poll book. If a consolidated ballot is used in a mail ballot precinct or as an absentee ballot and a party/unaffiliated code is not used, each returning ballot must be segregated by oath and then subsequently inspected to ensure that only votes cast for candidates corresponding to the oath signed by the voter are counted.

#### NEW SECTION

**WAC 434-219-165 Incomplete ballot code on consolidated absentee ballot.** In the event a party/unaffiliated ballot code is used and the absentee voter fails to code his or her ballot as provided by WAC 434-219-160(2), the county auditor shall code the ballot to correspond to the oath signed by the voter on the absentee ballot return envelope.

#### NEW SECTION

**WAC 434-219-170 Order of political parties.** Whenever political party declarations or ballots are printed on the same envelope, card, or sheet of paper, the party which polled the highest number of votes in the state for its candidate for president at the last preceding presidential election shall be listed first. Unaffiliated declarations shall be printed below political party declarations.

AMENDATORY SECTION (Amending WSR 96-03-141, filed 1/24/96, effective 2/24/96)

**WAC 434-219-180 Ballots—Arrangement of names—Instructions.** (1) ~~((Voters who do not make a political party declaration under WAC 434-75-140 shall be issued a))~~ The unaffiliated ballot ((containing)) shall contain the names of all of the candidates certified by the secretary of state under WAC ((434-75-120)) 434-219-120 listed alphabetically under the designation of the office (president of the United States) together with any other issues being submitted to the voters at special elections held in conjunction with the presidential primary.

~~((2) ((Voters who make a political party declaration under WAC 434-75-140 shall be issued a))~~ The political party ballots ((containing)) shall contain the names of all of the candidates certified by the secretary of state under WAC ((434-75-120)) 434-219-120 for that party's nomination listed alphabetically under the designation of the office (president of the United States) together with any other issues being submitted to the voters at special elections held in conjunction with the presidential primary.

~~((3) ((On paper ballots, a printed box shall be placed adjacent to each candidate's name.))~~ Provision for the voter to write-in the name of another candidate shall be provided on each physically separate ballot or for each party's office on a

consolidated ballot. The names of candidates on the presidential primary ballot shall not be rotated.

(4) The ballot shall contain instructions to the voters in substantially the following form:

"~~((VOTE FOR ONE.))~~ If you vote for more than one candidate for this office, your vote in the presidential primary will not be counted."

The instructions shall be printed large enough to be easily read by the voter.

(5) Ballots for each political party and unaffiliated ballots shall be differentiated by color except when using a consolidated ballot.

#### NEW SECTION

**WAC 434-219-185 Logic and accuracy test decks.** No later than fifteen days before the date of the presidential primary, the county auditor shall provide for the preparation of a test deck for logic and accuracy testing.

AMENDATORY SECTION (Amending WSR 96-03-141, filed 1/24/96, effective 2/24/96)

**WAC 434-219-210** ~~((Provisions regarding ballots applicable to absentees.))~~ Issuing absentee and polling place ballots. ~~((Wherever applicable, the provisions regarding the arrangement and form of the presidential primary ballot shall apply to both absentee ballots and to those ballots used at the polling place.))~~ (1) Polling place voters who do not make a political party declaration under WAC 434-219-140 shall be issued either an unaffiliated ballot, or a consolidated ballot coded as an unaffiliated ballot. Polling place voters who make a political party declaration under WAC 434-219-140 shall be issued either that party's ballot or a consolidated ballot coded to match their party oath.

(2) Absentee ballot voters, except as provided in subsection (3) of this section if applicable, shall be issued all unaffiliated and political party ballots, either as physically separate ballots or as a consolidated ballot.

(3) At the discretion of the county auditor, absentee ballots issued directly to the voter at the auditor's office may be issued in the same manner as polling place ballots provided that the voter marks, or verbally refuses to mark, the appropriate declaration on the return envelope prior to receiving the ballot.

AMENDATORY SECTION (Amending WSR 96-03-141, filed 1/24/96, effective 2/24/96)

**WAC 434-219-220 Absentee ballots** ~~((request form))~~ Declarations—Instructions. ~~((Any absentee ballot request form produced for use in the presidential primary must include an option for the voter to subscribe to the declaration of a major political party under WAC 434-219-140 and participate only in the presidential primary of that party. The absentee request shall also contain a statement in substantially the following form:~~

~~"Under Washington's presidential primary law, you may subscribe to a declaration required by the rules of a major political party and receive a ballot containing only the candidates of that political party. The rules of that major political party may provide that votes cast by persons subscribing to this declaration at the presidential primary be used to determine the allocation of delegates and alternates from this state to the national nominating convention of that party. If you wish to receive a ballot containing only the names of presidential candidates for one political party, be sure to sign the declaration for that party."~~

~~Absentee ballot requests for the presidential primary shall in all other respects contain the information required, and be in the form specified, by chapter 29.36 RCW and chapter 434-40 WAC. The secretary of state shall design an absentee ballot application form for the presidential primary and shall provide this form to each county auditor, and to any other person or organization, upon request.))~~ (1) The political party declaration and unaffiliated declaration provided under WAC 434-219-140 shall be printed on the return envelope below the absentee ballot oath provided under WAC 434-240-190. Each declaration shall be printed next to a box in which the voter may make a mark to indicate to which declaration he or she subscribes. The date and signature lines in the absentee ballot oath shall also serve as the date and signature lines for the political party and unaffiliated declarations.

(2) In addition to other instructions normally provided to absentee voters, the county auditor shall ensure that, whenever presidential primary ballots are issued, the voters are given specific instructions on how to mark their ballot so that it will be counted in accordance with the oath they signed on the return envelope. Instructions shall also be provided to the voter on the correct method for writing in a candidate's name on the ballot.

AMENDATORY SECTION (Amending WSR 96-03-141, filed 1/24/96, effective 2/24/96)

**WAC 434-219-230** ~~((Incomplete absentee ballot requests.))~~ Segregation of ballots. ~~((Incomplete absentee ballot applications for the presidential primary shall be handled in the manner provided by WAC 434-40-130 through 434-40-160.))~~ Absentee ballots must be segregated according to major party declaration choice before they are removed from the return envelopes. The number of ballots in each segregated group shall be recorded on a ballot accountability form at each step of the absentee ballot canvassing process. If consolidated absentee ballots are used, they shall be processed in the manner provided by either WAC 434-219-160(2) or, if a party/unaffiliated ballot code is used, by WAC 434-219-165 if applicable.

AMENDATORY SECTION (Amending WSR 96-03-141, filed 1/24/96, effective 2/24/96)

**WAC 434-219-240** ~~((Processing.))~~ Inspection of absentee ballots ~~((requests.))~~ ~~((1) In the event the auditor receives a written request for an absentee ballot that does not include any signed political party declaration or receives a~~

phone request for an unaffiliated absentee ballot, he or she shall send that voter a ballot containing the names of all of the candidates certified by the secretary of state under WAC 434-75-120.

(2) In the event the auditor receives a phone request for an absentee ballot of a major political party, he or she shall send the voter a ballot containing the names of all of the candidates of that party certified by the secretary of state under WAC 434-75-120. The auditor shall include with the ballot and return envelopes the appropriate political party oath together with instructions for executing and returning the signed oath. The political party oath may be affixed to the return envelope or may be on a separate piece of paper to be returned separately from the security envelope.) Each absentee ballot cast by voters who signed a party declaration shall be inspected.

If a voter signs a party oath and votes for a candidate certified by the secretary of state for that party, that voter's ballot shall be grouped and tabulated with the ballots of that party. The number of ballots so voted shall be recorded on the ballot accountability form.

If a voter signs an unaffiliated oath, or does not sign an oath at all, that voter's ballot shall be grouped and tabulated with the unaffiliated ballots. The number of ballots so voted shall be recorded on the ballot accountability form.

Any voter who signs a party oath and then votes for a candidate certified by the secretary of state for a different party shall not have that vote tabulated.

**AMENDATORY SECTION** (Amending WSR 96-03-141, filed 1/24/96, effective 2/24/96)

**WAC 434-219-250** (~~((Ongoing absentee voters.))~~) **Tabulation of ballots.** ~~(((1) Each county auditor shall, prior to the presidential primary, send a ballot request form similar to the one provided under WAC 434-75-220 to each ongoing absentee voter and to all voters in vote by mail precincts in advance of the presidential primary, giving those voters the opportunity to request a ballot containing only the presidential candidates of one major political party. In the event an ongoing absentee voter does not return a ballot request form at least twenty-five days before the date of the primary, that voter shall be sent a ballot containing all of the candidates certified by the secretary of state under WAC 434-75-120.~~

~~(2) If the auditor receives a written or phone request for the ballot of a major political party from any ongoing absentee voter or voter in a vote-by-mail precinct to whom an unaffiliated ballot has already been sent, that request shall be processed as provided under WAC 434-75-240(2).))~~ (1) Any voter who signs a party oath and votes for a candidate certified by the secretary of state for that party shall have that vote tabulated as a political party vote, regardless upon which ballot that vote is cast.

(2) Any voter who signs the unaffiliated oath, or who does not sign an oath at all, shall have that vote tabulated as an unaffiliated vote, regardless upon which ballot that vote is cast.

(3) Any voter who signs a party oath and then votes for a candidate certified by the secretary of state for a different party shall not have that vote tabulated.

## NEW SECTION

**WAC 434-219-255 Tabulating, reporting, and canvassing write-in votes.** (1) Only write-in votes cast by voters who have subscribed to a party declaration shall be tabulated.

(2) The following write-in votes shall not be counted:

(a) Write-in votes cast by unaffiliated voters shall not be tabulated.

(b) Write-in votes cast for a candidate who has been certified by the secretary of state for the same political party as that to which the voter has subscribed, shall not be tabulated.

(c) Write-in votes cast by a voter who has subscribed to a political party declaration and voted for a candidate of that party on another political party's ballot, or an unaffiliated ballot, shall not be tabulated unless the voter has written the proper political party designation next to the candidate's name.

(d) Write-in votes cast for persons who, in the judgment of the county auditor, do not possess the qualifications for the office of President as specified in Article II, Section 1 of the United States Constitution. Such persons are required by the Constitution to be "natural-born citizens" of the United States, at least thirty-five years of age, and residents of the United States for at least fourteen years.

(e) Write-in votes not cast in accordance with RCW 29.04.180.

(3) Except as provided in subsection (2) of this section, all write-in votes shall be tabulated and reported as part of the canvass of votes. The total number of write-in votes not tabulated shall be recorded on a ballot accountability form.

**AMENDATORY SECTION** (Amending WSR 96-03-141, filed 1/24/96, effective 2/24/96)

**WAC 434-219-260 Canvassing and tabulation of presidential primary absentee ballots.** Unless otherwise provided by law, ~~((by the rules of the national or state party of a major political party,))~~ or by these rules, absentee ballots for the presidential primary shall be processed, canvassed, and tabulated, by legislative and congressional district, in the same manner as absentee ballots for other elections.

**AMENDATORY SECTION** (Amending WSR 96-03-141, filed 1/24/96, effective 2/24/96)

**WAC 434-219-270 Vote-by-mail precincts.** Wherever applicable, presidential primary ballots for voters in vote-by-mail precincts shall be issued and processed in the same manner as ballots issued to ongoing absentee voters, as provided by statute ~~((, by the rules of the national or state committee of a major political party,))~~ and by these rules.

**AMENDATORY SECTION** (Amending WSR 96-03-141, filed 1/24/96, effective 2/24/96)

**WAC 434-219-280** (~~Ballots~~) **Votes not tabulated.** In addition to WAC 434-219-255, the county auditor shall not ((count)) tabulate votes ((east for the office of president of the United States)) in the presidential primary in the following cases:

(1) Where the voter has attempted to vote more than once for that office;

(2) Where the voter has voted for candidates of more than one political party, in which case all such votes shall be rejected;

(3) Where a write-in vote is made for a person who has declined the nomination as provided by WAC 434-75-070;

(4) Where the person issued a special or challenged ballot does not otherwise satisfy the constitutional or statutory requirements for voting;

(5) Where the voter has signed a political party oath and then cast a vote other than a write-in vote for a candidate whose name appears on a different party's ballot.

In those instances where the auditor is not sure whether a ballot or part of a ballot should be counted, he or she shall refer that ballot to the county canvassing board for their determination. ~~((The auditor shall maintain a record of those ballots not counted and the reason why they were not part of the official canvass of the primary.))~~

#### NEW SECTION

##### **WAC 434-219-285 Record of ballots not tabulated.**

The auditor shall maintain a record of all ballots not counted and the reason why they were not part of the official canvass of the primary.

AMENDATORY SECTION (Amending WSR 96-03-141, filed 1/24/96, effective 2/24/96)

**WAC 434-219-290 Canvassing and certification of presidential primary.** County canvassing boards shall certify the results of the presidential primary including totals for all write-in votes cast, by congressional and legislative districts, not later than the tenth day following the primary. No later than the twentieth day following the primary, county canvassing boards shall certify totals for all valid write-in votes cast for each candidate and the total of all write-in votes not tabulated, by congressional and legislative districts. The county auditor shall send one original copy of the returns by mail to the secretary of state on the same day the returns are certified. Wherever applicable, the other procedures established by chapter 29.62 RCW for the canvassing of state primaries shall apply to the canvassing of a presidential primary. Not later than the ~~((twentieth))~~ thirtieth day following the presidential primary, the secretary of state shall notify the candidates and the chairperson of the national and state committees of each major political party of the votes cast for each candidate listed on the ballot and of the write-in votes cast for any qualified write-in candidates.

#### NEW SECTION

**WAC 434-219-300 Sealing of voting devices.** The registering mechanism of each mechanical device used in a primary election shall be sealed by the precinct election officers after the polls have closed and remain sealed until ten days after the completion of the canvass of that presidential primary except when:

(1) A recanvass is required; or

(2) A succeeding election occurs within twenty days of the presidential primary.

AMENDATORY SECTION (Amending WSR 96-03-141, filed 1/24/96, effective 2/24/96)

**WAC 434-219-310 ~~((Mandatory))~~ Statutory recount provisions do not apply.** The provisions of chapter 29.64 RCW ((29-64-015)) regarding ~~((mandatory))~~ statutory recounts do not apply to a presidential primary. ~~((However, recounts may be requested under the other provisions of that chapter.))~~

AMENDATORY SECTION (Amending WSR 96-03-141, filed 1/24/96, effective 2/24/96)

**WAC 434-219-320 Political party preference data and results—Transmittal to the major political parties.** No later than thirty days following the certification of the returns of the presidential primary by the secretary of state, the county auditor shall provide to the county and state committee of each major political party, at actual reproduction cost~~((;))~~:

(1) The results of the presidential primary by precinct; and

(2) The names and addresses of those voters participating in the presidential primary of that major political party. This may be accomplished by either:

~~((1))~~ (a) Integrating the ballot request and party preference data with the county voter registration file and producing a registered voter report containing the consolidated data in either machine-readable or printed format, which is provided to each major political party; or

~~((2))~~ (b) Providing to each major political party copies of the political party declarations that indicate the primary in which the voter participated; or

~~((3))~~ (c) Providing each major political party with a copy of the poll book pages upon which the voter has indicated the political party primary in which he or she participated and a separate report covering the declarations of absentee voters.

**WSR 00-03-012  
PERMANENT RULES  
DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES**

(Children's Administration)

[Filed January 7, 2000, 10:49 a.m.]

Date of Adoption: January 7, 2000.

Purpose: To repeal rules that are obsolete, duplicative, and no longer needed for the operation of the program. The chapter makes reference to the old aid to families with dependent children - foster care (AFDC-FC) program instead of the federal Social Security Act, Title IV-E, foster care program. With the passage of the temporary assistance to needy families (TANF) program and the elimination of AFDC at the fed-

eral level, these rules are no longer necessary for the operation of the revised program.

Citation of Existing Rules Affected by this Order: Repealing WAC 388-24-2070, 388-24-2100, 388-24-2150, 388-24-2200, 388-24-2250, 388-24-2350, and 388-24-2430.

Statutory Authority for Adoption: RCW 74.08.090.

Adopted under preproposal statement of inquiry filed as WSR 99-22-036 on October 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 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 7.

Effective Date of Rule: Thirty-one days after filing.

January 7, 2000

Marie Myerchin-Redifer, Manager  
Rules and Policies Assistance Unit

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

- WAC 388-24-2070 Aid to families with dependent children-foster care—Summary of eligibility conditions.
- WAC 388-24-2100 Aid to families with dependent children-foster care—Assistance unit.
- WAC 388-24-2150 Aid to families with dependent children-foster care—Requirements.
- WAC 388-24-2200 Aid to families with dependent children-foster care—Standards and requirements.
- WAC 388-24-2250 Aid to families with dependent children-foster care—Income and nonexempt resources.
- WAC 388-24-2350 Aid to families with dependent children-foster care—Medical care.
- WAC 388-24-2430 Aid to families with dependent children-foster care—Nonprofit agency placement.

**WSR 00-03-015**

**PERMANENT RULES  
SUPERINTENDENT OF  
PUBLIC INSTRUCTION**

[Filed January 7, 2000, 4:27 p.m.]

Date of Adoption: January 7, 2000.

Purpose: These rules update the process by which school districts apply for and receive state special education safety net funding for the 1999-2000 school year and thereafter.

Citation of Existing Rules Affected by this Order: Repealing WAC 392-140-665; and amending WAC 392-140-600, 392-140-601, 392-140-605, 392-140-613, 392-140-625, 392-140-630, 392-140-660, 392-140-675, and 392-140-680.

Statutory Authority for Adoption: RCW 28A.150.290(2).

Other Authority: Section 507(7), chapter 309, Laws of 1999.

Adopted under notice filed as WSR 99-21-006 on October 8, 1999.

Changes Other than Editing from Proposed to Adopted Version: A new subsection is added to WAC 392-140-440 to permit use of state moneys for high cost individual awards if provided for this purpose in the state Operating Appropriations Act.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 3, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 8, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 3, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 9, Repealed 1.

Effective Date of Rule: Thirty-one days after filing.

January 7, 2000

Dr. Terry Bergeson

Superintendent of Public Instruction

**AMENDATORY SECTION** (Amending Order 96-15, filed 9/18/96, effective 10/19/96)

**WAC 392-140-600 Special education safety net—Applicable provisions.** The provisions of WAC 392-140-600 through 392-140-685 apply to the determination of safety net allocations of state special education moneys and Individuals with Disabilities Education Act (IDEA) federal discretionary moneys ((for the 1996-97 school year)).

PERMANENT



**AMENDATORY SECTION** (Amending Order 98-05, filed 3/18/98, effective 4/18/98)

**WAC 392-140-601 Special education safety net—**

**Authority.** The authority for WAC 392-140-600 through 392-140-685 is:

(1) (~~Section 507, chapter 149, Laws of 1997, the~~) The appropriation language for special education programs in the Washington state Biennial Operating Appropriations Act; and

(2) RCW 28A.150.290(1).

**AMENDATORY SECTION** (Amending Order 98-05, filed 3/18/98, effective 4/18/98)

**WAC 392-140-605 Special education safety net—**

**Safety net application—Basis, certification, worksheets.** Application for safety net funding shall be made on Form SPI 1381 published by the superintendent of public instruction as follows:

(1) School districts may make application for safety net funding on the basis of one or more of the following:

(a) Maintenance of effort (state revenue only) hereafter referred to as MOESR. State safety net funding may be requested when a district shows a MOESR loss calculated by the superintendent of public instruction pursuant to WAC 392-140-620.

(b) Special characteristics and costs. State safety net funding may be requested by a school district with special education costs of providing services that are reasonable, but differ significantly from the assumptions contained in the state special education funding formula provided that the applicant school district meets the standards of WAC 392-140-613 and can demonstrate, pursuant to WAC 392-140-625 either of the following:

(i) The district's actual resident special education enrollment exceeds the district's funded resident special education enrollment, the district has adopted a plan of action to contain or eliminate any unnecessary, duplicative, or ineffective enrollment practices, and all available funding, including state, federal, and local if provided in the past, is insufficient to meet the expenditure level necessary for special education; or

(ii) The district's resident special education enrollment percentage is equal to the funded special education enrollment percentage and the district has incurred an adverse change in the demographics of its resident special education enrollment (~~(since the prior school year)~~), and all available funding, including state, federal, and local if provided in the past, is insufficient to meet the expenditure level necessary for special education.

(c) High-cost individual student. A school district may submit applications for (~~federal~~) safety net funding for high-cost individual students meeting the standards in WAC 392-140-616.

(2) The school district making application for safety net funding shall certify that:

(a) The application complies with the respective safety net application standards of WAC 392-140-610, 392-140-613, or 392-140-616;

(b) The application provides true and complete information to the best of the school district's knowledge; and

(c) The district understands that safety net funding is not an entitlement, is subject to adjustment and recovery, may not be available in future years, state safety net funding must be expended in program 21 which impacts the amount that must be maintained for the federal maintenance of effort test, and federal safety net funding must be expended in program 24.

(3) Worksheets included with the application shall demonstrate the need for safety net funding. School districts are encouraged and may be required to submit additional information designed to assist the state oversight committee in analyzing the application.

(a) MOESR applications pursuant to subsection (1)(a) of this section do not require any worksheets.

(b) Special characteristics and costs applications pursuant to subsection (1)(b)(ii) of this section require completion of the narrative and worksheets described in WAC 392-140-625.

(c) High-cost individual student applications shall include completed budget forms SPI F-1000B and SPI E-795B, and worksheets "A" and "C" published in the safety net application.

**AMENDATORY SECTION** (Amending Order 96-15, filed 9/18/96, effective 10/19/96)

**WAC 392-140-613 Special education safety net—Standards—Special characteristics and costs applica-**

**tions.** For a school district requesting state safety net funding due to special enrollment characteristics of the district and costs of providing services which differ significantly from the assumptions contained in the state special education funding formula, the district shall demonstrate at a minimum that:

(1) IEPs are appropriate and are properly and efficiently prepared and formulated.

(2) The district is making reasonable effort to provide appropriate services for students in need of special education utilizing state funding generated by the basic education apportionment and special education funding formulas.

(3) The district's special education services are operated in a reasonably efficient manner and the district has adopted a plan of action to contain or eliminate any unnecessary, duplicative, or inefficient practices.

(4) Indirect costs included for purposes of determining safety net allocations do not exceed the allowable percent for the federal special education program plus one percent.

(5) Any available federal funding is insufficient to address the additional needs.

(6) The costs of any supplemental contracts are not included for purposes of determining safety net allocations. Supplemental contracts are those contracts made pursuant to RCW 28A.400.200(4) excluding extended school year contracts (ESY) required by an IEP.

(7) The costs of any summer school instruction are not included for purposes of making safety net determinations excluding extended school year contracts (ESY) required by an IEP.

AMENDATORY SECTION (Amending Order 98-05, filed 3/18/98, effective 4/18/98)

**WAC 392-140-625 Special education safety net— Demonstration of special characteristics and costs.** Applications pursuant to WAC 392-140-605 (1)(b) must demonstrate special characteristics and costs as provided in this section.

(1) Applications from districts with actual enrollment greater than funded enrollment pursuant to WAC 392-140-605 (1)(b)(i) must demonstrate, through the application narrative, that the district has adopted a plan of action to contain or eliminate any unnecessary, duplicative, or ineffective enrollment practices. The district shall demonstrate a financial need on worksheet "A" of the application. Applicants shall cooperate with the special education program audit team and shall provide the team with any information required by the team to review and verify certifications made on the safety net application.

(2) Applications from districts with actual enrollment equal to funded enrollment pursuant to WAC 392-140-605 (1)(b)(ii) must demonstrate, through the application narrative and on application worksheet "A" and "B," an adverse change in resident special education enrollment characteristics and program costs ~~((since the prior school year))~~. For initial awards, the district must demonstrate adverse change since the prior school year. For continuing awards, the district must demonstrate continued adverse change.

(a) The application narrative completed by the school district shall provide any information and explanations related to special enrollment characteristics as required in the published instructions.

(b) Application worksheet "A" shall demonstrate a financial need by displaying the school district's special education expenditures, revenues, and special education enrollments for the prior and current school years. Application worksheet "B" shall display changes in staff services and staff-to-ratios between the prior and current school years.

(c) Cost differences between the current and prior school years shall be explained in the application narrative. The application narrative shall detail cost differences in services to students which occurred between the current school year and the prior school year. Such details shall include costs and savings associated with each change in services.

(d) A fiscal need shall be demonstrated through the application narrative, on application worksheets "A" and "B," and other information available to the state oversight committee. ~~((Fiscal need shall be demonstrated as follows:~~

~~(i) The application narrative shall provide information and explanations related to fiscal need pursuant to the published instructions.~~

~~(ii) Application worksheets "A" and "B" shall demonstrate a fiscal need in excess of the sum of:~~

~~(A) All current school year safety net awards to the district for MOESR or special characteristics and costs;~~

~~(B) Any previous high cost individual safety net awards for the current school year; and~~

~~(C) All other available revenue for special education including all carryover of federal special education revenue.~~

~~((iii) The school district shall provide additional information as requested by the state oversight committee.))~~

#### NEW SECTION

**WAC 392-140-626 Special education safety net— Demonstration of need.** Applications for special characteristics and costs and high cost individual students shall demonstrate financial need as follows:

(1) Application worksheet "A" shall demonstrate a fiscal need in excess of the sum of:

(a) All current school year safety net awards to the district for MOESR or special characteristics and costs;

(b) Any previous safety net awards for the current school year; and

(c) All other available revenue for special education, including all carryover of federal special education revenue.

(2) Awards for special characteristics and costs pursuant to WAC 392-140-605 (1)(b)(ii) and high cost individual awards shall not exceed the amount of need demonstrated on the worksheet "A."

(3) Worksheets submitted with safety net applications are to reflect an excess cost basis of accounting, consistently applied for both years presented. The district may be required to describe the district's excess cost methodology.

(4) The safety net oversight committee may revise the district's worksheet "A" submitted for errors or omissions.

(5) The school district shall provide additional information as requested by the state oversight committee.

(6) After the close of the school year, the safety net oversight committee may review the worksheet "A" used to determine need for a district's award against the actual final school year enrollments, revenues, and expenditures reported by the district. Based upon the results of this review:

(a) The safety net allocation for the school year may be adjusted or recovered; or

(b) If the committee finds that a portion of the safety net allocation was not needed to balance revenues and expenditures, the committee may consider that portion of the allocation available to meet the needs of the ensuing school year.

AMENDATORY SECTION (Amending Order 98-05, filed 3/18/98, effective 4/18/98)

**WAC 392-140-630 Special education safety net— Special education program audit team—Purpose, procedures.** The special education program audit team consists of staff of the state auditor's office funded in the Biennial Operating Appropriations Act to audit special education programs that exhibit unusual rates of growth, extraordinarily high costs, or other characteristics requiring the attention of the state safety net oversight committee. When reviewing a school district's special education program, the audit team shall review and verify any certifications and supporting information provided by the district in a safety net application. The audit team shall provide the results of the review to the state oversight committee. The results of the audit team's review ~~((may))~~ shall be considered by the oversight committee in determining, adjusting, or recovering safety net awards.

PERMANENT

**AMENDATORY SECTION** (Amending Order 98-05, filed 3/18/98, effective 4/18/98)

**WAC 392-140-660 Special education safety net—Approved application—**~~(Initial state)~~ **Special education safety net allocations.** The total amount allocated to school districts may not exceed the authorized appropriation.

(1) ~~The ((initial)) special education safety net allocation ((of state moneys for applicants)) shall be the smaller of:~~

- (a) The amount requested by the school district; or
- (b) The amount authorized by the state oversight committee.

(2) ~~((The initial))~~ If the district requests and the oversight committee approves the "full" allocation permitted by a state formula, then the allocation shall be adjusted periodically during the year and again in January after the close of the school year to reflect the amount determined under the formula.

(3) Special education safety net allocations of state moneys for special characteristics applicants under WAC 392-140-605 (1)(b) shall be prorated if ((the state)) total year-to-date state allocations for all safety net applications under WAC 392-140-605 (1)(a) and (b) exceed the authorized appropriation for that school year.

(4) Special education safety net allocations for high-cost individual students under WAC 392-140-605 (1)(c) shall first use appropriated federal moneys. If federal moneys are insufficient, state moneys may be used if provided for this purpose in the state Operating Appropriations Act, otherwise high-cost individual student allocations shall be prorated as needed to stay within the authorized federal appropriation.

**AMENDATORY SECTION** (Amending Order 98-05, filed 3/18/98, effective 4/18/98)

**WAC 392-140-675 Special education safety net—**~~(Adjusted)~~ **Adjustments to special education safety net allocations.** Safety net allocations ~~((amounts for a school district))~~ may be adjusted ~~((during the school year))~~ as follows:

(1) ~~((The initial state and federal))~~ For those districts not maximizing Medicaid billing for special education students under chapter 318, Laws of 1999, special education safety net allocations shall be reduced by the estimated potential additional incentive payments for the school year if the district maximized Medicaid incentive payments. Potential additional incentive payments shall be estimated by the superintendent of public instruction based on the district's percent of Medicaid eligible students billed and a state-wide average incentive payment per student determined by the superintendent in October of the school year. The average incentive payment per student shall be determined using the prior school year's state-wide Medicaid billing data assuming fifty percent incentive payments for all school districts. The superintendent of public instruction shall update Medicaid billing adjustments to safety net allocations periodically during the school year and again in January following the close of the school year.

(2) Special education safety net allocations ((amounts)) for a school district may be adjusted to reflect changes in factors for which additional or revised information becomes

available after the awarding of the initial safety net allocation. This means:

(a) MOESR awards for the "full" amount shall be increased, reduced, or nullified when a recalculation pursuant to WAC 392-140-620 results in a ((loss smaller than any loss)) change in the amount previously calculated pursuant to WAC 392-140-620.

(b) Special characteristics and costs awards for the full amount under WAC 392-140-605 (1)(b)(i) shall be increased, reduced, or nullified when the district's enrollment or state funding factors change.

(c) Special characteristics and costs awards may be reduced or nullified when the school district's actual revenues and expenditures for the school year differ significantly from the estimates on which the initial safety net award was based.

~~((e))~~ (d) A school district's safety net award may be adjusted by the safety net oversight committee based on the results of the review conducted by the special education program audit team pursuant to WAC 392-140-630.

~~((2) The initial special education safety net))~~ (3) Allocations of state moneys for special characteristics applicants under WAC 392-140-605 (1)(b) shall be ((subject to additional proration)) prorated if total state allocations for all safety net applications under WAC 392-140-605 (1)(a) and (b) exceed the authorized appropriation for that school year. Allocations shall be restored to full funding if additional appropriation authority becomes available.

**AMENDATORY SECTION** (Amending Order 98-05, filed 3/18/98, effective 4/18/98)

**WAC 392-140-680 Special education safety net—Recovery of state allocations to school districts.** State safety net funding is provided in revenue account 4121. Safety net funding:

(1) Shall be recovered or reduced for the following reasons:

(a) Unexpended account 4121 revenues are recovered in the subsequent school year pursuant to WAC 392-122-900.

(b) Any necessary adjustments pursuant to WAC 392-140-675 were not previously made.

(c) The periodic and/or final MOESR calculation performed by the superintendent of public instruction determines that a lesser amount is needed for maintenance of effort (state revenue only).

(d) ~~((The district did not use or failed to apply for available Medicaid or federal flow-through special education funding.~~

(e)) The application contains a falsification or deliberate misrepresentation, including omission of a material fact.

(f)) (e) The state auditor's financial and legal compliance audit includes findings which materially affect the school district's safety net application.

(2) May be recovered or reduced for the following reasons:

(a) IEPs are determined at a later date through state audit or child count verification to be inappropriate or improperly prepared, and appropriate and proper preparation would materially affect the justification or amount of need for safety net funding.

(b) The school district has carryover of federal flow-through special education funding from the previous school year.

(c) The state oversight committee finds grounds for adjustment in the special education program audit team's review pursuant to WAC 392-140-630.

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 392-140-665      Special education safety net—Approved application—Initial federal special education safety net allocation.

#### **WSR 00-03-023**

##### **PERMANENT RULES**

#### **WASHINGTON STATE PATROL**

[Filed January 10, 2000, 1:59 p.m.]

Date of Adoption: January 10, 2000.

Purpose: For the safety of rural newspaper carriers and the public.

Citation of Existing Rules Affected by this Order: Amending WAC 204-38-030, 204-38-040, and 204-38-050.

Statutory Authority for Adoption: RCW 46.37.005, 46.37.280.

Adopted under notice filed as WSR 99-24-110 on December 1, 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 3, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 3, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 3, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 10, 2000

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 00-03-029**

**PERMANENT RULES**

**DEPARTMENT OF**

**SOCIAL AND HEALTH SERVICES**

(Aging and Adult Services Administration)

[Filed January 11, 2000, 2:42 p.m.]

Date of Adoption: January 11, 2000.

Purpose: Regulatory reform as outlined in Governor's Order 97-02. Implementation of changes and new regulations from SHB 1620 and SHB 1880 passed during the 1999 legislative session. SHB 1620 requires the reporting of incidents of harm to vulnerable adults, the investigation of those reports, and the provision of protective services. This statute also defines who is a vulnerable adult, abuse, abandonment, financial exploitation, neglect, and self-neglect. SHB 1880 requires that the department establish a registry of individuals who harm a vulnerable adult who is self-directing his or her own care.

Citation of Existing Rules Affected by this Order: Repealing WAC 388-15-120.

Statutory Authority for Adoption: RCW 74.08.090, 74.34.165, and 74.39A.050(9).

Adopted under notice filed as WSR 99-23-077 on November 16, 1999.

Changes Other than Editing from Proposed to Adopted Version: WAC 388-71-0115, in response to public comment the word "necessary" was replaced with the word "required."

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 6, Amended 0, Repealed 1.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 6, 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 6, Amended 0, Repealed 1.

Effective Date of Rule: Thirty-one days after filing.

January 11, 2000

Marie Myerchin-Redifer, Manager  
Rules and Policies Assistance Unit

**ADULT PROTECTIVE SERVICES**

**NEW SECTION**

**WAC 388-71-0100** What are the statutory references for WAC 388-71-0100 through 388-71-0155? The statutory references for WAC 388-71-0100 through WAC 388-71-0155 are:

- (1) Chapter 74.34 RCW;
- (2) Chapter 74.39A. RCW; and
- (3) Chapter 74.39 RCW.

**NEW SECTION**

**WAC 388-71-0105** What definitions apply to adult protective services and the personal aide registry? In addition to the definitions found in chapter 74.34 RCW, the following definitions apply:

"Basic necessities of life" means food, water, shelter, clothing, and medically necessary health care, including but not limited to health-related treatment or activities, hygiene, oxygen, and medication.

"Legal representative" means a guardian appointed under chapter 11.88 RCW or individual named in a durable power of attorney as the attorney-in-fact as defined under chapter 11.94 RCW.

"Person or entity with a duty of care" includes, but is not limited to, the following:

- (1) A guardian appointed under chapter 11.88 RCW; or
- (2) A person or entity providing the basic necessities of life to vulnerable adults where:
  - (a) The person or entity is employed by or on behalf of the vulnerable adult; or
  - (b) The person or entity voluntarily agrees to provide, or has been providing, the basic necessities of life to the vulnerable adult on a continuing basis.

"Personal aide" as found in RCW 74.39.007.

"Self-directed care" as found in RCW 74.39.007.

NEW SECTION

**WAC 388-71-0110 What is the purpose of an adult protective services investigation?** The purpose of an adult protective services investigation is to:

- (1) Determine if allegations of abandonment, abuse, financial exploitation, neglect, or self-neglect are valid.
- (2) Provide protective services on valid reports with the consent of the vulnerable adult or his or her legal representative.
- (3) Determine if other vulnerable adults are at risk of being harmed by individual who has abused, neglected, abandoned or financially exploited the vulnerable adult.
- (4) Inform the program or facility providing care for the vulnerable adult that the reported incident of abandonment, abuse, financial exploitation, or neglect occurred. The information provided to the facility or program is required to be consistent with confidentiality requirements concerning the vulnerable adult, witnesses, and complainants.

NEW SECTION

**WAC 388-71-0115 When is an investigation conducted?** The department determines when an investigation is required. The following criteria must be met:

- (1) The reported circumstances fit the definition of abandonment, abuse, financial exploitation, neglect, or self-neglect found in chapter 74.34 RCW; and
- (2) The victim is a vulnerable adult defined in chapter 74.34 RCW.

NEW SECTION

**WAC 388-71-0120 What adjunct services are provided?** Chore personal care services and placement into a licensed and contracted adult family home or state funded adult residential care facility are provided without regard to income only:

- (1) When the services are essential to, and a subordinate part of, the adult protective services plan; and
- (2) For a period not to exceed ninety days during any twelve-month period of time.

**PERSONAL AIDE STATE REGISTRY**NEW SECTION

**WAC 388-71-0150 When is the name of a personal aide placed on a registry?** The name of a personal aide providing self-directed care for a vulnerable adult is placed on the registry when:

- (1) An incident of abandonment, abuse, financial exploitation, or neglect of the vulnerable adult has been substantiated by the department; and
- (2) The personal aide has either waived his or her right to a fair hearing or the hearing process results in upholding the finding of abandonment, abuse, financial exploitation, or neglect.

NEW SECTION

**WAC 388-71-0155 Prior to placing his or her name on the registry is the personal aide notified?** The following information must be sent to the personal aide prior to placing his or her name on the registry:

- (1) Nature and date of the alleged abandonment, abuse, financial exploitation, or neglect.
- (2) Right to a fair hearing, as described in chapters 34.05 RCW and 388-08 WAC.
- (3) Intent to place identifying information about the personal care aide on a registry.
- (4) That the personal aide's failure to request a fair hearing within thirty days will result in his or her name being placed on the registry.
- (5) That the name of the personal aide will be placed on the registry if the hearing process results in upholding the department's finding of abandonment, abuse, financial exploitation, or neglect.
- (6) That the personal aide has a right to be represented at a fair hearing at his or her own expense.
- (7) That, upon request of any person, the department will disclose the substantiated finding of abandonment, abuse, financial exploitation, or neglect and the identifying information regarding a personal aide whose name appears on a registry.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 388-15-120 Adult protective services.

**WSR 00-03-030****PERMANENT RULES****LAKE WASHINGTON****TECHNICAL COLLEGE**

[Filed January 12, 2000, 11:13 a.m.]

Date of Adoption: January 10, 2000.

Purpose: To amend WAC 495D-135-040 to reflect changes necessary to comply with federal and state provisions for calculations and payment of student refunds.

Citation of Existing Rules Affected by this Order: Amending WAC 495D-135-040.

Statutory Authority for Adoption: RCW 28B.50.140.

Adopted under notice filed as WSR 99-20-098 on October 5, 1999.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 1, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 10, 2000

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 495D-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 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 00-03-031**

**PERMANENT RULES**

**LAKE WASHINGTON**

**TECHNICAL COLLEGE**

[Filed January 12, 2000, 11:17 a.m.]

Date of Adoption: January 10, 2000.

Purpose: To amend WAC 495D-120-040 to provide the college with adequately comprehensive definition of student misconduct.

Citation of Existing Rules Affected by this Order: Amending WAC 495D-120-040.

Statutory Authority for Adoption: RCW 28B.50.140.

Adopted under notice filed as WSR 99-20-097 on October 5, 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 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 10, 2000

L. Michael Metke, Ed.D  
President

**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.

**WSR 00-03-034**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Medical Assistance Administration)  
(Economic Services Administration)  
[Filed January 12, 2000, 3:50 p.m.]

Date of Adoption: January 12, 2000.

Purpose: To clarify that this chapter does not apply to requests for noncovered medical or dental services or equipment, and to refer the reader to WAC 388-501-0160 for that information.

Citation of Existing Rules Affected by this Order: Amending WAC 388-440-0001 and 388-440-0005.

Statutory Authority for Adoption: RCW 74.04.050, [74.04.]055, [74.04.]057, and 74.08.090.

Adopted under notice filed as WSR 99-20-108 on October 6, 1999.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 2, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 2, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 2, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 12, 2000

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 388-440-0001 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 00-03-035**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Medical Assistance Administration)  
[Filed January 12, 2000, 3:53 p.m.]

Date of Adoption: January 12, 2000.

Purpose: These rules were rewritten to comply with the principles in the Governor's Executive Order 97-02.

WAC 388-501-0165 is amended to clarify directions for requesting prior authorization for a medical or dental service or medical equipment. It is further amended to reflect MAA's current practice of offering fair hearing rights for denials of noncovered services and equipment.

WAC 388-501-0160 provides directions for requesting a noncovered service or equipment as an exception to rule, and clarifies the total time (from receipt to notification) of processing an exception to rule (timelines were in WAC 388-200-1160 (which is being repealed by this order)). This rule previously referenced WAC 388-200-1150, which was repealed and replaced with chapter 388-440 WAC. Chapter 388-440 WAC is being amended on a separate CR-103 to clarify that it does not apply to requests for noncovered medical or dental services or equipment.

WAC 388-200-1160 is being repealed.

Citation of Existing Rules Affected by this Order: Repealing WAC 388-200-1160; and amending WAC 388-501-0160 and 388-501-0165.

Statutory Authority for Adoption: RCW 74.08.090, 74.04.050, 74.09.035.

Adopted under notice filed as WSR 99-20-107 on October 6, 1999.

Changes Other than Editing from Proposed to Adopted Version: After careful review and consideration of the comments received in response to the proposed rules, MAA made the following changes:

WAC 388-501-0165: MAA changed the wording and reorganized WAC 388-501-0165 so that it applies to all requests for prior authorization (for covered and noncovered services/equipment). It describes the notice MAA sends when denying a noncovered service, which includes notification of hearing rights. It also allows MAA to approve a noncovered service or equipment as an exception to rule (ETR), even if the client or provider did not specifically ask for an exception. This does not limit the provider/client's right to request an ETR according to the provisions of WAC 388-501-0160 if their request for a noncovered service or equipment is denied based on WAC 388-501-0165.

The adopted version clarifies that MAA makes the determination in subsection (2).

MAA replaced the reference to "community standard of practice" with "medical/dental standard of practice" and further clarified by adding the word "investigative."

MAA also clarified issues around requesting and paying for an independent medical/dental assessment.

WAC 388-501-0160 was changed in response to public comments by:

- Clarifying that a client and/or their provider can request an exception to rule, and
- Deleting the requirement that documentation must be submitted by the provider. The clinical information should come from the provider, but can be packaged and sent by the client or the client's representative.

The changes were made in response to public comments received by MAA. A copy of the concise explanatory statement is available by contacting Paige Wall, Department of Social and Health Services, Rules Coordinator, Rules and Policies Assistance Unit, P.O. Box 45850, Olympia, WA 98504-5850, fax (360) 664-6185, phone (360) 664-6094, e-mail wallpg@dshs.wa.gov.

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 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 2, 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 2, Repealed 1.

Effective Date of Rule: Thirty-one days after filing.  
January 12, 2000  
Marie Myerchin-Redifer, Manager  
Rules and Policies Assistance Unit

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

WAC 388-501-0160 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)) and/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 submitted 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 from 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 section of the Washington Administrative Code is repealed:

WAC 388-200-1160 Notification of exception to rule request and decision.

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

WAC 388-501-0165 ~~((Medical services request)) Determination process for coverage of medical equipment and medical or dental services.~~ This section applies to fee for service (FFS) requests for 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 circumstances 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:~~

PERMANENT

~~(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.~~

~~(e) Send to the client a copy of the request for additional information justifying medical necessity for durable medical equipment or a prosthetic device.~~

~~(6) When the department denies)) MAA evaluates requests on an individual basis, and bases the decision to approve or deny on submitted and obtainable evidence.~~

~~(2) MAA denies a request when MAA determines the service or equipment is not:~~

~~(a) Medically/dentally necessary;~~

~~(b) Covered; or~~

~~(c) Generally considered as acceptable treatment by the medical/dental profession based on the medical/dental standard of practice, or is investigative or 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.~~

~~(3) Requests for covered services and equipment 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.~~

~~(4) The examining physician/dentist responsible for the client's diagnosis and/or treatment must submit specific evidence sufficient to determine if the covered service or equipment 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.~~

~~(5) 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.

(6) 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 (4) 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.

(7) When MAA denies all or part of a request ((for medical services, including all or part of a requested service, the department shall)) for a covered service(s) or equipment, 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 reference(s) 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)) (5) 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)).

(8) When MAA receives a request for a noncovered service(s) or equipment, MAA may:

(a) Approve the request as an exception to rule according to WAC 388-501-0160; or

(b) Deny the request as a noncovered service, and send the client and the provider written notice of the denial within five working days of the decision. The notice includes:

- (i) The WAC reference(s) used as a basis for the decision;
- (ii) The reason for the denial;
- (iii) Notice of the client's right to a fair hearing and filing deadlines;
- (iv) Instructions about how to request the hearing;
- (v) A statement that the client may be represented at the hearing by legal counsel or other representative; and
- (vi) Upon the client's request, the name and address of the nearest legal services office.
- (9) If a fair hearing is requested, MAA or the client may request an independent medical/dental assessment. MAA will pay for the independent assessment if MAA agrees that it is necessary, or a fair hearing judge determines that the assessment is necessary.

**WSR 00-03-042**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 00-07—Filed January 13, 2000, 2:34 p.m.]

Date of Adoption: December 10, 1999.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order:  
 Amending WAC 220-52-071 and 220-52-073.

Statutory Authority for Adoption: RCW 75.08.080.

Adopted under notice filed as WSR 99-22-053 on November 1, 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 2, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 2, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 13, 2000

Debbie Nelson

for Kelly White, Chairman  
 Fish and Wildlife Commission

AMENDATORY SECTION (Amending Order 99-126, filed 8/13/99, effective 9/13/99)

**WAC 220-52-071 Sea cucumbers.** It is unlawful to take or possess sea cucumbers taken for commercial purposes except as provided for in this section.

**(1) Sea cucumber districts:**

(a) Sea Cucumber District 1 is defined as those waters of Marine Fish-Shellfish Management and Catch Reporting Areas 20A, 20B, 21A, 21B, 22A, 22B, and 23B outside of the following closed areas:

(i) San Juan Channel and Upright Channel within the following lines: North of a line from Cattle Point on San Juan Island to Davis Point on Lopez Island and south of a line projected from Flat Point on Lopez Island true west to Shaw Island; west of a line from Neck Point on Shaw Island to Steep Point on Orcas Island; south of a line from Steep Point on Orcas Island to Limestone Point on San Juan Island.

(ii) Haro Strait north of a line projected east-west one-half mile south of Eagle Point on San Juan Island and south of a line projected east-west one-quarter mile north of Lime Kiln Light on San Juan Island.

(iii) Within one-quarter mile of Green Point on Spieden Island.

(iv) Within one-quarter mile of Gull Reef, located between Spieden Island and Johns Island.

(b) Sea Cucumber District 2 is defined as those waters of Marine Fish-Shellfish Management and Catch Reporting Areas 23A, 23C, 23D, 25A, 25B, 25C, 25D, 25E, 29 and those waters west of the Bonilla-Tatoosh Line, Pacific Ocean waters, Grays Harbor, Willapa Bay, and the waters at the mouth of the Columbia River west of the Buoy 10 Line.

(c) Sea Cucumber District 3 is defined as those waters of Marine Fish-Shellfish Management and Catch Reporting Areas 24A, 24B, 24C, 24D, 26A, 26B, 26C, and 26D.

(d) Sea Cucumber District 4 is defined as those waters of Marine Fish-Shellfish Management and Catch Reporting Areas 27A, 27B, 27C, 28A, 28B, 28C, and 28D.

**(2) Sea cucumber areas and seasons:**

Sea cucumber areas and seasons will be set by emergency rule.

**(3) Shellfish diver gear:**

(a) Divers operating from a vessel must have a number assigned by the department placed on both sides and the top of the vessel in such a manner that the number is clearly visible when the vessel is viewed from either side or from the air, and the letters must be black on white no less than eighteen inches in height and of proportional width.

(b) Only one diver from each harvesting vessel is allowed in the water at any one time during the sea cucumber harvest operation or when commercial quantities of sea cucumbers are aboard except that two divers may be in the water if the vessel has been designated on two sea cucumber dive fishery licenses.

(c) Divers may not fish for or possess geoduck clams during commercial sea cucumber harvesting operations, or possess geoduck clams on a vessel that has sea cucumbers on board.

(d) Licensing: A sea cucumber dive fishery license is the license required to operate the gear provided for in this section.

**(4) Trawl gear:**

It is unlawful to fish for or possess sea cucumbers taken with trawl gear.

PERMANENT

**AMENDATORY SECTION** (Amending Order 94-23, filed 5/19/94, effective 6/19/94)

**WAC 220-52-073 Sea urchins.** It is unlawful to take or possess sea urchins taken for commercial purposes except as provided for in this section.

**(1) Sea urchin districts:**

(a) Sea Urchin District 1 (Northern San Juan Islands) is defined as Marine Fish-Shellfish Management and Catch Reporting Areas 20A, 20B, and those waters of Area 22A north of a line projected east-west one-quarter mile north of Lime Kiln Light on San Juan Island and west of a line projected true north from Limestone Point on San Juan Island. The following areas within Sea Urchin District 1 are closed to the harvest of sea urchins at all times:

(i) Those waters within one-quarter mile of Green Point on Spieden Island.

(ii) Those waters within one-quarter mile of Gull Reef, located between Spieden and Johns Island.

(b) Sea Urchin District 2 (Southern San Juan Islands and Port Townsend) is defined as those waters of Marine Fish-Shellfish Management and Catch Reporting Area 22A south of a line projected east-west one-quarter mile north of Lime Kiln Light on San Juan Island and east of a line projected true north from Limestone Point on San Juan Island and Areas 21A, 21B, 22B, 23B and 25A. The following areas within Sea Urchin District 2 are closed to the harvest of sea urchins at all times:

(i) Those waters of Haro Strait north of a line projected east-west one-half mile south of Eagle Point on San Juan Island and south of a line projected east-west one-quarter mile north of Lime Kiln Light on San Juan Island.

(ii) Those waters of San Juan Channel and Upright Channel within the following lines: North of a line from Cattle Point on San Juan Island to Davis Point on Lopez Island; south of a line projected from Flat Point on Lopez Island true west to Shaw Island; west of a line from Neck Point on Shaw Island to Steep Point on Orcas Island; south of a line from Steep Point on Orcas Island to Limestone Point on San Juan Island.

(c) Sea Urchin District 3 (Port Angeles) is defined as those waters of Marine Fish-Shellfish Management and Catch Reporting Area 23C east of a line projected true north from Low Point, and Area 23D.

(d) Sea Urchin District 4 (Sekiu) is defined as those waters of Marine Fish-Shellfish Management and Catch Reporting Area 23C west of a line projected true north from Low Point and those waters of Area 29 east of a line projected true north from the mouth of Rasmussen Creek (3.1 miles southeast of Sail Rock).

(e) Sea Urchin District 5 is defined as those waters of Marine Fish-Shellfish Management and Catch Reporting Area 29 west of a line projected true north from the mouth of Rasmussen Creek (3.1 miles southeast of Sail Rock) and Areas 59A and 59B. Within Sea Urchin District 5, waters within one-quarter mile of Tatoosh Island are closed to the harvest of sea urchins at all times.

**(2) Sea urchin seasons and sizes:**

Sea urchin seasons and sizes will be set by emergency rule.

**(3) Shellfish diver gear:**

(a) It is unlawful to take sea urchins by any means other than shellfish diver gear.

(b) Divers may only use hand-operated equipment that does not penetrate the shell.

(c) Sea urchins may not be taken from water shallower than 10 feet below mean lower low water.

(d) Purple sea urchins may not be taken.

(e) Divers operating from a vessel must have a number assigned by the department, placed on both sides and the top of the vessel in such a manner that the number is clearly visible when the vessel is viewed from either side or from the air and the number must be black on white no less than 18 inches high and of proportionate width.

(f) Divers may not take sea urchins from one-half hour after sunset to one-half hour before sunrise.

(g) No processing of sea urchins is permitted aboard the harvest vessel.

(h) Divers may not take sea urchins for use other than as human food.

(i) Only one diver from each harvesting vessel is allowed in the water at any one time during the sea urchin harvesting operation or when commercial quantities of sea urchins are aboard except that two divers may be in the water if the vessel has been designated on two sea urchin dive fishery licenses.

(j) Variance from any of the provisions of this subsection is only allowed if authorized by a permit issued by the director.

(k) Licensing: A sea urchin dive fishery license is the license required to operate the gear provided for in this section.

**WSR 00-03-043**

**PERMANENT RULES**

**DEPARTMENT OF**

**SOCIAL AND HEALTH SERVICES**

(Aging and Adult Services Administration)

[Filed January 13, 2000, 4:00 p.m.]

Date of Adoption: January 13, 2000.

Purpose: Rules repeal WAC 388-15-196 through 388-15-19680 and 388-15-198, and move them to WAC 388-71-0500 through 388-71-0580. These rules implement provisions of RCW 74.39A.095, 74.39A.090, and 74.39A.050 relating to individual provider qualifications. Describes when the department/AAA may contract with and authorize payment to an individual provider and when they may deny payment or terminate a contract, and when they may deny payment to a home care agency provider. Requires persons who are performing health-related tasks directed by their client employers to meet quality assurance requirements the department establishes.

Citation of Existing Rules Affected by this Order: Repealing WAC 388-15-196, 388-15-19610, 388-15-19620, 388-15-19630, 388-15-19640, 388-15-19650, 388-15-19660, 388-15-19670, and 388-15-19680.

Statutory Authority for Adoption: RCW 74.08.090, 74.09.520, 43.20A.050, 43.43.842.

Other Authority: RCW 74.39A.090, 43.20A.710, 74.39.050, 43.43.830.

Adopted under notice filed as WSR 99-23-078 on November 16, 1999.

Changes Other than Editing from Proposed to Adopted Version:

- WAC 388-71-0510(3), clarified exclusion of DDD parent providers, per chapter 74.15 RCW;
- WAC 388-71-0540 (5) and (6) were deleted; WAC 388-71-0540(7) was deleted because a rule with this criteria already exists in WAC 388-825-272(3);
- WAC 388-71-0540, new, adds language to preclude contracting with an individual provider who the department/AAA determines to be unable to appropriately meet the client's needs, per RCW 74.39A.095 (7) or (8);
- WAC 388-71-0545(4), is moved to WAC 388-71-0550; WAC 388-71-0550, deletes "including relatives" and adds "deny payment," to clarify that payment can be denied without termination of a contract; and
- WAC 388-71-0550(5), removes the second sentence regarding the caregiver strain index.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 7, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 14, Amended 0, Repealed 11.

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 14, Amended 0, Repealed 11.

Effective Date of Rule: Thirty-one days after filing.

January 13, 2000

Marie Myerchin-Redifer, Manager  
Rules and Policies Assistance Unit

#### NEW SECTION

**WAC 388-71-0500 What is the purpose of WAC 388-71-0500 through 388-71-0580?** An adult client/legal guardian may choose an individual provider or a home care agency provider. The intent of WAC 388-71-0500 through 388-71-0580 is to describe the:

- (1) Qualifications of an individual provider, as defined in WAC 388-15-202 (25) and (26);
- (2) Qualifications of a home care agency provider, as defined in WAC 388-15-202(2) and chapter 246-336 WAC;
- (3) Conditions under which the department/area agency on aging (AAA) will pay an individual provider; and
- (4) Conditions under which the department/AAA may deny a contract to an individual provider or terminate payment to an individual provider or a home care agency provider.

#### NEW SECTION

**WAC 388-71-0505 How does an adult client hire an individual provider?** The adult client, or legal guardian, as defined in chapter 11.88 RCW:

- (1) Has the primary responsibility for locating, screening, hiring, and terminating an individual provider;
- (2) Establishes an employer/employee relationship with the provider; and
- (3) May receive assistance from the social worker/case manager or other resources in this process.

#### NEW SECTION

**WAC 388-71-0510 How does a person become an individual provider?** In order to become an individual provider, a person must:

- (1) Be eighteen years of age or older;
- (2) Provide the social worker/case manager/designee with:
  - (a) Picture identification; and
  - (b) A Social Security card; or
  - (c) Authorization to work in the United States;
- (3) Complete and submit to the social worker/case manager/designee the department's criminal conviction background inquiry application, unless the provider is also the parent of the adult DDD client and exempted, per chapter 74.15 RCW. Preliminary results may require a thumb print or an interstate background check; and
- (4) Sign a home and community-based service provider contract/agreement to provide services to a COPES or Medicaid personal care client, or other department contract or agreement.

#### NEW SECTION

**WAC 388-71-0515 What are the responsibilities of an individual provider or home care agency provider when employed to provide care to an adult client?** An individual provider or home care agency provider must:

- (1) Understand the client's service plan, which is written in clear language, signed by the client or legal representative and social worker/case manager, and translated or interpreted, as necessary, for the client and the provider;
- (2) Provide the services as outlined on the client's service plan, within the scope of practice in WAC 388-15-202(38) and 388-15-203;
- (3) Accommodate client's individual preferences and differences in providing care, within the scope of the service plan;
- (4) Contact the client's representative and case manager when there are changes which affect the personal care and other tasks listed on the service plan;
- (5) Observe the client for change(s) in health, take appropriate action, and respond to emergencies;
- (6) Notify the case manager immediately when the client enters a hospital, or moves to another setting;
- (7) Notify the case manager immediately if the client dies;

(8) Notify the department/AAA immediately when unable to staff/serve the client; and

(9) Notify the department/AAA when the individual provider or home care agency will no longer provide services. Notification to the client/legal guardian must:

- (a) Give at least two weeks' notice, and
- (b) Be in writing.

(10) In addition to the above requirements, the individual provider and home care agency provider must:

(a) Complete and keep accurate time sheets that are accessible to the social worker/case manager; and

(b) Maintain certain employment standards, which include:

- (i) Maintaining a drug/alcohol-free work place;
- (ii) Absence of criminal activity; and
- (iii) Skills, knowledge, ability, and willingness to provide services.

#### NEW SECTION

**WAC 388-71-0520 Are there educational requirements for an individual provider or a home care agency provider of an adult client?** There are educational requirements for an individual provider or a home care agency employee. They must:

(1) Possess a certificate of successfully completing department-designated fundamentals of caregiving training within one hundred and twenty days after beginning employment;

(2) Complete a minimum of ten hours of continuing education credits each calendar year following the year in which the fundamentals of caregiving training is taken. One hour of completed instruction equals one hour of credit on topics that pertain to services provided in an in-home setting including, but not limited to:

- (a) Client's rights;
- (b) Personal care (such as transfers or skin care);
- (c) Mental illness;
- (d) Dementia;
- (e) Depression;
- (f) Medication assistance;
- (g) Communication skills;
- (h) Alternatives to restraints;
- (i) Activities for clients; and

(3) Provide the department/AAA with proof of completion of continuing education credits.

#### NEW SECTION

**WAC 388-71-0525 Are there any exemptions from the training requirements?** In lieu of the fundamentals of caregiving training, an individual provider or home care agency provider can:

- (1) Pass the department's challenge test for the required class. This test can be taken only once;
- (2) Complete the department designated modified fundamentals of caregiving training and be a:
  - (a) Registered or licensed practical nurse;
  - (b) Physical or occupational therapist;

(c) Certified nursing assistant; or

(d) Medicare-certified home health aide; or

(3) Complete the required division of developmental disabilities' (DDD) staff training if they are employed by, and continue to work for, a DDD-contracted and certified residential agency.

#### NEW SECTION

**WAC 388-71-0530 Are there special rules about training for parents who are the individual providers of division of developmental disabilities (DDD) adult children?** Natural, step, or adoptive parents of adult DDD children:

(1) Must possess a certificate of successfully completing a six-hour DDD-approved training or a specially designed department-approved training within one hundred eighty days after beginning employment;

(2) Are exempt from continuing education requirements; and

(3) Are exempt from the fundamentals of caregiving training if they provide care only for their own adult DDD child.

#### NEW SECTION

**WAC 388-71-0535 Are there special rules about training for parents who are the individual providers of non-DDD adult children?** Natural, step, or adoptive parents of adult non-DDD children must:

(1) Possess a certificate of successfully completing the modified fundamentals of caregiving training within one hundred eighty days after beginning employment and have documentation that they have completed individualized or other specific instruction on the care of their adult child; or

(2) Pass the department's challenge test; or

(3) Possess a certificate of successfully completing the fundamentals of caregiving.

(4) Are exempt from continuing education requirements described in WAC 388-71-0520(2) if they provide care only for their adult child.

#### NEW SECTION

**WAC 388-71-0540 Will the department/AAA pay anyone the adult client chooses to be an individual provider or home care agency provider?** The department/AAA cannot contract or pay an individual provider who:

(1) Is the client's spouse, per 42 C.F.R 441.360(g), unless the client is on the chore personal care program;

(2) Has been convicted of a disqualifying crime, as listed in RCW 43.43.830 and 43.43.842;

(3) Has abused, neglected, abandoned, or exploited a minor or vulnerable adult, as per chapter 74.34 RCW or RCW 74.39A.050(8);

(4) Has had a license, certification, or a contract for the care of children or vulnerable adults denied, suspended,

revoked, or terminated for noncompliance with state and/or federal regulations; and/or

(5) Is determined by the department/AAA to be unable to appropriately meet the client's needs, per RCW 74.39A.095 (7) or (8).

#### NEW SECTION

**WAC 388-71-0545 Under what conditions will the department/AAA deny payment to or terminate the contract of an individual provider, or deny payment to a home care agency provider?** The department/AAA will deny payment and terminate the individual provider's contract, or deny payment to a home care agency provider when either provider:

(1) Does not successfully complete the training requirements within the time limits described in WAC 388-71-0520 and 388-71-0525;

(2) Does not meet the conditions of the contract;

(3) Has been terminated by the department for cause;

(4) Demonstrates an unwillingness or inability to provide quality care and services as outlined on the service plan, which is jeopardizing the health, safety, or well-being of the client;

(5) Is terminated by the client/employer; and/or

(6) Has not met the conditions described in WAC 388-71-0510 through WAC 388-71-0540.

#### NEW SECTION

**WAC 388-71-0550 Are there other conditions under which the department/AAA may deny payment, or deny or terminate a contract to an individual provider?** The department/AAA may deny or terminate a contract to an individual provider when the individual provider:

(1) Has other employment which prevents the provision of authorized services, as outlined on the client's service plan;

(2) Is unable to appropriately meet the client's care needs, per RCW 74.39A.090;

(3) Is already providing the personal care tasks the client requires per the comprehensive assessment and service plan on an informal basis, and the assessment or reassessment does not identify any unmet need;

(4) Has abused, neglected, abandoned, or financially exploited a minor or vulnerable adult;

(5) Has stress and strain in providing care which interferes with meeting the client's needs;

(6) Lives too far from the client, which prevents the provision of services as they are needed and outlined on the client's service plan;

(7) Places the health, safety, or well-being of the client at risk;

(8) Is reported by the client's health care providers and others with direct knowledge as unable to meet the client's needs, and the report is substantiated by the department/AAA; and/or

(9) Has not met the conditions described in WAC 388-71-0515.

#### NEW SECTION

**WAC 388-71-0555 When can the department/AAA summarily suspend an individual provider's contract?** The department/AAA may summarily suspend an individual provider's contract when it has a reasonable, good faith belief that the health, safety, or well-being of the client is in imminent jeopardy because of the individual provider's inadequate performance or inability to deliver quality care, as evidenced by, but not limited to:

(1) The absence of, withholding of, or refusal to use essential interventions identified on the service plan for the client which could cause immediate harm, such as essential medications or other medical supplies;

(2) Evidence of alcohol/drug abuse by the individual provider during hours of employment;

(3) Failure to respond to emergencies;

(4) Abuse, neglect, abandonment, and/or financial exploitation;

(5) Other behavior directed toward the client and other persons involved in the client's life which places the client at risk of harm;

(6) A report(s) from health care providers seeing the client that the health of the client is seriously affected by poor care; and/or

(7) Conditions or a combination of conditions found in WAC 388-71-0515, 388-71-0520, 388-71-0525, 388-71-0540, 388-71-0545, and 388-71-0550 that imminently affect the health, safety or well-being of the client.

#### NEW SECTION

**WAC 388-71-0560 What are the adult client's rights if the department denies, terminates, or summarily suspends an individual provider's contract?** If the department denies, terminates, or summarily suspends the individual provider's contract, the client has the right to:

(1) A fair hearing to appeal the decision, per chapter 388-08 WAC, and

(2) Receive services from another currently contracted individual provider or home care agency provider, or other options the client is eligible for, if a contract is summarily suspended.

#### NEW SECTION

**WAC 388-71-0580 Self-directed care—Who must direct self-directed care?** Self-directed care under chapter 74.39 RCW must be directed by the adult client for whom the health-related tasks are provided. The adult client is responsible to train the individual provider in the health-related tasks which the client self-directs.

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 388-15-196

Individual providers and home care agency providers.



- WAC 388-15-19600 How do I apply to be an individual provider of an adult client?
- WAC 388-15-19610 What requirements must an adult client's individual provider or a home care agency provider meet?
- WAC 388-15-19620 How do I get paid as an individual provider?
- WAC 388-15-19630 Under what conditions will the department deny payment to an individual provider or a home care agency provider?
- WAC 388-15-19640 Does the individual provider or the home care agency provider have responsibilities in addition to the service plan?
- WAC 388-15-19650 What are the educational requirements for an individual provider or a home care agency provider?
- WAC 388-15-19660 Do all individual providers or home care agency providers have to take the fundamentals of caregiving training?
- WAC 388-15-19670 Are there special rules about training for parents who are the individual providers of division of developmental disabilities (DDD) adult children?
- WAC 388-15-19680 Are there special rules about training for parents who are the individual providers of non-DDD adult children?
- WAC 388-15-198 Home and community services—Client and provider responsibilities.

**WSR 00-03-046****PERMANENT RULES****STATE BOARD OF EDUCATION**

[Filed January 14, 2000, 10:35 a.m.]

Date of Adoption: August 20, 1999.

Purpose: Add a new section to WAC 180-52-041, listing the most current editions of tests approved for use by home schooled students.

Citation of Existing Rules Affected by this Order: Amending WAC 180-52-041.

Statutory Authority for Adoption: RCW 34.05.310(4).

Adopted under notice filed as WSR 99-14-087 on July 7, 1999.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 1, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 14, 2000

Larry Davis

Executive Director

**NEW SECTION**

**WAC 180-52-041 Approval of list of standardized tests for use by students receiving home-based instruction.** (1) Pursuant to RCW 28A.200.010(3), the state board of education shall approve periodically a list of standardized tests for use by students receiving home-based instruction.

(2) Students shall be tested in the subjects of reading, language arts, and mathematics. The same test does not need to be used for each subject area.

(3) The most current editions of the following tests are approved for use by home schooled students:

(a) ACT and PACT Assessment (American College Testing, Inc.);

(b) California Achievement Tests (CTB/McGraw-Hill);

(c) California Diagnostic Tests (CTB/McGraw-Hill);

(d) Comprehensive Tests of Basic Skills (CTB/McGraw-Hill);

(e) Degrees of Reading Power (Touchstone Applied Science Associate, Inc.);

(f) Iowa Tests of Basic Skills (Riverside Publishing Company);

(g) Iowa Tests of Educational Development (Riverside Publishing Company);

(h) Metropolitan Achievement Tests (Psychological Corporation);

(i) National Achievement Test (American College Testing);

(j) Scholastic Achievement Test - SAT I: Reasoning and Preliminary Scholastic Achievement Test - PSAT (the college board);

(k) Stanford Achievement Test (Psychological Corporation);

(l) Stanford Early School Achievement Test (Psychological Corporation);

(m) Tests of Achievement and Proficiency (Riverside Publishing Company); and

(n) Washington Assessment of Student Learning.

(4) The Washington assessment of student learning is not required to be used by students receiving home-based instruction. If the Washington assessment of student learning is selected for use by students receiving home-based instruction, the following conditions shall apply:

(a) The Washington assessment of student learning must be administered by a public school or state board of education approved private school; and

(b) The Washington assessment of student learning must be scored by the vendor contracted by the superintendent of public instruction to score such assessment.

**WSR 00-03-047  
PERMANENT RULES  
UTILITIES AND TRANSPORTATION  
COMMISSION**

[Docket No. UT-980675, General Order No. R-468—Filed January 14, 2000, 12:02 p.m.]

In the matter of amending WAC 480-120-139, relating to changes in local exchange and intrastate toll services.

STATUTORY OR OTHER AUTHORITY: The Washington Utilities and Transportation Commission (commission or WUTC) takes this action under Notice No. WSR 99-21-057, filed with the code reviser on October 19, 1999. This commission brings this proceeding pursuant to RCW 80.01.040(4); 80.04.160.

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 RCW), and the Regulatory Fairness Act (chapter 19.85 RCW).

DATE OF ADOPTION: The commission adopts this rule with the filing of this order. The commission conducted a rule-making hearing pursuant to notice in WSR 99-21-057 on November 30, 1999.

CONCISE STATEMENT OF PURPOSE AND EFFECT OF THIS RULE: A change of a consumer's telecommunications carrier without the consumer's authorization is commonly known as "slamming." This rule describes the process each telecommunications carrier must follow in order to accept and verify a consumer's desire to change telecommunications carriers; the process telecommunications carriers must follow in order to affect the change in carriers. The rule also provides consumers with the opportunity to "freeze" their telecommunications carrier choice, so that no change may be made without direct written or verbal consent by the consumer.

REFERENCE TO AFFECTED RULES: This rule amends WAC 480-120-139 Changes in local exchange and intrastate toll services.

PREPROPOSAL STATEMENT OF INQUIRY AND ACTIONS THEREUNDER: The commission filed a preproposal statement of inquiry (CR-101) on July 16, 1998, at WSR 98-15-093.

ADDITIONAL NOTICE AND ACTIVITY PURSUANT TO PREPROPOSAL STATEMENT: The statement advised interested persons that the commission was considering entering a rule making relating to changes in local exchange and intrastate

toll services. The commission also informed persons of the inquiry into this matter by providing notice of the subject and the CR-101 to all persons on the commission's list of persons requesting such information pursuant to RCW 34.05.320(3), by sending notice to all registered telecommunications companies, and by providing notice to the commission's list of telecommunications attorneys.

Pursuant to the notice, the commission held a workshop on August 14, 1998. The commission solicited and received written comments on August 14, 1998, as well. On June 21, 1999, the commission asked for additional comments based on commission staff discussion draft language. The commission received comments by the due date of July 15, 1999.

NOTICE OF PROPOSED RULE MAKING: The commission filed a notice of proposed rule making (CR-102) on October 19, 1999, at WSR 99-21-057. The commission scheduled this matter for a rule-making hearing under Notice No. WSR 99-21-057 at 9:30 a.m., Tuesday, November 30, 1999, in the Commission's Hearing Room, Second Floor, Chandler Plaza Building, 1300 South Evergreen Park Drive S.W., Olympia, WA. The notice also provided interested persons the opportunity to submit written comments to the commission.

COMMENTERS (WRITTEN COMMENTS): The commission received written comments from Robert S. Snyder on behalf of Whidbey Telephone Company (Whidbey); Ms. Yvette Melendez; GTE Northwest Inc. (GTE-NW); Sprint Corporation on behalf of Sprint Communications LP and United Telephone Company of the Northwest (Sprint); MCI WorldCom (MCI); AT&T; SBC National Inc. (SBC); Davis Wright Tremaine LLP on behalf of NEXTLINK Washington Inc. (Nextlink) and Advanced TelCom Group Inc. (ATG); Telecommunications Resellers Association (TRA); and the Public Counsel Section of the Washington Attorney General (Public Counsel).

Based on the comments received, commission staff suggested changes to the proposed rules without changing the intent of the rules.

RULE-MAKING HEARING: The rule changes were considered for adoption, pursuant to the notice, at a rule-making hearing scheduled during the commission's regularly scheduled open public meeting on October 28, 1998, before Chairwoman Marilyn Showalter and Commissioner William Gillis. The commission heard oral comments from Vicki Elliott, Glenn Blackmon, and Bob Wallis, of Commission Staff; Simon ffitch representing Public Counsel; Robert Snyder representing Whidbey; Greg Kopta, Davis Wright Tremaine LLP, on behalf of NEXTLINK Washington Inc. (Nextlink) and Advanced TelCom Group Inc. (ATG); Richard Finnegan, Attorney; and Terry Vann representing the Washington Independent Telephone Association.

SUGGESTIONS FOR CHANGE THAT ARE REJECTED: Although all participants worked diligently to achieve consensus, the participants and commission staff did not reach complete agreement in all areas. The two main areas where participants and staff did not reach agreement were the following.

1. The requirement that companies offer a preferred carrier freeze. Several participants commented that the requirement that companies offer a preferred carrier freeze unnecessarily goes beyond the rules adopted by the Federal Commu-

PERMANENT

nications Commission (FCC). Commenters stated that this requirement would promote anti-competitive behavior; present a barrier to entry and effective competition; allow incumbent companies the opportunity to mislead customers; and impose a regulatory burden on competitive companies. The commission rejects these arguments. While the commission acknowledges that this requirement goes beyond the FCC rules, it believes there are compelling reasons to do so. A preferred carrier freeze is a valuable tool that consumers can use to protect themselves from carriers that slam. Commission data show that slamming is consistently one of the most frequent consumer complaints about their telephone service. In 1996, the commission received 186 complaints about slamming; in 1997, the number increased to 228; and in 1998, the number was 475 complaints. The commission will see an estimated 500 slamming complaints in 1999. The commission believes that any tool a consumer can use to protect her or himself should be made available.

2. The requirement that companies notify their customers about the option of a preferred carrier freeze. Again, participants commented that this requirement unnecessarily goes beyond the FCC rules, and that it presents an unnecessary burden for the companies. One commenter suggested companies should notify customers only if the customer experienced a slam. The commission believes that the availability of a carrier freeze is not an effective consumer protection tool if consumers are not aware that it exists. The commission believes that if the only consumers who find out about this option are customers who have already been slammed, the value is diminished considerably, since damage has already been done. Further, the commission believes the purpose of a carrier freeze is to allow consumers the choice of protecting themselves from slamming before it occurs.

3. Suggestions made orally at the open meeting. Robert Snyder, representing Whidbey, suggested several changes to the proposed language at the open meeting. His changes were not intended to change the meaning of the language but to clarify the proposed language. After consideration and discussion of Mr. Snyder's suggestions, the commission concluded that the proposed language was sufficient, and that none of Mr. Snyder's suggested revisions need be made.

Mr. Snyder also suggested that WAC 480-120-139(5) pertaining to the requirement that a carrier offer a preferred carrier freeze, and WAC 480-120-139 (5)(a) pertaining to the requirement that companies notify their customers about the option of a preferred carrier freeze, be delayed until March 1, 2000, in order to give companies time to implement these requirements. After consideration and discussion, the commission agreed to delay the effective date as requested for these specific requirements to allow companies time to comply.

STATEMENT OF ACTION: In reviewing the entire record, the commission determined that WAC 480-120-139 should be amended as proposed by staff, with the following changes:

1. Minor grammatical changes. The commission determined that several minor grammatical changes should be made to correct the proposed rules. These changes do not alter the substance of the proposed rules.

2. Change the use of the term "subscriber" to the term "customer," to be consistent with other sections in chapter

480-120 WAC. Again, this change does not alter the substance of the proposed rules.

The proposed rules, as revised, are shown below as Appendix A.

STATEMENT OF EFFECTIVE DATE: The proposed rule will become effective pursuant to RCW 34.05.380(2) on the thirty-first day after filing with the code reviser, except that WAC 480-120-139 (5) and (5)(a) shall become effective on March 1, 2000.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

#### ORDER

##### THE COMMISSION ORDERS That:

1. WAC 480-120-139 is amended and adopted to read as set forth in Appendix A, as a rule of the Washington Utilities and Transportation Commission, to take effect on March 1, 2000.

2. This order and the rule 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.

3. The commission adopts the commission staff memorandum, presented when the commission considered filing a preproposal statement of inquiry, when it considered filing the formal notice of proposed rule making, and when it considered adoption of this proposal, in conjunction with the text of this order, as its concise explanatory statement of the reasons for adoption as required by RCW 34.05.025.

DATED at Olympia, Washington, this 13th day of January, 2000.

Washington Utilities and Transportation Commission  
Marilyn Showalter, Chairwoman  
Richard Hemstad, Commissioner

AMENDATORY SECTION (Amending Order R-463, Docket No. UT-971514, filed 5/18/99, effective 6/18/99)

**WAC 480-120-139 Changes in local exchange and intrastate toll services.** (1) Verification of orders. A local exchange or intrastate toll carrier (~~(to whom service is being changed ("new telecommunications company"))~~) that requests on behalf of a customer that the customer's telecommunications carrier be changed, and that seeks to provide

retail services to the customer ("submitting carrier") may not submit a change order for local exchange or intrastate toll service until the order is confirmed in accordance with one of the following procedures:

(a) The telecommunications company has obtained the customer's written authorization to submit the order (~~which includes~~) (letter of agency). The letter of agency must be a separate document (or easily separable document) containing only the authorizing language described in (a)(i) through (vii) of this subsection, having the sole purpose of authorizing a telecommunications carrier to initiate a preferred carrier change. The letter of agency must be signed and dated by the customer to the telephone line(s) requesting the preferred carrier change. The letter of agency shall not be combined on the same document with inducements of any kind; however, it may be combined with checks that contain only the required letter of agency language as prescribed in (a)(i) through (vii) of this subsection, and the necessary information to make the check a negotiable instrument. The check may not contain any promotional language or material. It must contain, in easily readable, bold-face type on the front of the check, a notice that the customer is authorizing a preferred carrier change in the customer's preferred carrier by signing the check. Letter-of-agency language must be placed near the signature line on the back of the check. Any carrier designated in a letter of agency as a preferred carrier must be the carrier directly setting the rates for the customer. Letters of agency must not suggest or require that a customer take some action in order to retain the customer's current telecommunications carrier. If any portion of a letter of agency is translated into another language, then all portions must be translated into that language, as well as any promotional materials, oral descriptions or instructions provided with the letter of agency. The letter of agency must confirm the following information from the customer:

(i) The customer billing name, billing telephone number and billing address and each telephone number to be covered by the change order;

(ii) The decision to change; ~~(and)~~

(iii) The customer's understanding of the change fee;

(iv) That the customer designates (name of carrier) to act as the customer's agent for the preferred carrier change; and

(v) That the customer understands that only one telecommunications carrier may be designated as the customer's interstate preferred carrier; that only one telecommunications carrier may be designated as the customer's intraLATA preferred carrier; and that only one telecommunications carrier may be designated as the customer's local exchange provider, for any one telephone number. The letter of agency must contain a separate statement regarding the customer's choice for each preferred carrier, although a separate letter of agency for each choice is not necessary; and

(vi) Letters of agency may not suggest or require that a customer take some action in order to retain the current preferred carrier.

(b) The ~~((new telecommunications company))~~ submitting carrier has obtained the customer's authorization, as described in (a) of this subsection, electronically, by use of an automated, electronic telephone menu system. This authorization must be placed from the telephone number(s) for

which the preferred carrier is to be changed and must confirm the information required in (a)(i) through (vi) of this subsection.

Telecommunications companies electing to confirm sales electronically (~~shall~~) must establish one or more toll free telephone numbers exclusively for that purpose.

Calls to the number(s) (~~shall~~) must connect a customer to a voice response unit, or similar device, that records the required information regarding the change, including automatically recording the originating automatic number identification (ANI).

(c) An appropriately qualified and independent third party operating in a location physically separate from the telemarketing representative has obtained the customer's oral authorization to submit the change order that confirms and includes appropriate verification data (~~((in (a) of this subsection))~~) (e.g., the customer's date of birth). The independent third party must not be owned, managed, controlled or directed by the carrier or the carrier's marketing agent; and must not have any financial incentive to confirm preferred carrier change orders for the carrier or the carrier's marketing agent. The content of the verification must include clear and conspicuous confirmation that the customer has authorized a preferred carrier change.

(2) Where a telecommunications carrier is selling more than one type of telecommunications service (e.g., local exchange, intraLATA/intrastate toll, interLATA/interstate toll and international toll), that carrier must obtain separate authorization, and separate verification, from the customer for each service sold, although the authorizations may be made within the same solicitation.

(3) The documentation regarding a customer's authorization for a preferred carrier change must be retained by the submitting carrier, at a minimum, for two years to serve as verification of the customer's authorization to change his or her telecommunications company. The documentation must be made available to the customer and to the commission upon request. Documentation includes, but is not limited to, all entire third-party-verification conversations and, for written verifications, the entire verification document.

~~((2))~~ (4) Implementing order changes. An executing carrier may not verify the submission of a change in a customer's selection of a provider received from a submitting carrier. The executing carrier must comply with a requested change promptly, without any unreasonable delay. An executing carrier is any telecommunications carrier that effects a request that a customer's carrier be changed.

This section does not prohibit any company from investigating and responding to any customer initiated inquiry or complaint.

~~((a))~~ Telemarketing orders. Within three business days of any telemarketing order for a change, the new telecommunications company must send each new customer an information package by first class mail containing at least the following information concerning the requested change:

~~(i)~~ The information is being sent to confirm a telemarketing order placed by the customer.

~~(ii)~~ The name of the customer's current telecommunications company.

(iii) A description of any terms, conditions or charges that will be incurred.

(iv) The name of the newly requested telecommunications company.

(v) The name of the person ordering the change.

(vi) The name, address and telephone number of both the customer and the soliciting telecommunications company.

(vii) A postpaid postcard which the customer can use to deny, cancel or confirm a service order.

(viii) A clear statement that if the customer does not return the postcard, the customer's service will be switched fourteen days after the date the information package was mailed. If customers have cancelled their orders during the waiting period, the new telecommunications company cannot submit the customer's order.

(ix) The name, address and telephone number of a contact point at the commission for consumer complaints.

(x) The requirements in (a)(vii) and (viii) of this subsection do not apply if authorization is obtained pursuant to subsection (1) of this section.

(b) The documentation of the order shall be retained by the new telecommunications company, at a minimum, for twelve months to serve as verification of the customer's authorization to change telecommunications company. The documentation will be made available to the customer and to the commission upon request.

(3) Customer initiated orders. The new telecommunications company receiving the customer initiated request for a change of local exchange and/or intrastate toll shall keep an internal memorandum or record generated at the time of the request. Such internal record shall be maintained by the telecommunications company for a minimum of twelve months to serve as verification of the customer's authorization to change telecommunications company. The internal record will be made available to the customer and to the commission upon request. Within three business days of the order, the telecommunications company must send each new customer an information package by first class mail containing at least the following information concerning the request to change as defined in subsection (2)(a)(ii), (iii), (iv), (v) of this section.

(4)) (5) Preferred carrier freezes. A preferred carrier freeze prevents a change in a customer's preferred carrier selection unless the customer gives the carrier from whom the freeze was requested express consent. Express consent means direct, written or oral direction by the customer. All local exchange companies must offer preferred carrier freezes. Such freezes must be offered on a nondiscriminatory basis to all customers. Offers or solicitations for such freezes must clearly distinguish among telecommunications services subject to a freeze (e.g., local exchange, intraLATA/intrastate toll, interLATA/interstate toll and international toll). The carrier offering the freeze must obtain separate authorization for each service for which a preferred carrier freeze is requested. Separate authorizations may be contained within a single document.

(a) All local exchange companies must notify all customers of the availability of a preferred carrier freeze, no later than the customer's first telephone bill, and once per year must notify all local exchange service customers of such

availability on an individual customer basis (e.g., bill insert, bill message, or direct mailing).

(b) All carrier-provided solicitation and other materials regarding freezes must include an explanation, in clear and neutral language, of what a preferred carrier freeze is, and what services may be subject to a freeze; a description of the specific procedures to lift a preferred carrier freeze; an explanation that the customer will be unable to make a change in carrier selection unless he or she lifts the freeze; and an explanation of any charges incurred for implementing or lifting a preferred carrier freeze.

(c) No local exchange carrier may implement a preferred carrier freeze unless the customer's request to impose a freeze has first been confirmed in accordance with the procedures outlined for confirming a change in preferred carrier, as described in subsections (1) and (2) of this section.

(d) All local exchange carriers must offer customers, at a minimum, the following procedures for lifting a preferred carrier freeze:

(i) A customer's written and signed authorization stating his or her intent to lift the freeze;

(ii) A customer's oral authorization to lift the freeze. This option must include a mechanism that allows a submitting carrier to conduct a three-way conference call with the executing carrier and the customer in order to lift the freeze. When engaged in oral authorization to lift a freeze, the executing carrier must confirm appropriate verification data (e.g., the customer's date of birth), and the customer's intent to lift the freeze.

(e) A local exchange company may not change a customer's preferred carrier if the customer has a freeze in place, unless the customer has lifted the freeze in accordance with this subsection (5).

(6) Remedies. In addition to any other penalties provided by law, ((a telecommunications company initiating an unauthorized change order)) a submitting carrier that requests a change in a customer's carrier without proper verification as described in this rule shall receive no payment for service provided as a result of the unauthorized change and shall promptly refund any amounts collected as a result of the unauthorized change. The ((subscriber)) customer may be charged, after receipt of the refund, for such service at a rate no greater than what would have been charged by its authorized telecommunications company, and any such payment shall be remitted to the customer's authorized telecommunications company.

WSR 00-03-048

PERMANENT RULES

STATE BOARD OF EDUCATION

[Filed January 14, 2000, 1:08 p.m.]

Date of Adoption: January 12, 2000.

Purpose: The amendments modify rules which will govern professional certificate requirements.

Citation of Existing Rules Affected by this Order: Amending various sections of chapter 180-79A WAC, WAC 180-79A-006 Purpose, 180-79A-007 Public policy purposes

of state board of education performance—Based certification system, 180-79A-130 Fee for certification, 180-79A-145 Levels of certificates, initial/residency and continuing/professional, 180-79A-206 Academic and experience requirements for certification—Teachers, 180-79A-250 Initial/residency and continuing/professional certificates—Renewal, reinstatement, and continuing education requirements, and 180-79A-257 Out-of-state candidates.

Statutory Authority for Adoption: RCW 28A.410.010.

Adopted under notice filed as WSR 99-24-122 on December 1, 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 7, 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 7, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 14, 2000

Larry Davis

Executive Director

**AMENDATORY SECTION** (Amending WSR 99-01-174, filed 12/23/98, effective 1/23/99)

**WAC 180-79A-006 Purpose.** The purposes of this chapter are:

(1) To establish a performance-based certification system to be fully implemented for all teacher candidates applying for ~~((certification))~~ the residency certificate after August 31, 2000, for all teacher candidates applying for the professional certificate after August 31, 2001, and for all administrator and educational staff associate candidates not later than August 31, 2004.

(2) To establish the various certificates which must be held as a condition to employment in the Washington school system. The performance-based certification system shall include the issuance of a residency certificate, a professional certificate, and other certificates which the state board of education may add in the future.

(3) To establish the conditions and procedures governing issuance and retention of those and other certificates, including endorsements thereon.

**AMENDATORY SECTION** (Amending WSR 99-01-174, filed 12/23/98, effective 1/23/99)

**WAC 180-79A-007 Public policy purposes of state board of education performance-based certification sys-**

**tem.** The policy purposes of state board of education performance-based certification system are:

(1) To provide qualified educators for the emerging performance-based P-12 education system.

(2) To assure that practitioners are more directly involved in decisions related to professional practice.

(3) To recognize that there is a distinction between the level of competence of beginning educators and the competency of educators who have been able to demonstrate their competencies at a professional level.

(4) To assure that all educators demonstrate their competencies before attaining the status of a professional educator.

(5) To establish a certificate level that recognizes service at a high level of achievement.

(6) To ~~((assure that all residency educators have the support required to assist them through their induction))~~ establish a certification system that provides for continuing support and developmental assistance to individuals as they progress toward professional certification.

(7) To ~~((assure each educator has a professional development plan))~~ prepare educators who are able to assess their professional growth and achievement in light of their impact on student learning.

**AMENDATORY SECTION** (Amending WSR 97-04-088, filed 2/5/97, effective 3/8/97)

**WAC 180-79A-130 Fee for certification.** (1) In accordance with provisions of RCW 28A.410.060 and 28A.415.010, the fee for certificates which are valid for more than one year, issued by authority of the state of Washington and authorizing the holder to serve in the common schools of the state, shall be as follows:

(a) The continuing and professional certificates ~~((is)),~~ seventy dollars;

(b) The reinstatement, additional endorsement on the teaching certificate, duplicate certificates, substitute certificates, renewal of the residency certificate, and certificates issued for the purpose of showing a name change ~~((is)),~~ fifteen dollars; and

(c) Any other certificate or credential or any renewal thereof ~~((shall be)),~~ five dollars for each year of validity;

(d) Provided, That the fee for all vocational certificates shall be one dollar.

(2) The fee for any other certificate/credential, or for any renewal thereof, issued by the authority of the state of Washington and authorizing the holder to serve in the common schools of the state, shall be five dollars.

(3) Officials authorized to collect certification fees are educational service district superintendents, local school district superintendents, deans and directors of education at colleges and universities, or their designees. The fee must accompany the application for a certificate and shall be transmitted by the receiving district, college or university, or program unit designee at least quarterly to the educational service district within which the application is filed for disposition in accordance with provisions of RCW 28A.410.060. The fee shall not be refunded unless the application is withdrawn before it is finally considered (i.e., the issuance of a certificate or a written communication denying such issu-

ance) by the superintendent of public instruction or his or her designee. Fees not refunded shall apply as credit toward certificate fees if such applicant reapplies within twenty-four months of the date of denial. Moneys accrued from certification fees within the boundaries of an educational service district shall be divided in the following manner:

(a) Local school districts employing more than one hundred teachers and other professional staff and collecting certification fees may retain one dollar of each fee in order to hold a professional training institute. If such district does not hold an institute, all such moneys shall be placed to the credit of the educational service district.

(b) No less than fifty percent of the funds accruing within the boundaries of an educational service district shall be used to support program activities related to state-wide precertification professional preparation and evaluation.

(c) The remaining funds shall be used to support professional in-service training programs and evaluations thereof.

**AMENDATORY SECTION** (Amending WSR 99-01-174, filed 12/23/98, effective 1/23/99)

**WAC 180-79A-145 Levels of certificates, initial/residency and continuing/professional.** Two levels of certification may be issued.

(1) Through August 31, 2000, for teachers, and through August 31, 2004, for administrators and educational staff associates, the following levels of certificates will be issued: Provided, That after August 31, 2000, initial and continuing teachers' certificates will be issued only to previous Washington certificate holders, pursuant to WAC 180-79A-123:

(a) Initial certificate. The initial teacher certificate is valid for four years and the initial administrator and educational staff associate certificates are valid for seven years. Initial teacher certificates shall be subject to renewal pursuant to WAC 180-79A-250 and 180-79A-123. Initial administrator and educational staff associate certificates shall not be subject to renewal.

(b) Continuing certificate. The continuing certificate is valid on a continuing basis as specified in WAC 180-79A-250(3).

(2) ~~((After August 31, 2000, for teachers, and after August 31, 2004, for administrators and educational staff associates the following levels of certificates will be issued:))~~ The following levels of certificates will be issued to teachers, administrators, and educational staff associates commencing with the dates indicated below:

(a) Residency certificate. The residency certificate will be issued beginning September 1, 2000, to teachers and beginning no later than September 1, 2004, to administrators and educational staff associates. The residency certificate is valid for five years and shall be subject to renewal pursuant to WAC 180-79A-250.

(b) Professional certificate. The professional certificate will be issued beginning September 1, 2001, to teachers and beginning no later than September 1, 2004, to administrators and educational staff associates. The professional certificate is valid for five years and shall be subject to renewal pursuant to WAC 180-79A-250.

(3) Notwithstanding anything in subsections (1) and (2) of this section to the contrary, a professional teachers' certificate may be issued prior to August 31, 2000, pursuant to WAC 180-78A-555.

**AMENDATORY SECTION** (Amending WSR 99-01-174, filed 12/23/98, effective 1/23/99)

**WAC 180-79A-206 Academic and experience requirements for certification—Teachers.** Candidates for teachers' certificates shall complete the following requirements in addition to those set forth in WAC 180-79A-150.

(1) Initial/residency.

Candidates for the initial or residency certificate shall hold an approved baccalaureate degree from a regionally accredited college or university: Provided, That if the approved baccalaureate degree is in early childhood education, elementary education, or special education, the candidate also must have at least thirty quarter hours (twenty semester hours) in one of the academic fields listed in WAC 180-79A-302 (3)(a) through (e) and (4).

(2) Continuing.

(a) Candidates who apply for a continuing certificate shall have at least forty-five quarter hours (thirty semester hours) of upper division and/or graduate work completed from a regionally accredited institution of higher education subsequent to the conferral of the baccalaureate degree: Provided, That if the individual is pursuing study in a new subject matter area or specialization, lower division (freshmen or sophomore level) credit hours in that subject area or specialization shall be accepted toward continuing certification upon completion of the requirements for an endorsement in that subject area or specialization.

(b) Candidates applying for a continuing certificate prior to September 1, 2000, shall have been granted at least two subject area endorsements.

(c) Candidates who apply for a continuing certificate who have not successfully completed course work or an in-service program including a minimum of ten clock hours of instruction on issues of abuse, must complete ~~((such course work or in-service program as a condition for the issuance of a continuing certificate. The content of the course work or in-service program shall discuss the identification of physical, emotional, sexual, and substance abuse, information on the impact of abuse on the behavior and learning abilities of students, discussion of the responsibilities of a teacher to report abuse or provide assistance to students who are the victims of abuse, and methods for teaching students about abuse of all types and their prevention))~~ the child abuse course work requirement as defined in WAC 180-79A-030(6).

(d) Candidates for continuing teachers' certificates shall provide documentation of one hundred eighty days or full-time equivalent or more satisfactory teaching experience with an authorized employer—i.e., school district, state agency, college or university, private school, or private school system—and at least thirty days of such employment with the same employer.

(3) Professional.

(a) Candidates for the professional certificate shall have successfully completed a state board of education approved,

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~~((collaboratively developed))~~ professional certificate program, pursuant to WAC 180-78A-500 through 180-78A-540; Provided, That an individual who holds a teaching certificate issued by the National Board for Professional Teaching Standards (NBPTS) shall be deemed to have met the requirement for completion of a professional certificate program, in recognition that NBPTS certification is issued only to individuals who have demonstrated highly advanced skills as a teacher.

(b) Candidates who apply for a professional certificate who have not successfully completed course work or an in-service program including a minimum of ten clock hours of instruction on issues of abuse, must complete ~~((such course work or in-service program as a condition for the issuance of a professional certificate. The content of the course work or in-service program shall discuss the identification of physical, emotional, sexual, and substance abuse, information on the impact of abuse on the behavior and learning abilities of students, discussion of the responsibilities of a teacher to report abuse or provide assistance to students who are the victims of abuse, and methods for teaching students about abuse of all types and their prevention))~~ the child abuse course work requirement as defined in WAC 180-79A-030(6).

(c) Candidates for professional teachers' certificates shall provide, as a condition for the issuance of a professional certificate, documentation that they have completed provisional status with a school district under RCW 28A.405.220 or the equivalent with an approved private school.

**AMENDATORY SECTION** (Amending WSR 99-01-174, filed 12/23/98, effective 1/23/99)

**WAC 180-79A-250 Initial/residency and continuing/professional certificates—Renewal, reinstatement, and continuing education requirements.** The following shall apply to initial/residency and continuing/~~((residency))~~ professional certificates issued pursuant to this chapter:

(1) Initial certificate.

An initial teacher certificate may be renewed for an additional three-year period on application and verification that the individual has completed all course work requirements from a regionally accredited institution of higher education as defined in WAC 180-78A-010(6) for continuing certification or has completed at least fifteen quarter credit hours (ten semester credit hours) since the certificate was issued or renewed. After August 31, 2000, provisions of WAC 180-79A-123 will apply.

(2) Residency certificate. Residency certificates shall be renewed under one of the following options:

(a) Individuals who hold, or have held, a residency certificate and are enrolled in a professional certificate program may have the certificate renewed for ~~((an))~~ one additional two-year~~((s))~~ period upon verification by the professional certificate administrator that the candidate is making satisfactory progress in a state approved professional certificate program.

(b) Individuals who hold, or have held, residency certificates who have not ~~((been employed as contracted teachers))~~ completed provisional status with a school district or equivalent

service with an approved private school in Washington may have their residency certificates renewed for ~~((an))~~ one additional five-year~~((s))~~ period by the completion of fifteen quarter credits (ten semester credits) of college credit course work (normally one hundred level or higher) from a regionally accredited institution of higher education taken since the issuance of the residency certificate.

(c) All other individuals who hold, or have held, residency certificates may have their certificates renewed only by appeal to the state board of education, or its designated appeals committee. The following conditions apply to such appeals:

(i) Teachers who appeal shall present a rationale and evidence to support their request to have their residency certificates renewed.

(ii) The state board of education, or its designated appeals committee, in making its decision shall determine the length of the renewal and may establish specific conditions (such as course work requirements) as prerequisites for the reissuance of the residency certificate.

(3) Continuing certificate.

(a) The continuing certificates of holders who were eligible for such certificates prior to August 31, 1987, and who applied for such certificates prior to July 1, 1988, or who would have been eligible for such certificates prior to August 31, 1987, but for one of the three-year experience requirement and who complete such requirement and apply for such certificate prior to August 31, 1988, will be valid for life. Holders of valid continuing certificates affected by this subsection shall be entitled to have such certificate reissued and subject to the terms and conditions applicable to certification at the time of reissuance including the continuing education requirements of chapter 180-85 WAC.

(b) All continuing certificates not affected by the exception stated in (a) of this subsection shall lapse if the holder does not complete the continuing education requirement specified in chapter 180-85 WAC. To reinstate such a lapsed continuing certificate the individual must complete the requirements for reinstatement stated within chapter 180-85 WAC and must meet the conditions stated in WAC 180-79A-253.

(4) Professional certificate. A professional certificate may be renewed for additional five year periods pursuant to meeting continuing education requirements outlined in chapter 180-85 WAC.

**AMENDATORY SECTION** (Amending WSR 99-01-174, filed 12/23/98, effective 1/23/99)

**WAC 180-79A-257 Out-of-state candidates.** Candidates for certification from other states shall be eligible for Washington certificates as follows:

(1) Initial and residency certificates. The initial certificate (residency certificate after August 31, 2000,) shall be issued by the superintendent of public instruction to any candidate who meets one of the following:

(a) Qualifies under provisions of the interstate compact.

(b) Holds the appropriate degree and, if applicable, credit hours and/or licensing as set forth in this chapter and has completed a state approved preparation program at a region-



ally accredited college or university in the professional field for which the certificate is to be issued and such additional professional fields as required by WAC 180-79A-150(4).

(c) Holds an appropriate degree from a regionally accredited college or university and also holds or has held an appropriate certificate issued by another state and has practiced at the P-12 level in that respective role outside the state of Washington for three years.

(d) Holds an appropriate degree from a regionally accredited college or university and has practiced three years as an educational staff associate in that role in a state where such certificate was not required.

(e) Holds a valid Nationally Certified School Psychologist (NCSP) certificate issued by the National School Psychology Certification Board (NSPCB) after December 31, 1991, and applies for an initial educational staff associated school psychologist certificate.

(2) Continuing certificate. The continuing certificate shall be issued through August 31, ((2000)) 2001, on verification that the candidate has met all requirements for initial and continuing certification in the state of Washington.

(3) Professional certificate. After August 31, ((2000)) 2001, the professional certificate shall be issued to out-of-state candidates ((only)) if the candidate meets the child abuse course work requirement as described in WAC 180-79A-206 (3)(b) and if one of the following conditions is met:

(a) The candidate has completed an advanced level certification procedure approved by the state board of education as equivalent to the approved program procedure required in Washington; or

(b) The candidate holds a valid teaching certificate issued by the National Board for Professional Teaching Standards; or

(c) A Washington state college or university with an approved professional certificate program verifies that the candidate has met all the requirements of that institution's approved program. The college/university shall evaluate the candidate's background to determine whether or not course work or certification activities are equivalent to that college/university's approved program.

### WSR 00-03-049

#### PERMANENT RULES

#### STATE BOARD OF EDUCATION

[Filed January 14, 2000, 1:10 p.m.]

Date of Adoption: January 12, 2000.

Purpose: The amendments refine the rules which will govern the professional certificate programs.

Citation of Existing Rules Affected by this Order: Amending various sections of chapter 180-78A WAC, WAC 180-78A-010 Definition of terms, 180-78A-505 Overview—Professional certificate program, 180-78A-510 Responsibilities of the professional certificate administrator, 180-78A-515 Program approval standards for professional certificate approved programs, 180-78A-520 Approval standard—Professional education advisory board, 180-78A-525 Approval standard—Accountability, 180-78A-530 Approval stan-

dard—Resources, 180-78A-535 Approval standard—Program design, and 180-78A-540 Approval standard—Knowledge and skills.

Statutory Authority for Adoption: RCW 28A.410.010 and 28A.305.130 (1) and (2).

Adopted under notice filed as WSR 99-24-123 on December 1, 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 9, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 9, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 14, 2000

Larry Davis

Executive Director

AMENDATORY SECTION (Amending WSR 99-01-174, filed 12/23/98, effective 1/23/99)

**WAC 180-78A-010 Definition of terms.** The following definitions shall be used in this chapter:

(1) "College or university" means any regionally accredited baccalaureate degree granting Washington institution of higher learning or cooperative group of such institutions which has or develops programs of preparation in education which are submitted to the state board of education for approval.

(2) "Endorsement" means a specification placed on a certificate to indicate the subject area, grade level, and/or specialization for which the individual is prepared to teach.

(3) "Interstate compact" means the contractual agreement among several states authorized by RCW 28A.690.010 and 28A.690.020 which facilitates interstate reciprocity.

(4) "Program approval" means the approval by the state board of education of an educator preparation program within Washington state.

(5) "Field experience" means a sequence of learning experiences which occur in actual school settings or clinical or laboratory settings. Such learning experiences are related to specific program outcomes and are designed to integrate educational theory, knowledge, and skills in actual practice under the direction of a qualified supervisor.

(6) "Regionally accredited institution of higher education" means a community college, college, or university which is fully accredited by one of the following regional accrediting bodies:

(a) Middle States, Association of Colleges and Schools;

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(b) New England Association of Schools and Colleges;  
 (c) North Central Association of Colleges and Schools;  
 (d) Northwest Association of Schools and Colleges;  
 (e) Southern Association of Colleges and Schools;  
 (f) Western Association of Schools and Colleges:  
 Accrediting Commission for Junior and Senior Colleges.

(7) "An approved performance-based educator preparation program" means a program that requires the candidate to demonstrate in multiple ways, over time, specific state board of education required standards, criteria, knowledge and skills, including, where appropriate, evidence related to positive impact on student learning.

(8) "A positive impact on student learning" means that a teacher through instruction and assessment has been able to document students' increased knowledge and/or demonstration of a skill or skills related to the state goals and/or essential academic learning requirements: Provided, That teachers employed by private schools who are candidates for the professional teaching certificate shall document students' increased knowledge and/or demonstration of a skill or skills related to either:

(a) The state goals or essential academic learning requirements; or

(b) Such alternative learning goals as the private school has established.

(9) "Collaboration" (as used in WAC 180-78A-500 through 180-78A-540) means ongoing communication among the professional growth team members using a variety of formats (e.g., conferences, electronic mail, conference calls, etc.) to reach consensus regarding the content - course work, experiences, competencies, knowledges and skills - of the candidate's professional growth plan.

(10) "Professional growth team" means a team of persons comprised of the candidate for professional certification, a colleague specified by the candidate, a college or university advisor appointed by the college or university, and a representative from the school district in which the candidate teaches.

(11) "Individual professional growth plan" means the document which identifies the specific competencies, knowledges, skills and experiences needed to meet the standards set forth in WAC 180-78A-540. The individual professional growth plan shall meet requirements set forth in WAC 180-78A-535 (4)(a).

(12) "Preassessment seminar" means that component of the approved professional certificate program in which the candidate for a professional certificate, in collaboration with members of his/her professional growth team, identifies specific competencies, knowledges, skills and/or experiences needed to meet standards for the certificate as required by WAC 180-78A-540. The preassessment seminar shall meet requirements set forth in WAC 180-78A-535 (4)(a).

(13) "Culminating seminar" means that component of the approved professional certificate program in which the candidate for a professional certificate presents his/her final documentation and evidence of professional certificate level knowledge, skill and performance, and positive impact on student learning. The culminating seminar shall meet requirements set forth in WAC 180-78A-535 (4)(e).

AMENDATORY SECTION (Amending WSR 99-01-174, filed 12/23/98, effective 1/23/99)

**WAC 180-78A-505 Overview—Professional certificate program.** (~~Teachers who complete approved programs after August 31, 2000, shall be issued residency certificates that shall be valid for five years.~~) By September 1, 2001, all colleges and universities offering a professional certificate program must be in compliance with the new program standards. To obtain a professional certificate, the residency teacher will need to (~~have completed~~) complete provisional status with a school district under RCW 28A.405.220 or the equivalent with an approved private school and will need to (~~have completed~~) complete a state board of education approved professional certificate program collaboratively developed by a college/university and the professional educational advisory board (PEAB).

The professional certificate requires successful demonstration of three standards (effective teaching, professional development, and leadership) and 18 criteria, pursuant to WAC 180-78A-540, related to these standards. Wherever appropriate, the residency teacher will need to provide evidence that his/her teaching has had a positive impact on student learning as defined in WAC 180-78A-010(8).

(~~During the implementation phase of the program, the employing approved private school or school district (or an educational service district, if the employing approved private school or school district so delegates) and an individual selected by the candidate from one of the other authorized agencies (i.e., local school district professional association, state-wide professional association, specialty area professional association, or educational service district) shall collaborate along with the college or university and the candidate in the development of an individualized professional growth plan.~~) The candidate and college or university shall develop an individual professional growth plan to be reviewed and agreed upon after input from and consultation and collaboration (WAC 180-78A-010(9)) with his/her professional growth team.

The (~~individualized~~) individual professional growth plan will be based on an analysis of the student/learning context in that teacher's assignment and a preassessment of that teacher's ability to demonstrate the standards and criteria set forth in WAC 180-78A-540.

The (~~individualized~~) individual professional growth plan shall include instruction and assistance components for each residency teacher. The instruction and assistance components will be designed to give the residency teacher the necessary knowledge and skills needed to demonstrate successfully the standards and criteria set forth in WAC 180-78A-540.

The final component of the program will be (~~an~~) a culminating assessment seminar in which the residency teacher's ability to demonstrate the standards and criteria cited above will be evaluated. These assessments shall include multiple forms of data collected over time, including evidence of positive impact on student learning, where appropriate.

As part of the program development, the college/university and the PEAB shall establish criteria and procedures for determining when the residency teacher has successfully

completed the program. When the ~~((approved))~~ program administrator has verified to the superintendent of public instruction that the candidate has completed the approved program, the state will issue the residency teacher a professional certificate.

Between 1997 and 2000, the state board of education shall approve a number of field tests of the professional certificate programs pursuant to WAC 180-78A-545 through 180-78A-565.

**AMENDATORY SECTION** (Amending WSR 99-01-174, filed 12/23/98, effective 1/23/99)

**WAC 180-78A-510 Responsibilities of the professional certificate administrator.** Each ~~((approved-professional-certificate-program))~~ college or university shall identify a professional certificate administrator who shall have the primary responsibility for the overall administration of the program. ~~((The person serving as the professional certificate administrator may be an employee, or a joint employee, representing any of the collaborating agencies participating in the program.))~~

**AMENDATORY SECTION** (Amending WSR 99-01-174, filed 12/23/98, effective 1/23/99)

**WAC 180-78A-515 Program approval standards for professional certificate approved programs.** The program approval standards for approved programs for teachers are as follows:

(1) **Professional education advisory boards.** The ~~((professional-certificate-program))~~ college or university, in ~~((conformance))~~ compliance with the provisions of WAC 180-78A-250 and 180-78A-520, has established and maintained a professional education advisory board to participate in decisions related to the development, implementation, and revision of the professional certificate program for teachers.

(2) **Accountability.** Each ~~((professional-certificate-program))~~ college or university, in ~~((conformance))~~ compliance with the provision of WAC 180-78A-525, has established a performance-based program.

(3) **Resources.** The ~~((professional-certificate-program))~~ college or university, in ~~((conformance))~~ compliance with the provision of WAC 180-78A-530, is responsible for providing the resources needed to develop and maintain quality professional programs.

(4) **Program design.** Each ~~((professional-certificate-program))~~ college or university, in ~~((conformance))~~ compliance with the provision of WAC 180-78A-535, is responsible for establishing ~~((a collaboratively developed, individualized;))~~ an approved professional certificate program which accommodates the individual professional growth needs of each candidate as set forth in his/her professional growth plan.

(5) **Knowledge and skills.** Each ~~((professional-certificate-program))~~ college or university, in ~~((conformance))~~ compliance with the provision of WAC 180-78A-540, has established policies requiring that all candidates for certification ~~((to))~~ demonstrate the standards and ~~((respective))~~ criteria

for ~~((obtaining))~~ the professional certificate set forth in WAC 180-78A-540.

**AMENDATORY SECTION** (Amending WSR 99-01-174, filed 12/23/98, effective 1/23/99)

**WAC 180-78A-520 Approval standard—Professional education advisory board.** The following evidence shall be evaluated to determine whether each professional certificate program is in compliance with the program approval standards of WAC 180-78A-515(1).

(1) The professional education advisory board established for the preservice program in accordance with WAC 180-78A-209 shall also serve as the professional advisory board for the professional certificate program.

(2) The professional education advisory board has participated in the development of the professional certificate program and has recommended approval of the proposed program prior to its submission to the state board of education for approval.

(3) The professional education advisory board has reviewed the annual summary on the status of all candidates in the program required by WAC 180-78A-525(7).

(4) The professional education advisory board has made recommendation(s), as appropriate, for program changes to the professional certificate administrator who shall implement or respond to the recommendation(s) ~~((within twelve months, or provide a rationale for why the recommendation(s) was not implemented))~~ in a timely manner.

**AMENDATORY SECTION** (Amending WSR 99-01-174, filed 12/23/98, effective 1/23/99)

**WAC 180-78A-525 Approval standard—Accountability.** The following evidence shall be evaluated to determine whether each professional certificate program is in compliance with the program approval standards of WAC 180-78A-515(2). Each college and university shall:

(1) Submit for initial approval to the state board of education a performance-based professional certificate program for teachers which shall include the five program components specified in WAC 180-78A-535(4).

(2) Provide documentation that the respective professional education advisory board has participated in the development of and has approved the proposal.

(3) Identify the professional certificate administrator who shall be responsible for the administration of the professional certificate program.

(4) ~~((Describe the major responsibilities of each of the collaborating agencies. Identify the staff from one or more of the collaborating agencies who will be assigned the))~~ Delegate to the professional certificate administrator responsibility for reviewing or overseeing the following: Application(s) for the professional certificate program; advising candidates once accepted; developing and implementing the individualized professional growth plan, the instruction and assistance components, and the assessment seminar; maintaining current records on the status of all candidates accepted into the professional certificate program; and ~~((for))~~ serving as the liaison with the superintendent of public

instruction certification office (~~in order~~) to facilitate the issuance of the professional certificates when candidates have met the required standards.

(5) Establish the admission criteria that candidates for the professional certificate (~~will need to~~) shall meet (~~in order~~) to be accepted into the (~~collaboratively developed~~) professional certificate program.

(6) Describe the procedures that the approved program will use to determine that a candidate has successfully demonstrated the standards and criteria for (~~obtaining~~) the professional certificate set forth in WAC 180-78A-540.

(7) Prepare an annual summary (~~on~~) of the status of all candidates in the program and submit the summary to the respective professional education advisory board.

(8) Submit any additional information required to the respective professional education advisory board that it requests.

(9) Facilitate an on-site review of the program when requested by the state board of education to ensure that the program meets the state's program approval standards and to provide assessment data relative to the performance standards (~~to the state board of education~~).

Provided, That the on-site reviews shall be scheduled on a five-year cycle unless the state board of education approves a variation in the schedule.

Provided further, That institutions seeking National Council for the Accreditation of Teacher Education (NCATE) accreditation may request from the state board of education approval for concurrent site visits which (~~would~~) shall utilize the same documentation whenever possible.

**AMENDATORY SECTION** (Amending WSR 99-01-174, filed 12/23/98, effective 1/23/99)

**WAC 180-78A-530 Approval standard—Resources.** The following evidence shall be evaluated to determine whether each professional certificate program is in compliance with the resources program approval standard of WAC 180-78A-515(3):

(1) Administrators, faculty, and teachers implementing the professional certificate program have appropriate qualifications (~~either~~) academic, experience, or both) for the roles to which they are assigned(~~)).~~ Such responsibilities (~~shall~~) may be shared, (~~as~~) when appropriate, (~~between and~~) among the collaborating agencies.

(2) (~~One of the collaborating agencies is assigned the~~) The college or university shall have responsibility for maintaining fiscal records (~~in order to monitor and report on the costs of implementing the program both to the collaborating agencies as well as to the candidates whose fees and tuition costs should be the primary source of fiscal support for the~~) and ensuring adequate financial support for the professional certificate program.

(3) Instructional, technological, and other needed resources (~~must~~) shall be sufficient in scope, breadth, and recency to support the professional certificate program.

**AMENDATORY SECTION** (Amending WSR 99-01-174, filed 12/23/98, effective 1/23/99)

**WAC 180-78A-535 Approval standard—Program design.** The following requirements shall govern the design of the professional certificate program:

(1) To be eligible to apply for admission to a professional certificate program, a candidate shall (~~be contracted~~) hold a contract as a teacher in a public or a state board of education approved private school and shall have completed provisional status with a school district under RCW 28A.405.220 or the equivalent with an approved private school.

(2) The professional certificate program must be available to all qualified candidates (~~who are admitted to the program in Washington in a timely, fair, equitable, and fiscally responsible manner~~).

(3) The professional certificate program shall be (~~collaboratively~~) developed by (~~an existing~~) a college or university and its professional education advisory board (~~with representation from its collaborating agencies~~). Additional agencies may participate in the development of the program if the college or university and professional education advisory board so choose(~~s~~).

(4) Each program shall consist of:

(a) (~~An individualized professional growth plan designed to provide the candidate with the knowledge and skills needed to demonstrate successfully the standards and criteria required to obtain the professional certificate.~~

(b) An assessment seminar designed to provide a variety of assessment opportunities for the candidate to demonstrate successfully each of the criteria related to the standards, pursuant to WAC 180-78A-365 and which may include college or university credit hours.) A preassessment seminar which considers input from the candidate's "professional growth team" (WAC 180-78A-505), the candidate's past experience, the context in which he/she teaches, information from past annual evaluations if the individual chooses, the candidate's personal and professional goals, his/her self-evaluation, and evidences of the candidate's impact on student learning.

The seminar will culminate in preparation and approval of the candidate's individual professional growth plan designed to provide the candidate with the knowledge and skills needed to demonstrate successfully the standards and criteria required by WAC 180-78A-540.

A representative of the college/university and the candidate shall develop the professional growth plan to be reviewed and agreed upon after input from and consultation and "collaboration" (WAC 180-78A-010(9)) with his/her "professional growth team" (WAC 180-78A-010(10)).

The individual professional growth plan shall be based on:

(i) An analysis of the instructional context and teaching assignment(s) to determine strategies which the teacher should use to achieve a positive impact on student learning.

(ii) An assessment of the candidate's ability to demonstrate successfully the professional certificate standards and criteria.

(iii) Specifications of assistance and instructional components needed and any required course work.

(b) Course work, past and current experience, inservice, continuing education and other activities directed at developing and verifying that the candidate has achieved acceptable knowledge, skill and performance on all criteria required state-wide as essential to "effective teaching" as defined in WAC 180-78A-540(1).

(c) Course work, past and current experience, inservice, continuing education and other activities directed at developing and verifying that the candidate has achieved acceptable knowledge, skill and performance on all criteria required state-wide as essential to "professional development" as defined in WAC 180-78A-540(2).

(d) Course work, past and current experience, inservice, continuing education and other activities directed at developing and verifying that the candidate has achieved acceptable knowledge, skill and performance on all criteria required state-wide as essential to "leadership" as defined in WAC 180-78A-540(3).

(e) A culminating seminar in which the candidate presents his/her final documentation and evidence of professional certificate level knowledge, skill and performance; positive impact on student learning; identification of future goals and professional/career interests; and specification of areas for continuing education and development. The candidate must provide multiple forms of evidence as required by WAC 180-78A-535 (4)(e)(i)(D) of his/her positive impact on student learning.

(i) The final program component, the culminating seminar, shall include the following performance-based assessments:

(A) K-12 student achievement data, whenever appropriate, related to one or more of the Washington state essential academic learning requirements.

(B) Evidence of the candidate's positive impact on student learning as defined in WAC 180-78A-010(8) for the standard of effective teaching.

(C) Assessment data for a selected number of students.

(D) Multiple forms of evidence presented over time which may include, but are not limited to, the following: Classroom-based evidence of student learning; portfolios; statements from parents, peer teachers, and/or administrators; and student scores on standardized achievement tests.

(5) ((The individualized professional growth plan shall be based on:

(a) An analysis of the instructional context for determining the appropriate strategies by which the teacher will be able to have a positive impact on student learning. In developing the analysis, consideration should be given, but not limited to, the following data collected in collaboration with the school district or building:

(i) The resources available at the approved private school or school district to support the instruction, including: Textbooks, technological resources, the assignment of teacher assistants, and administrator and/or peer teacher support;

(ii) The teaching assignment(s);

(iii) The age(s) and maturity of the students;

(iv) The number of special needs students in any specific class; and

(v) Other.

(b) A preassessment of the candidate's ability to demonstrate successfully the professional certificate standards and criteria.

(6) A representative of the college/university, a representative of the candidate's employing approved private school or school district (or an educational service district, if the employing approved private school or school district so delegates), and a representative, selected by the candidate, from one of the other authorized agencies (i.e., local school district professional association, state-wide professional association, specialty area professional association or educational service district) as well as the candidate, shall participate in the development and approval of the professional growth plan.

(7) The individualized professional growth plan shall include assistance and instructional components and shall specify any required course work which may include college and university credit hours.

(8) The assessment seminar shall include performance-based assessments which shall include:

(a) K-12 student achievement data, whenever appropriate, related to one or more of the essential academic learning requirements now being developed by the commission on student learning.

(b) Evidence of a positive impact on student learning as defined in WAC 180-78A-010(8) for the standard of effective teaching. In determining positive impact on student learning, the candidate, in consultation with one or more of the collaborating agencies, shall determine, prior to instruction, the level of appropriate achievement of the K-12 student based on the analysis of the instructional context described in WAC 180-78A-360 (5)(a). The positive impact on student learning will then be determined on the basis of the extent to which the level of achievement was met. Candidates may need to repeat these assessments a number of times, utilizing alternative instructional strategies in order to demonstrate consistently a positive impact on student learning.

(c) A focus on the achievement of all, or a limited number of, students in a class. Teachers will not be required to provide assessment data for all their students for the full range of potential content and learning objectives.

(d) Multiple forms of evidence presented over time which may include, but are not limited to, the following: Classroom-based evidence of student learning; portfolios; statements from parents, peer teachers, and/or administrators; and student scores on standardized achievement tests.

(9) No limits shall be placed on the number of times a candidate with a valid residency certificate may participate in the assessment component and on the forms of relevant evidence that the candidate may submit.

(10)) Candidates who do not successfully complete ((the assessment component)) a culminating seminar shall receive an individualized analysis of strengths and weaknesses and a plan for appropriate assistance and instruction.

(6) No limits shall be placed on the number of times a candidate with a valid residency certificate may participate in the culminating seminar.

AMENDATORY SECTION (Amending WSR 99-01-174, filed 12/23/98, effective 1/23/99)

**WAC 180-78A-540 Approval standard—Knowledge and skills.** The following standards and criteria must be demonstrated successfully by the candidate in order to obtain a professional certificate:

(1) A successful candidate for the professional certificate shall demonstrate the knowledge and skills for effective teaching which ensure student learning by:

(a) Using effective teaching practices, including classroom management;

(b) Using assessment to monitor and improve instruction;

(c) Establishing and maintaining a positive, student-focused, learning environment;

(d) Designing and/or adapting challenging curriculum that is developmentally appropriate;

(e) Demonstrating cultural sensitivity in teaching and in relationships with students, parents, and community members;

(f) Using information ~~((on))~~ about student achievement and performance to advise and involve students and families;

(g) Integrating technology into instruction and assessment; ~~((and))~~

(h) Informing, involving, and collaborating with parents and families ~~((to support student success))~~ as partners in the educational process instrumental to student success; and

(i) Employing democratic principles in instruction.

(2) A successful candidate for the professional certificate shall demonstrate the knowledge and skills for professional development by:

(a) Evaluating the effects of his/her teaching through feedback and reflection;

~~((Establishing goals for professional improvement;~~

~~((e)))~~ Designing and implementing ~~((personal))~~ professional growth programs, including new directions in career development and goals; and

~~((d)))~~ (c) Remaining current in subject area(s), theories, practice, ~~((and))~~ research and ethical practice.

(3) A successful candidate for the professional certificate shall demonstrate leadership that contributes to the improvement of the school, community, and the profession by:

(a) Participating in activities within the school community to improve curriculum and instructional practices;

(b) Participating in professional and/or community organizations;

(c) Advocating for curriculum, instruction, and learning environments which meet the diverse needs of students;

(d) Demonstrating communication skills and/or strategies that facilitate group decision making; and

(e) Participating collaboratively in school improvement activities ~~((and~~

~~((f) Incorporating democratic principles into his/her practice)).~~

WSR 00-03-050

PERMANENT RULES

STATE BOARD OF EDUCATION

[Filed January 14, 2000, 1:11 p.m.]

Date of Adoption: January 12, 2000.

Purpose: The amendment allows an individual from a foreign country to submit a transcript from a regionally accredited United States college or university as evidence of degree equivalency.

Citation of Existing Rules Affected by this Order: Amending WAC 180-79A-260.

Statutory Authority for Adoption: RCW 28A.410.010.

Adopted under notice filed as WSR 99-24-124 on December 1, 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 1, Repealed 0.

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Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 14, 2000

Larry Davis

Executive Director

AMENDATORY SECTION (Amending WSR 99-01-174, filed 12/23/98, effective 1/23/99)

**WAC 180-79A-260 Establishing equivalency for course work, degrees and programs completed in countries outside the United States.** Certification candidates who have completed degree and/or approved professional preparation programs in a country other than the United States may be required to ~~((submit))~~ provide one or more of the following:

(1) A transcript from a regionally accredited United States college or university indicating that the college/university has accepted the degree as equivalent to its degree.

(2) A statement of degree equivalency for the appropriate degree from a foreign credentials' evaluation agency approved by the office of the superintendent of public instruction.

~~((2)))~~ (3) A statement from an official of the college or university where the certification program was completed, indicating completion of the program and approval of the program by the agency governing certification in that country.

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**WSR 00-03-056**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**

[Filed January 14, 2000, 4:45 p.m.]

Date of Adoption: January 14, 2000.

Purpose: The rules are being rewritten in language that will be clearer to our customers. New sections were added to separate multiple topics that were covered under one rule. Once the information was rewritten and separated out, two rules were left with obsolete or unnecessary information and are being repealed.

Citation of Existing Rules Affected by this Order: Amending WAC 296-30-080 Counseling for sexual assault, WAC 296-30-081 Acceptance of rules and fees for medical and mental health services, WAC 296-30-120 Factors considered in order to modify debt due department, WAC 296-30-170 Payment for medical examination of victims of sexual assault, WAC 296-30-180 Payment of benefits to prevent unjust enrichment, WAC 296-31-030 General provider requirements—Who may treat, and WAC 296-31-070 Provider obligations—Acceptance of rules and fees; new sections WAC 296-30-085 What is different about billing for a crime victim client? WAC 296-30-090 What are the maximum allowable fees? WAC 296-30-095 How do the rules and fees apply to out-of-state providers? WAC 296-30-100 Will the department notify providers if a fee schedule is amended or established? WAC 296-30-105 What protest or appeal rights are available? WAC 296-31-035 How do I register to become an authorized provider with the crime victims compensation program? WAC 296-31-045 Can the department deny, revoke, suspend or impose conditions on a provider's authorization to treat crime victim claimants? WAC 296-31-055 What type of corrective action can be taken against providers? WAC 296-31-056 Can providers be charged interest on incorrect or inappropriate payments? WAC 296-31-057 Can the department penalize a provider? WAC 296-31-058 What protest and appeal rights are available? and WAC 296-31-074 What if my patient has an unrelated condition?; and repealing WAC 296-31-050 Initial treatment and application for benefits and WAC 296-31-090 Mental health fees.

Statutory Authority for Adoption: For WAC 296-30-080 is RCW 7.68.030, 7.68.070(12); for WAC 296-30-081 is RCW 7.68.030, 7.68.060, 7.68.080; for WAC 296-30-120 is RCW 7.68.030, 7.68.120; for WAC 296-30-170 is RCW 7.68.030, 7.68.170; for WAC 296-30-180 is RCW 7.68.030, 7.68.070(15), 7.68.120; for WAC 296-31-030 and 296-31-035 is RCW 7.68.030, 7.68.080; for WAC 296-31-070 is RCW 7.68.030, 7.68.060, 7.68.080; for WAC 296-30-085 is RCW 7.68.030, 7.68.080, 7.68.130; for WAC 296-30-090 RCW 7.68.030, 7.68.080, 7.68.130; for WAC 296-30-095, 296-30-100 and 296-31-074 is RCW 7.68.030; for WAC 296-30-105 is RCW 7.68.030, 7.68.110, 51.52.050, 51.52.060(1); for WAC 296-31-045 is RCW 7.68.030, 7.68.080, 7.68.100; for WAC 296-31-055 is RCW 7.68.030, 7.68.080, 7.68.100, 51.48.080, 51.48.250, 51.48.260, 51.48.280, 51.48.290; for WAC 296-31-056 is RCW 7.68.030, 7.68.080, 51.48.250, 51.48.260; for WAC 296-31-

057 is RCW 7.68.030, 7.68.080, 7.68.100, 51.48.060, 51.48.080, 51.48.090, 51.48.250, 51.48.260, 51.48.270, 51.48.280, 51.48.290; and for WAC 296-31-058 is RCW 7.68.030, 7.68.110, 51.52.050, 51.52.060(1).

Adopted under notice filed as WSR 99-22-038 on October 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 12, Amended 7, Repealed 2.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 12, Amended 7, 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 12, Amended 7, Repealed 2.

Effective Date of Rule: Thirty-one days after filing [February 14, 2000].

January 14, 2000

Gary Moore

Director

AMENDATORY SECTION (Amending WSR 94-02-015, filed 12/23/93, effective 1/24/94)

**WAC 296-30-080 ((Counseling for sexual assault.))**  
**Can family members of sexual assault victims receive counseling?** (((1) Pursuant to RCW 7.68.070(12), the department shall pay for counseling for victims of sexual assault and, when appropriate, for members of a victim's immediate family. An immediate family member shall be defined as the victim's parents, spouse, child(ren), siblings, grandparents, and those members of the same household who have assumed the rights and duties commonly associated with a family and who hold themselves out as a family unit.

(2) Counseling for the above defined family members is appropriate when:

(a) The counseling is for the spouse, child, parent, or sibling of the victim who suffers psychological trauma as a result of the sexual assault; or

(b) The family member and victim live in the same household and the family member suffers psychological trauma as a result of the sexual assault; or

(c) The family member sees the assault; or

(d) Counseling of the family member will aid in the victim's recovery.) (1) Counseling for immediate family members of sexual assault victims is appropriate when:

(a) The family member suffers psychological trauma as a result of the sexual assault; or

(b) Counseling the family member will help the client's recovery.

(2) Immediate family members are the client's parents, spouse, child(ren), siblings, grandparents, and those mem-

bers of the same household who have assumed the rights and duties commonly associated with a family unit.

(3) Counseling for immediate family members will be covered under the victim's sexual assault claim.

AMENDATORY SECTION (Amending WSR 99-07-004, filed 3/4/99, effective 4/4/99)

**WAC 296-30-081** (~~(Acceptance of rules and fees for medical and mental health services.)~~) What are the general obligations of a provider who provides medical or mental health services to a crime victim? (~~Providing medical or counseling services to an injured crime victim whose claim for crime victims compensation benefits has been accepted by the department constitutes acceptance of the department's medical aid rules and compliance with its rules and fees. Maximum allowable fees shall be those fees contained in the publications entitled *Medical Aid Rules and Fee Schedules and Crime Victims Compensation Program Mental Health Treatment Rules and Fees*, less any available benefits of public or private collateral resources, except as follows:~~

The percent of allowed charges authorized for hospital inpatient and outpatient services billed by revenue code are those rates established by the department of social and health services under Title 74 RCW and WAC 388-550-4500 (1)(a) and 388-550-6000 (1)(a).

If any of the maximum allowable fees in the publications entitled *Medical Aid Rules and Fee Schedules and Crime Victims Compensation Program Mental Health Treatment Rules and Fees* is lower than the maximum allowable fees for those procedures established by the department of social and health services under Title 74 RCW, the Title 74 RCW fees are the maximum allowable fees for those procedures.

Prior to the establishment or amendment of the fee schedules, the department will give at least thirty calendar days notice by mail to interested persons who have made timely request for advance notice of the establishment or amendment of the fee schedules. To request advance notice of the establishment or amendment of the medical fee schedules, interested persons must contact the department at the following address:

Department of Labor and Industries  
Health Services Analysis  
P.O. Box 44322  
Olympia, WA 98504 4322

~~To request advance notice of the establishment or amendment of the mental health fee schedules, interested persons must contact the department at the following address:~~

Department of Labor and Industries  
Crime Victims Compensation Section  
P.O. Box 44520  
Olympia, WA 98504 4520

~~An injured victim shall not be billed for his or her accepted injury. The department shall be billed only after available benefits of public or private insurance have been determined. Bills must be submitted within ninety days from~~

~~the date of service to be considered for payment. If insurance or public agency collateral resources exist, bills must be received within ninety days following payment or rejection by the resource. A copy of the payment or rejection must accompany the bill.~~

~~If the service provider has billed the injured victim and is later notified that the department has accepted the victim's claim, the provider shall refund to the injured victim any amounts paid, and bill the department for services rendered at their usual and customary fees if such rates are in excess of the public or private insurance entitlements.~~

~~On claims closed over ninety 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.~~

~~Providers outside of the state of Washington are subject to the same requirements, and are paid the same fees, as providers inside the state, with the exception of independent medical or mental health examinations, which will be paid at the examiner's usual customary fee.)~~ (1) When treating a crime victim who comes under our jurisdiction, you agree to accept and comply with the department's rules and fees.

(a) Medical providers must comply with this chapter and the department's medical aid rules and fee schedules.

(b) Mental health providers must comply with this chapter and the *Crime Victims Compensation Programs Mental Health Treatment Rules and Fees*.

(2) You must inform the victim of his or her rights under the Crime Victims Act and give whatever assistance is necessary for the victim to apply for compensation and provide proof of other matters required by our rules. Providers may not charge the victim for these services.

#### NEW SECTION

**WAC 296-30-085** What is different about billing for a crime victim client? (1) Providers must qualify as approved providers and register with the crime victims compensation program before they are authorized to provide treatment and receive payment. To register with the crime victims compensation program, you must send us:

(a) A completed provider application and Form W-9.  
(b) A legible copy of your professional license, certification and/or registration.

(c) Ph.Ds not licensed as psychologists and master level counselors must provide a legible copy of their degree.

(2) Providers must determine if any public or private insurance benefits are available before billing the department. Available public or private insurance must be billed first and a copy of the insurance explanation of benefits must be attached to billings submitted to the department.

(3) A client must not be billed for treatment of his or her accepted condition. All copayments, deductibles or out of pocket expenses not covered by primary insurance should be included in your billings to the department.



**EXCEPTION:** A provider may require the client to pay for treatment if the client's eligibility is in question (e.g., when an investigation or claim determination is pending). If the claim is subsequently allowed, the provider must refund the client in full and bill us at their usual and customary fees if such rates are in excess of the public or private insurance entitlements.

(4) On claims closed over ninety days, we will pay for completion of a reopening application, an office visit and diagnostic studies necessary to complete the application. No other benefits will be paid until the reopening decision is made. If the reopening application is approved, we can pay benefits for a period not to exceed sixty days prior to the date the reopening application was received by us.

#### NEW SECTION

**WAC 296-30-090 What are the maximum allowable fees?** (1) Maximum allowable fees for medical services are those fees published in the *Medical Aid Rules and Fee Schedules* less any available benefits of public or private insurance.

(2) Maximum allowable fees for mental health services are those fees published in the *Crime Victims Compensation Program Mental Health Treatment Rules and Fees* less any available benefits of public or private insurance.

**EXCEPTION:** If any of the maximum allowable fees in the publications entitled *Medical Aid Rules and Fee Schedules* and *Crime Victims Compensation Program Mental Health Treatment Rules and Fees* are lower than the maximum allowable fees for those procedures established by the department of social and health services under Title 74 RCW, the Title 74 RCW fees are the maximum allowable fees for those procedures.

(3) The percent of allowed charges authorized for hospital inpatient and outpatient services billed by revenue codes are those rates established by the department of social and health services under Title 74 RCW and WAC 388-550-4500 (1)(a) and 388-550-6000 (1)(a) less any available benefits of public or private insurance.

#### NEW SECTION

**WAC 296-30-095 How do the rules and fees apply to out-of-state providers?** Rules and fees are the same for out-of-state providers as for in state providers.

**EXCEPTION:** Out-of-state independent medical or mental health examinations are reimbursed at the examiners usual and customary fee.

#### NEW SECTION

**WAC 296-30-100 Will the department notify providers if a fee schedule is amended or established?** We will

give you at least thirty days advance notice by mail when we amend or establish a fee schedule.

#### NEW SECTION

**WAC 296-30-105 What protest or appeal rights are available?** If you or the client do not agree with our order, decision or award a written protest may be sent to the crime victims compensation program or appeal to the board of industrial insurance appeals. A protest or appeal to our order or decision requiring repayment by a provider must be received within twenty days from receipt of the order or decision. A protest or appeal regarding other issues must be received within ninety days of receipt of the order or decision.

**Note:** Protest and appeal rights are governed under chapter 51.52 RCW and RCW 7.68.110.

**AMENDATORY SECTION** (Amending WSR 97-02-090, filed 12/31/96, effective 1/31/97)

**WAC 296-30-120** (~~Factors considered in order to modify debt due department.~~) **May the department waive, modify or adjust the debt owed by a convicted offender?** (~~RCW 7.68.120 allows the department in the interest of justice or rehabilitation, to waive, modify, or adjust the debt owed to the department by any person found to have committed the criminal act for which crime victim benefits were paid. To determine whether or not the debt should be modified, waived or adjusted, the department shall consider the following factors:~~

- (1) ~~The gravity of the offense;~~
- (2) ~~Extent of injury to victim;~~
- (3) ~~Type of crime;~~
- (4) ~~Circumstances surrounding the criminal act;~~
- (5) ~~The assailant's attempts at rehabilitation:~~
  - (a) ~~Rehabilitation program involvement;~~
  - (b) ~~Employment efforts;~~
  - (c) ~~Community involvement;~~
- (6) ~~Ability to pay:~~
  - (a) ~~Income;~~
  - (b) ~~Necessary expenses;~~
  - (c) ~~Number and ages of dependents;~~
- (7) ~~Sentence imposed by the court;~~
- (8) ~~The impact on the victim of reducing the debt.~~) **Yes,**

**the department may consider the following issues in the decision. The list is not inclusive.**

- (1) **Justice:**
  - (a) **Gravity of the criminal offense;**
  - (b) **History of criminal convictions;**
  - (c) **Type of crime;**
  - (d) **Circumstances surrounding the criminal act;**
  - (e) **Sentence imposed by the court.**
- (2) **Well-being of the victim:**
  - (a) **Extent of injury to victim;**
  - (b) **Safety of victim;**
  - (c) **Dependency of the victim on the offender;**
  - (d) **Recovery of victim.**
- (3) **Rehabilitation of the individual:**

- (a) Attempts at rehabilitation;
- (b) Employment status;
- (c) Ability to pay.

AMENDATORY SECTION (Amending Order 85-37, filed 12/11/85)

~~WAC 296-30-170 ((Payment for medical examination of victims of sexual assault.))~~ Who is required to pay for sexual assault examinations? ((A victim of sexual assault is entitled to payment for the costs of a medical examination under RCW 7.68.170 regardless of whether she or he qualifies for benefits under chapter 7.68 RCW, if the hospital or emergency medical facility proves to the department that:

- (1) The care was provided; and
- (2) The examination was performed at least in part to gather medical evidence for possible prosecution of the assailant.)) When a sexual assault examination is performed for the purpose of gathering evidence for possible prosecution, the costs of the examination must be billed to the crime victims compensation program. We are the primary payer of this benefit. The client is not required to file an application with us to receive this benefit and may not be billed for these costs. If the examination includes treatment costs or the client will require follow-up treatment, an application for benefits must be filed with us for these services to be considered for payment.

AMENDATORY SECTION (Amending WSR 97-02-090, filed 12/31/96, effective 1/31/97)

~~WAC 296-30-180 ((Payment of benefits to prevent unjust enrichment.))~~ What protection is available to crime victims to prevent unjust enrichment to others from their benefits? ((RCW 7.68.070(15) prohibits the department from paying any benefits or compensation to the person who caused a crime victim's injuries, or to any other person if that person would be unjustly enriched by the benefits. In some situations, as when a child is injured by a parent or a spouse by the other spouse, there is a danger that the injuring person will divert to his or her own use the benefits or compensation intended for the victim.

To prevent this possibility, the department may on its own motion or the motion of the victim or his or her guardian, request that the victim or other responsible adult establish (1) a trust for which the trustee shall be a neutral third person; or (2) a savings or checking account for which a neutral third person must cosign all withdrawals or checks. Crime victims compensation benefits shall then be deposited in the established account.

The department shall continue to pay medical providers directly.)) (1) The Crime Victims Act prohibits the department from paying benefits or compensation to a person:

- (a) Who caused the crime victim's injuries; or
- (b) Any person who would be unjustly enriched by the victim's benefits (e.g., there is a danger the person may divert benefits intended for the victim to his or her own use).

(2) To prevent unjust enrichment, the department, victim, or the victim's guardian may file a motion to:

(a) Request that the victim or other responsible adult establish:

- (i) A trust account with a neutral third party as trustee; or
- (ii) A savings or checking account with a neutral third party to cosign all withdrawals or checks.

(b) Crime victim compensation benefits will then be deposited in the established account.

(3) The department will continue to pay providers directly.

AMENDATORY SECTION (Amending WSR 95-15-004, filed 7/5/95, effective 8/5/95)

~~WAC 296-31-030 ((General provider requirements—Who may treat.))~~ What are the eligibility requirements of a mental health treatment provider under the Crime Victims Act? (1) Mental health providers ((who may treat claimants under the Crime Victims Act must register with the crime victims compensation program and qualify as an approved provider under these rules. The department must register the mental health provider before the mental health provider is eligible for payment for services.

(2) Washington permanently licensed psychiatrists, psychologists and advanced registered nurse practitioners with a specialty in psychiatric and mental health nursing, and registered and/or certified master level counselors whose master's degree is in a field of study related to mental health services including but not limited to, social work, marriage and family therapy or mental health counseling, who are registered with the crime victims program are authorized to provide treatment in accordance with these rules to claimants.

Out-of-state providers must be licensed, registered and/or certified in accordance to the licensing requirements within the state in which they practice. Copies of license, registration and/or certification must be provided when applying for approval to treat Washington state crime victims)) must qualify as an approved provider and register with the crime victims compensation program before they are authorized to provide treatment and receive payment in accordance with these rules.

(2) The following providers who are permanently licensed, registered or certified in Washington are eligible to register with this program:

- (a) Psychiatrists;
- (b) Psychologists;
- (c) Advanced registered nurse practitioners with a specialty in psychiatric and mental health nursing;
- (d) Ph.Ds not licensed as psychologists and master level counselors whose master's degree is in a field of study related to mental health services including, but not limited to, social work, marriage and family therapy or mental health counseling.

(3) Out-of-state providers must be currently licensed, registered and/or certified within the state in which they practice. Washington requires mental health counselors to have a masters degree to treat Washington crime victim clients.

EXCEPTION: In areas where the department has determined licensed, registered and/or certified

providers are not available, the department may consider registration exceptions on an individual (ease) basis.

~~((3) The department has a duty to supervise provision of proper and necessary mental health care that is delivered promptly, efficiently, and economically. The department may deny, revoke, suspend, limit, or impose conditions on a mental health care provider's authorization to treat victims under the Crime Victims Act. Reasons for imposing any of the above restrictions include, but are not limited to the following:~~

~~(a) Negligence or incompetence which results in injury to a claimant or which creates an unreasonable risk that a claimant may be harmed.~~

~~(b) The illegal possession, use, prescription for use, or distribution of controlled substances, legend drugs, or addictive, habituating, or dependency inducing substances in any way other than for therapeutic purposes.~~

~~(c) Any temporary or permanent probation, suspension, revocation, or other relevant type of limitation of a provider's license, certification or registration to practice by any court, board, or administrative agency.~~

~~(d) The commission of any act involving moral turpitude, dishonesty, or corruption relating to the practice of the provider's profession. The act need not constitute a crime. If a conviction or finding of such an act is reached by a court or other tribunal pursuant to plea, hearing, or trial, a certified copy of the conviction or finding is conclusive evidence of the violation.~~

~~(e) Failure to comply with the department's orders, rules, or policies.~~

~~(f) Failure, neglect, or refusal to:~~

~~(i) Submit copies of license, certification and/or registration and degree to the department.~~

~~(ii) Maintain and provide records requested by the department pursuant to a health care services review or an audit.~~

~~(iii) Submit complete, adequate, and detailed reports or additional reports requested or required by the department regarding the treatment and condition of a claimant.~~

~~(g) The submission of, or collusion in the submission of, false or misleading reports or bills to any government agency.~~

~~(h) Billing a claimant for:~~

~~(i) Treatment of a condition for which the department has accepted responsibility; or~~

~~(ii) Any amount more than the amount paid by the department under the maximum allowable fee set forth in these rules and any other charge with the exception of "no show" appointment charges. The department has no provision to pay charges for missed appointments, except for independent assessments arranged by the department. Claimants may be billed directly for missed or "no show" appointments.~~

~~(i) Repeated failure to recognize emotional and social factors impeding recovery of a claimant who is being treated under the Crime Victims Act.~~

~~(j) Repeated unreasonable refusal to comply with the recommendations of board-certified or qualified consultants who have examined or reviewed a claim for the department.~~

~~(k) Repeated use of:~~

~~(i) Treatment of controversial or experimental nature;~~  
~~(ii) Contraindicated or hazardous treatment; or~~  
~~(iii) Treatment past stabilization of the condition or after maximum mental health improvement has been obtained.~~

~~(l) Declaration of mental incompetency by a court or other tribunal.~~

~~(m) Failure to comply with the applicable code of professional conduct or ethics.~~

~~(n) Failure to inform the department of any disciplinary action issued by order or formal letter taken against the provider's license, certification or registration to practice.~~

~~(o) The finding of any peer group review body of reason to take action against the provider's practice privileges.~~

~~(p) Misrepresentation or omission of any material information in the application for authorization to treat claimants.~~

~~(q) Repeated billing of the department for services that are available to claimants from public or private insurance sources. The crime victims compensation program is a secondary insurer. Providers should bill the department only after all benefits available to the claimant from public or private insurance are exhausted.~~

~~(4) If the department finds reason to take corrective action, the department may also order one or more of the following:~~

~~(a) Recoupment of payments made to the provider, including interest, at the rate of one percent per month or portion of a month beginning on the thirty-first day after payment was made.~~

~~(b) Denial or reduction of payment;~~

~~(c) Placement of the provider on a prepayment review status requiring the submission of supporting documents prior to payment;~~

~~(d) Requirement to satisfactorily complete education courses and/or programs; and~~

~~(e) Imposition of other appropriate restrictions or conditions on the provider to include revocation of the privilege to be reimbursed for treating victims under the Crime Victims Act.~~

~~(5) The department shall forward a copy of any corrective action taken against a provider to the applicable disciplinary authority.~~

~~(6) Appeal and protest rights: A provider may file a written protest to any department order, decision, or award. An appeal or protest to an order or decision demanding repayment of sums must be submitted to the department or the board of industrial insurance appeals within twenty days from receipt of the order or decision. An appeal or protest to an order or decision regarding other issues, e.g., ongoing treatment or provider eligibility, must be filed within sixty days from receipt of the order or decision. Appeal and protest rights are governed under chapter 51.52 RCW and RCW 7.68.110.)~~

## NEW SECTION

**WAC 296-31-035 How do I register to become an authorized provider with the crime victims compensation program? You must send us:**

(1) A completed provider application and Form W-9;

(2) A legible copy of your license, certification and/or registration;

(3) Ph.Ds not licensed as psychologists and master level counselors must provide a legible copy of their degree.

#### NEW SECTION

**WAC 296-31-045 Can the department deny, revoke, suspend or impose conditions on a provider's authorization to treat crime victim claimants?** The department has a duty to supervise the provisions of proper and necessary mental health care that is delivered promptly, efficiently and economically. We may deny, revoke, suspend or impose conditions on your authorization to treat crime victim claimants for reasons that include, but are not limited to:

(1) Incompetence or negligence that results in injury to a client or that exposes the client to harm.

(2) The possession, use, prescription for use, or distribution of controlled substances, legend drugs, or addictive, habituating or dependency-inducing substances except for therapeutic purposes.

(3) Limits placed on your license, certification and/or registration by any court, board or administrative agency. The limits may be temporary or permanent and may involve probation, suspension or revocation.

(4) The commission of any act involving moral turpitude, dishonesty, or corruption that relates to the practice of your profession. The act does not need to be a crime. If a court or other tribunal issues a conviction or finding regarding the act, a certified copy of the conviction or finding is conclusive evidence of the violation.

(5) Failure to comply with our rules, orders or policies.

(6) Failure, neglect or refusal to:

(a) Provide us with copies of your license, certification and/or registration and degree;

(b) Provide records requested by the department pursuant to a health care service review or an audit;

(c) Provide us with complete and timely reports that we require, or additional reports or records that we request.

(7) The submission or collusion in the submission of false or misleading reports or bills to any government agency.

(8) Billing a claimant for:

(a) Treatment of a condition for which the department has accepted responsibility; or

(b) The difference between the amount paid by the department and/or public or private insurance under the maximum allowable fee set forth in these rules and any other charge.

(9) Repeated failure to notify the department immediately and prior to burial in any death, where cause of death is not definitely known and possibly related to a crime victim injury.

(10) Repeated failure to recognize emotional and social factors that impede a client's recovery.

(11) Repeated unreasonable refusal to comply with the recommendations of a board certified or qualified specialist who examines or reviews a claim for us.

(12) Repeated use of treatment that is:

(a) Controversial or experimental;

(b) Contraindicated or hazardous;

(c) Performed after the condition stabilizes; or

(d) Performed after maximum mental health improvement is reached.

(13) Mental incompetence declared by a court or other tribunal.

(14) Failure to comply with the applicable code of professional conduct or ethics.

(15) Failure to inform us of disciplinary action against your license, certification or registration to practice, issued by order or formal letter.

(16) The finding of reason(s) to take action against your privileges to practice by any peer group review body.

(17) Misrepresentation or omission of any material information in your application for authorization to treat crime victims.

(18) Repeated billing of the department for services that are available to clients from public or private insurance sources. You must bill us only after all public or private insurance benefits are exhausted.

#### NEW SECTION

**WAC 296-31-055 What type of corrective action can be taken against providers?** (1) If the department finds reason to take corrective action, we may also order one or more of the following:

(a) Recoup our payments to you with interest.

(b) Deny or reduce payment.

(c) Assessment of penalties for each action that falls within the scope of WAC 296-31-045 (1) through (18).

(d) Place you on a prepayment review status that requires you to submit supporting documents prior to payment.

(e) Require you to satisfactorily complete education courses and/or programs.

(f) Impose other appropriate restrictions or conditions, including revoking your privilege to be reimbursed for treating clients under the Crime Victims Act.

(2) Cases involving questions of ethics or quality of care will be referred to the department of health.

(3) We will forward a copy of any corrective action taken against you to the applicable disciplinary authority.

#### NEW SECTION

**WAC 296-31-056 Can providers be charged interest on incorrect or inappropriate payments?** (1) When you receive a payment to which you are not entitled, you must repay the excess payment, plus accrued interest, without regard to whether the excess payment occurred due to your error or department error or oversight.

**EXCEPTION:** If you accept in good faith a determination by the department that a crime victim client is eligible for benefits under the Crime Victims Act and we later determine the client was ineligible for services, interest will not begin to accrue until notification is received by you that the client was ineligible.

(2) Interest will accrue on excess payments at the rate of one percent per month or portion of a month beginning on the thirty-first day after payment was made. When partial payment of an excess payment is made, interest accrues on the remaining balance.

(3) The department has the option of requesting you to remit the amount of the excess payment and accrued interest or offsetting excess payments and accrued interest against future payments due to you.

#### NEW SECTION

**WAC 296-31-057 Can the department penalize a provider?** The penalty provisions for physicians contained in chapter 51.48 RCW are the same for mental health providers under these rules.

#### NEW SECTION

**WAC 296-31-058 What protest and appeal rights are available?** If you or the client do not agree with our order, decision or award a written protest may be sent to the crime victims compensation program or appeal to the board of industrial insurance appeals. A protest or appeal to our order or decision requiring repayment by a provider must be received within twenty days from receipt of the order or decision. A protest or appeal regarding other issues must be received within ninety days of receipt of the order or decision.

Note: Protest and appeal rights are governed under chapter 51.52 RCW and RCW 7.68.110.

AMENDATORY SECTION (Amending WSR 95-15-004, filed 7/5/95, effective 8/5/95)

**WAC 296-31-070 ((~~Provider obligations—Acceptance of rules and fees.~~) What are my general obligations as an approved mental health provider? ((1) The filing of a crime victims compensation claim, or the rendering of treatment to a victim who comes under the department's jurisdiction constitutes acceptance of the department's crime victims compensation mental health rules and mental health fees and compliance with its rules and fees. In accordance with RCW 7.68.060(1) of the Crime Victims Act, when a mental health provider renders treatment to a victim entitled to benefits under the law, it shall be the duty of the mental health provider to inform the victim of his or her rights under this title and to lend all necessary assistance in making the application for compensation and such proof of other matters as required by the rules of the department without charge to the victim; a victim shall not be billed for treatment rendered for his or her accepted condition. The department may be contacted to obtain brochures and copies of the act.**

~~When there is questionable eligibility, (e.g., service is not usually allowed for crime victims when a investigation or claim determination is pending), the provider may require the claimant to pay for the treatment rendered. In cases of questionable eligibility where the provider has billed the claimant or other insurance, and the claim is subsequently allowed, the~~

~~provider shall refund the claimant in full within thirty days of notification of allowance of claim and bill the department for services rendered at usual and customary charges. Cases in which there is a question of ethics or quality of care will be referred to the department of health.~~

~~(2) The department must be notified immediately when an unrelated condition is being treated concurrently with an accepted condition.~~

~~(3) Penalties. The reporting requirements and penalty provision for physicians contained in RCW 51.36.060 and 51.48.060 shall be the same for physicians under these rules pursuant to RCW 7.68.100.~~

~~(4) Conditions preexisting the accepted condition are not the responsibility of the department. When an unrelated condition is being treated concurrently with the accepted condition, the attending practitioner must notify the department immediately and submit the following:~~

~~(a) Diagnosis and/or nature of unrelated condition.~~

~~(b) Treatment being rendered.~~

~~(c) The effect, if any, on accepted condition.~~

~~Temporary treatment of an unrelated condition may be allowed, upon prior approval by the department, provided these conditions directly retard recovery of the accepted condition. The department will not approve or pay for treatment for a known preexisting unrelated condition for which the claimant was receiving treatment prior to his or her crime victims claim, which is not retarding recovery from his or her accepted condition.~~

~~A thorough explanation of how the unrelated condition is affecting the accepted condition must be included with the request for authorization.~~

~~The department will not pay for treatment of an unrelated condition when it no longer exerts any influence upon the accepted condition. When treatment of an unrelated condition is being rendered, reports must be submitted monthly outlining the effect of treatment on both the unrelated and the accepted conditions.~~

~~The department will not pay for treatment of unrelated conditions unless specifically authorized, including purchases of drugs or medicines.) (1) When treating a crime victim who comes under our jurisdiction, you agree to accept and comply with the *Crime Victims Compensation Program Mental Health Treatment Rules and Fees.*~~

~~(2) You must inform the client they may be entitled to benefits under the Crime Victims Act and provide whatever assistance is necessary for the client to apply for benefits. There is no charge for these services.~~

~~(3) It is the responsibility of the client to notify the provider if they believe their condition is related to a criminal act. If you discover a condition that you believe is crime related, you must notify the client. It is your responsibility to determine if you are the first treating provider.~~

~~(4) If you are the first treating provider, you must:~~

~~(a) Provide crisis intervention as necessary;~~

~~(b) Provide instructions or help the client complete their portion of the application for benefits; and~~

~~(c) Continue necessary treatment according to our mental health rules if the client remains in your care.~~

(5) If you are not the first treating provider, you should ask the client if an application for benefits has been filed for the condition.

(a) If an application for benefits has been filed, and you and the client agree that a change of provider is desirable, the department should be notified of the transfer according to WAC 296-31-068.

(b) If an application for benefits has not been filed:

(i) Provide instructions or help the client complete their portion of the application for benefits; and

(ii) Include the name and address of the original provider, if known.

Note: Providers must determine if the client has public or private insurance benefits available. If there is, the provider should make sure they would be able to continue treating under the client's primary insurance. Crime victims compensation is secondary to other benefits according to RCW 7.68.130.

(6) You must notify us and the client of the date they are released to regular work. Time-loss compensation terminates on the release date. We may allow further treatment if:

(a) You request it;

(b) Treatment is needed; and

(c) The accepted condition is not fixed and stable.

(7) You must notify us if permanent functional impairment or loss (permanent partial disability) is indicated after maximum recovery of the accepted condition is achieved. We will arrange to have impairments rated according to WAC 296-20-200 et al.

(8) A client must not be billed for treatment, except under the following condition:

A provider may require the client to pay for treatment if the client's eligibility is in question (e.g., when an investigation or claim determination is pending). If the claim is subsequently allowed, the provider must refund the client in full and bill us at their usual and customary fees if such rates are in excess of the public and private insurance entitlements.

(9) No fee is payable by the department for missed appointments unless the appointment is for an examination arranged by the department. Clients may be billed directly for missed or no show appointments.

## NEW SECTION

**WAC 296-31-074 What if my patient has an unrelated condition?** (1) You must immediately notify us when you are treating an unrelated condition concurrently with an accepted condition and provide us with the following information:

(a) Diagnosis and/or nature of unrelated condition;

(b) Treatment being provided; and

(c) The effect, if any, on the accepted condition.

(2) Temporary treatment of an unrelated condition may be allowed and payment for service authorized if:

(a) We approve your request for authorization prior to treatment;

(b) You give us a thorough explanation of how the unrelated condition is affecting the accepted condition;

(c) Treatment of the unrelated condition is retarding recovery of the accepted condition; and

(d) We receive monthly reports from you, outlining treatment and its effect on both the unrelated and accepted conditions.

(3) We will not approve or pay for treatment of:

(a) An unrelated condition that has no influence or no longer influences the existing condition.

(b) A preexisting unrelated condition that was treated prior to acceptance of the crime victim's claim, unless it is retarding recovery of the accepted condition.

## REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 296-31-050 Initial treatment and application for benefits.

WAC 296-31-090 Mental health fees.

## **WSR 00-03-057**

### **PERMANENT RULES**

### **DEPARTMENT OF LICENSING**

[Filed January 18, 2000, 10:44 a.m.]

Date of Adoption: January 15, 2000.

Purpose: Meet criteria supporting Governor Locke's Executive Order 97-02.

Citation of Existing Rules Affected by this Order: Repealing WAC 308-96A-360, 308-96A-370, 308-96A-375 and 308-96A-380; and amending WAC 308-96A-345, 308-96A-350, 308-96A-355, and 308-96A-365.

Statutory Authority for Adoption: RCW 46.01.110.

Other Authority: RCW 46.12.040 and 46.16.216.

Adopted under notice filed as WSR 99-23-010 on November 5, 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 4, Repealed 4.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 4, Repealed 4; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 18, 2000

Fred Stephens

Director

**AMENDATORY SECTION** (Amending WSR 91-04-024, filed 1/29/91, effective 3/1/91)

**WAC 308-96A-345 Definitions. What are the common definitions needed to understand parking violations?**

For the purposes of this chapter ((46.16 RCW)) the following definitions apply:

(1) "Jurisdiction" shall mean any district, municipal, justice ~~((and/or))~~, superior court, or other authorized representative.

(2) "NCIC (ORI) number" means the numeric code assigned by the National Crime Information Center (originator) to identify a jurisdiction.

(3) "Department" shall mean the department of licensing.

(4) "Parking violation list" shall mean a computerized listing containing all outstanding parking violations which have been processed by the department and which must be satisfied prior to ~~((renewal of license))~~ renewing your vehicle registration.

(5) "Agent" shall mean any county auditor, or other individual or business entity appointed to carry out vehicle licensing and titling functions for the department.

(6) "Unprocessed" shall mean no update of the computer record has occurred.

(7) "Jurisdiction seal" shall mean method of verifying authenticity of court documents, which is provided by the jurisdiction that issued the citation. A jurisdiction seal is an embossed seal or stamp provided by the jurisdiction.

(8) "Municipality" means every court having jurisdiction over offenses committed under RCW 46.20.270.

(9) ~~((("Local agencies" shall include district, municipal, justice and/or superior courts, and other local reporting agencies.~~

~~((10)))~~ "One hundred twenty-day notice" shall mean a warning notice of those violations received by the department one hundred twenty days prior to the ~~((license))~~ registration renewal date. ((The notice will list the dates and jurisdictions in which the violations occurred, unpaid fines, penalties, and a fifteen dollar surcharge.))

(10) "Disposition" shall mean the requested action as determined by the jurisdiction to add failure-to-pay parking violations, or to remove paid parking violations from a vehicle record.

(11) "Parking violation" shall mean any standing, stopping, or parking violation per RCW 46.20.270(3).

(12) "Vehicle data base record" shall mean the electronic record stored on the department's motor vehicle data base that contains the most current and up to date information regarding the titling and licensing of motor vehicles registered in this state.

**AMENDATORY SECTION** (Amending WSR 91-04-024, filed 1/29/91, effective 3/1/91)

**WAC 308-96A-350 Outstanding parking ~~((tickets))~~ violations—Information to be supplied by issuing jurisdiction. ((In order to submit notification of outstanding parking tickets, a jurisdiction must provide the following:**

(1) Jurisdiction name;

(2) NCIC number ~~((ORI))~~;

(3) Parking ticket number;

(4) Date parking ticket was issued;

(5) Vehicle license plate number, and

(6) Fine and penalty amount;

(7) Jurisdiction seal;

(8) Signature and date when required on form.

Such information must be provided on a form issued by the department, or on a computer listing sheet, or magnetic tape generated in accordance with department instructions.

Provided that an original report against a vehicle record must contain a minimum of two outstanding violations from one jurisdiction. Subsequent reports against that vehicle by that same jurisdiction may be for a single violation unless such vehicle record indicates all existing tickets have been paid and no further tickets have been accrued in the thirteen months following said payment. If thirteen months have elapsed, the jurisdiction must submit an original report containing a minimum of two violations.) (1) **How is the department notified of outstanding (unpaid) parking violations?** The jurisdiction notifies the department of outstanding parking violations. The notice will include the following:

(a) Jurisdiction name.

(b) NCIC number (ORI).

(c) Parking violation number.

(d) Date parking violation was issued.

(e) Vehicle license plate number.

(f) Fine and penalty amount.

(g) Jurisdiction seal, except if filed electronically.

(h) Signature and date when required on form, except if filed electronically.

(2) **When will the department accept parking violations for a vehicle data base record by a jurisdiction?** An original report against a vehicle record must contain a minimum of two outstanding violations from one jurisdiction. Subsequent reports against that vehicle by that same jurisdiction may be for a single violation unless such vehicle record indicates all existing violations have been paid and no further violations have been accrued in the thirteen months following said payment. If thirteen months have elapsed, the jurisdiction must submit an original report containing a minimum of two violations.

(3) **What methods do jurisdictions use to notify the department of parking violations?** Such information must be provided in accordance with department instructions by:

(a) A form issued by the department;

(b) A computer listing sheet; or

(c) Electronic format.

**AMENDATORY SECTION** (Amending Order TL-RG 7, filed 8/15/84)

**WAC 308-96A-355 Satisfaction of parking ~~((tickets))~~ violations—Information to be supplied by issuing jurisdiction. What happens when outstanding parking violations are satisfied? Upon satisfaction of ~~((fines and penalties))~~ parking violations previously reported as outstanding against a vehicle, the ~~((collecting))~~ issuing jurisdiction ~~((must))~~ shall:**

- (1) Furnish the registered owner with a proof of payment form as ~~((provided))~~ approved by the department, and
- (2) Within ten days of ~~((such payment))~~ satisfaction, supply the department with the following information:
  - (a) Jurisdiction name,
  - (b) NCIC number (ORI),
  - (c) Parking ~~((ticket))~~ violation number,
  - (d) Date parking ~~((ticket))~~ violation was issued,
  - (e) Vehicle license plate number,
  - (f) Date of satisfaction,
  - (g) Jurisdiction seal, ~~((and))~~ except if filed electronically.
  - (h) Signature ~~((and date when required on form))~~ of court representative and date signed, except if filed electronically.

Such information must be provided on a form ~~((issued))~~ approved by the department ~~((or))~~ on a computer listing sheet or ~~((magnetic tape generated))~~ electronic format in accordance with department instructions.

AMENDATORY SECTION (Amending Order TL-RG 7, filed 8/15/84)

**WAC 308-96A-365 Reinstatement of parking ~~((ticket))~~ violation.** (1) Can a parking violation be reinstated on a vehicle record after it has been reported by the jurisdiction as satisfied? A parking ~~((ticket))~~ violation previously reported as satisfied ~~((may))~~ shall be reinstated on the vehicle record for such reasons as ~~((, but not limited to))~~:

- (a) Jurisdiction reporting error;
- (b) Dishonored check for payment of fines and penalties;
- (c) Departmental error.

(2) How is a parking violation previously reported as satisfied, reinstated? The jurisdiction seeking reinstatement of a parking ~~((ticket))~~ violation must supply the department with the following information:

- (a) Jurisdiction name,
- (b) NCIC number (ORI),
- (c) Parking ~~((ticket))~~ violation number,
- (d) Date parking ~~((ticket))~~ violation was issued,
- (e) Vehicle license plate number,
- (f) Fine and penalty amount,
- (g) Jurisdiction seal, except if filed electronically.
- (h) Signature ~~((and date when required on form))~~ of court representative and date signed, except if filed electronically.
- (i) Reason for reinstatement.

Such information must be on a form ~~((issued))~~ approved by the department ~~((or))~~ on a computer listing sheet or electronic format in accordance with department instructions.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 308-96A-360 Return of unacceptable notification to jurisdiction.

WAC 308-96A-370 Removal of parking ticket information from active file.  
 WAC 308-96A-375 Parking violation list.  
 WAC 308-96A-380 Effect of one hundred twenty-day notice on license renewal.

**WSR 00-03-075A**  
**PERMANENT RULES**  
**DEPARTMENT OF HEALTH**  
 [Filed January 19, 2000, 9:58 a.m.]

Date of Adoption: December 10, 1999.

Purpose: There is a need to implement the 1998 legislation to mandate and further define what will be required for continuing education for certified marriage and family therapists, certified mental health counselors and certified social workers.

Statutory Authority for Adoption: RCW 18.19.170.

Adopted under notice filed as WSR 99-22-092 on November 2, 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 7, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 7, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 18, 2000

M. C. Selecky  
 Secretary

**CONTINUING EDUCATION**

NEW SECTION

**WAC 246-810-600 Who is required to have continuing education?** (1) Certified marriage and family therapists, certified mental health counselors, and certified social workers are required to have continuing education.

(2) The effective date for reporting the required continuing education shall begin with the 2001 renewal cycle.

NEW SECTION

**WAC 246-810-610 What courses are acceptable?** The continuing education (CE) program or course shall contribute

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to the advancement, extension and enhancement of the professional competence of the certified counselor. Courses or workshops primarily designed to increase practice income or office efficiency are specifically not eligible for CE credit. Counselors are encouraged to take CE relating to the various phases of their professional career.

(1) Acceptable CE courses (including distance learning), seminars, workshops and postgraduate institutes are those which are:

(a) Programs having a featured instructor, speaker(s) or panel approved by an industry-recognized local, state, national, international organization or institution of higher learning; or

(b) Distance learning programs, approved by an industry-recognized local, state, national or international organization or institution of higher learning. These programs must require tests of comprehension upon completion.

(2) Training programs sponsored by the agency where a counselor is employed are acceptable if:

(a) The experience can be shown to contribute to the advancement, extension and enhancement of the professional competence of the certified counselor; and

(b) The training programs are limited to twenty-six hours per reporting period.

(3) Other learning experience, such as serving on a panel, board or council, community service, or publishing articles for professional publications, are acceptable if:

(a) The experience can be shown to contribute to the advancement, extension and enhancement of the professional competence of the certified counselor; and

(b) The experiences are limited to six hours per reporting period.

#### NEW SECTION

**WAC 246-810-620 What are industry-recognized local, state, national, international organizations or institutions of higher learning?** They are, but not limited to, the following organizations:

(1) American Association for Marriage and Family Therapy;

(2) Clinical Social Work Federation;

(3) National Association of Social Workers;

(4) American Mental Health Counselors Association;

(5) National Board for Certified Counselors; or

(6) Institutions of higher learning that are accredited by a national or regional accrediting body recognized by the Commission on Recognition of Postsecondary Accreditation.

#### NEW SECTION

**WAC 246-810-630 How many hours do I need and in what time period?** Certified counselors must complete thirty-six hours of continuing education every two years. At least four of the thirty-six hours must be in professional ethics and law.

#### NEW SECTION

**WAC 246-810-640 How are credit hours determined for preparation and presentation of a lecture or an educational course?** The certificate holder who prepares and presents lectures or education that contributes to the professional competence of a certified counselor may accumulate the same number of hours obtained for continuing education purposes by attendees as required in WAC 246-12-220. The hours for presenting a specific topic lecture or education may only be used for continuing education credit once during each renewal period.

#### NEW SECTION

**WAC 246-810-650 How do I document my courses?** Acceptable documentation shall include transcripts, letters from course instructors, certificate of completion, or other formal certification, as required in chapter 246-12 WAC, Part 7.

#### NEW SECTION

**WAC 246-810-660 What are the continuing education requirements for returning to active status from a temporary retirement status?** The certificate holder returning to active status from temporary retirement pursuant to RCW 18.19.160(2) must provide a written declaration that the continuing education requirements for the two most recent years have been met.

**WSR 00-03-081**

**PERMANENT RULES**

**WASHINGTON STATE PATROL**

[Filed January 19, 2000, 10:13 a.m.]

Date of Adoption: January 19, 2000.

Purpose: To correct two different mile post locations where tire chains should be required to be carried on SR-97 and SR-14. Sections of highway going up hills were not originally included and need to be.

Citation of Existing Rules Affected by this Order:  
Amending WAC 204-24-050.

Statutory Authority for Adoption: RCW 46.37.005.

Adopted under notice filed as WSR 99-23-003 on November 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 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 19, 2000

Annette M. Sandberg  
Chief

**AMENDATORY SECTION** (Amending WSR 99-06-023, filed 2/22/99, effective 3/25/99)

**WAC 204-24-050 Use of tire chains or other traction devices.** (1) Vehicles under 10,000 pounds gross vehicle weight.

(a) When traffic control signs marked "approved traction tires required" are posted by the department of transportation it shall be unlawful for any vehicle to enter the controlled area without having mounted on its drive tires at least one of the traction devices meeting the requirements of WAC 204-24-040.

(b) When traffic control signs marked "chains required" are posted by the department of transportation it shall be unlawful for any vehicle to enter the controlled area without having mounted on its drive tires, tire chains meeting the standards in chapter 204-22 WAC.

(i) Exception for all wheel drive vehicles. When "chains required" signs are posted, all-wheel drive vehicles shall be exempt from the chain requirement when all wheels are in gear and are equipped with approved traction devices as specified in WAC 204-24-040 provided that tire chains for at least one set of drive tires are carried in the vehicle.

(2) Vehicles or combinations of vehicles over 10,000 pounds gross vehicle weight.

When traffic control signs marked "approved traction tires required" or "chains required" are posted by the department of transportation it shall be unlawful for any vehicle or combination of vehicles to enter the controlled area without having mounted on its tires, tire chains as follows: Provided, That highway maintenance vehicles operated by the department of transportation for the purpose of snow removal and its ancillary functions are exempt from the following requirements if such vehicle has sanding capability in front of the drive tires.

(a) Vehicles or vehicle combinations with two to four axles including but not limited to trucks, truck-tractors, buses and school buses: For vehicles with a single drive axle, one tire on each side of the drive axle shall be chained. For vehicles with dual drive axles, one tire on each side of one of the drive axles shall be chained. For vehicle combinations including trailers or semi-trailers; one tire on the last axle of the last trailer or semi-trailer, shall be chained. If the trailer or semi-trailer has tandem rear axles, the chained tire may be on either of the last two axles.

(b) Automobile transporters are any vehicle combination designed and used specifically for the transport of assembled (capable of being driven) highway vehicles. For vehicles with single drive axles, one tire on each side of the drive axle shall be chained. For vehicles with dual drive axles, one tire on

each side of each of the drive axles shall be chained. For vehicle combinations including trailers or semi-trailers, one tire on the last axle of the last trailer or semi-trailer shall be chained. If the trailer or semi-trailer has tandem rear axles, the chained tire may be on either of the last two axles.

(c) Vehicle combinations with five axles consisting of a truck tractor with dual drive axles and a tandem axled semi-trailer; all tires on one drive axle may be chained or one tire on each side of each of the drive axles may be chained. Chains must be applied to a minimum of four tires on the drive axles. On the tandem axle semi-trailer, the chained tire may be on either of the last two axles.

(d) Vehicle combinations with five axles, consisting of a truck and trailer, or truck tractor and semi-trailer with a single drive axle, or truck tractor, semi-trailer and full trailer: For vehicles with a single drive axle, all tires on the drive axle shall be chained. For vehicles with dual drive axles, all tires on one of the drive axles shall be chained. For vehicle combinations including trailers or semi-trailers, one tire on the last axle of the last trailer or semi-trailer shall be chained. If the trailer or semi-trailer has tandem rear axles, the chained tire may be on either of the last two axles.

(e) Vehicle combinations with six or more axles, including but not limited to truck and trailer or truck tractor and semi-trailer or truck tractor semi-trailer and full trailer: For vehicles with a single drive axle, all tires on the drive axle shall be chained. For vehicles with dual drive axles where traffic control signs marked "approved traction tires required" are posted, all tires on one of the drive axles shall be chained. For vehicles with dual drive axles where traffic control signs marked "chains required" are posted, all tires on one of the drive axles shall be chained. In addition, one tire on each side of the additional drive axle shall be chained. For vehicle combinations including trailers or semi-trailers, one tire on the last axle shall be chained. For vehicles with tandem axle trailers or semi-trailers, the chained tire may be on either of the last two axles.

(f) All vehicles over 10,000 pounds gross vehicle weight shall carry a minimum of two extra chains for use in the event that road conditions require the use of more chains or in the event that chains in use are broken or otherwise made useless.

(g) Approved chains for vehicles over 10,000 pounds gross vehicle weight shall have at least two side chains to which are attached sufficient cross chains of hardened metal so that at least one cross chain is in contact with the road surface at all times. Plastic chains shall not be allowed. The state patrol may approve other devices as chains if the devices are equivalent to regular chains in performance.

(h) On the following routes all vehicles and combinations of vehicles over 10,000 pounds shall carry sufficient tire chains to meet the requirements of this chapter from November 1 to April 1 of each year or at other times when chains are required for such vehicles:

(i) I-90 - between North Bend (MP 32) and Ellensburg (MP 101).

(ii) SR-97 - between (MP 145) and Junction SR-2.

(iii) SR-2 - between Dryden (MP 108) and Index (MP 36).

(iv) SR-12 - between Packwood (MP 135) and Naches (MP 187).

(v) SR-97 - between the ~~((junction of SR-14 (MP 4)))~~  
Columbia River (MP 0.00) and Toppenish (MP 59.00).

(vi) SR-410 - from Enumclaw to Naches.

(vii) SR-20 - between Tonasket (MP 262) and Kettle  
Falls (MP 342); and SR-20 between Newhalem (MP 120)  
and Winthrop (MP 192).

(viii) SR-155 - between Omak (MP 79) and Nespelem  
(MP 45).

(ix) SR-970 - between (MP 0) and (MP 10).

(x) SR-14 - between Gibbons Creek (MP 18.00) and  
~~((Junction SR-97 (MP 102)))~~ (MP 108.40) intersection of  
Cliffs Road.

Vehicles making local deliveries as indicated on bills of  
lading and not crossing the mountain pass are exempt from  
this requirement if operating outside of a chain required area.

(3) The Washington state department of transportation or  
Washington state patrol may prohibit any vehicle from enter-  
ing a chain/approved traction tire control area when it is  
determined that the vehicle will experience difficulty in  
safely traveling the area.

PERMANENT



**WSR 00-03-006**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 00-01—Filed January 6, 2000, 3:35 p.m.]

Date of Adoption: January 6, 2000.

Purpose: Commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-52-07300Q and 220-52-07300R; and amending WAC 220-52-073.

Statutory Authority for Adoption: RCW 75.08.080.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Harvestable amounts of sea urchins exist in the areas described. A maximum daily landing limit is needed to prevent overharvest of the non-Indian share in Griffin Bay. Two divers are allowed when a vessel is designated on two licenses, consistent with SB 5658 passed by the 1999 legislature. Prohibition of all diving within two days of scheduled sea urchin openings discourages the practice of fishing on closed days and hiding the unlawful catch underwater until the legal opening. 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 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: Immediately.

January 6, 2000

J. P. Koenings

Director

by Larry Peck

**NEW SECTION**

**WAC 220-52-07300R** Sea urchins Notwithstanding the provisions of WAC 220-52-073, effective immediately until further notice it is unlawful to take or possess sea urchins taken for commercial purposes except as provided for in this section:

(1) Red sea urchins: Sea Urchin Districts 1 and 2 are open only on January 10, 11, and 12, 2000. The Griffin Bay Special Management Area is open only on January 13, 2000.

The maximum daily landing for a vessel on January 13, 2000 is 2,000 pounds of red sea urchins. It is unlawful to harvest red sea urchins smaller than 4.0 inches or larger than 5.5 inches (size in diameter exclusive of the spines).

(2) Green sea urchins: Sea Urchin Districts 1, 2, 3 and 4 are open only on January 10, 11, 12, 17, 18, 19, 24, 25, and 26, 2000. The minimum size for green sea urchins is 2.25 inches in diameter exclusive of the spines.

(3) Only one diver from each harvesting vessel is allowed in the water at any one time during the sea urchin harvest operation or when commercial quantities of sea urchins are aboard, except that two divers may be in the water if the vessel has been designated on two sea urchin dive fishery licenses.

(4) It is unlawful to dive for any purpose from a commercially-licensed fishing vessel, except vessels actively fishing geoducks under contract with the Washington Department of Natural Resources on Saturdays and Sundays of each week.

(5) Sea Urchin Districts:

(a) Sea Urchin District 1 (Northern San Juan Islands) is defined as Marine Fish-Shellfish Management and Catch Reporting Areas 20A, 20B, and those waters of Area 22A north of a line projected east-west one-quarter mile north of Lime Kiln Light on San Juan Island and west of a line projected true north from Limestone Point on San Juan Island.

(b) Sea Urchin District 2 (Southern San Juans and Port Townsend) is defined as those waters of Marine Fish/Shellfish Management and Catch Reporting Area 22A south of a line projected east-west one-quarter mile north of Lime Kiln Light on San Juan Island and east of a line projected true north from Limestone Point on San Juan Island, and Areas 21A, 21B, 22B, 23A, 23B, 25A, and 25B. The following areas within Sea Urchin District 2 are closed to the harvest of sea urchins when fishing is allowed in Sea Urchin District 2:

(i) Those waters of Haro Strait north of a line projected east-west one-half mile south of Eagle Point on San Juan Island and south of a line projected east-west one-quarter mile north of Lime Kiln Light on San Juan Island.

(ii) Those waters of San Juan Channel and Upright Channel within the following lines: north of a line from Cattle Point on San Juan Island to Davis Point on Lopez Island, south of a line projected from Flat Point on Lopez Island true west to Shaw Island, west of a line from Neck Point on Shaw Island to Steep Point on Orcas Island, and south of a line from Steep Point on Orcas Island to Limestone Point on San Juan Island.

(6) Griffin Bay Special Management Area: Those waters of San Juan Channel and Upright Channel within the following lines: north of a line from Cattle Point on San Juan Island to Davis Point on Lopez Island, south of a line projected from Flat Point on Lopez Island to the northernmost point of Turn Island and thence projected true west to San Juan Island.

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 220-52-07300Q      Sea urchins. (99-230)

The following section of the Washington Administrative Code is repealed effective January 26, 2000 one-half hour after official sunset:

WAC 220-52-07300R Sea urchins.

**WSR 00-03-007**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 00-02—Filed January 6, 2000, 3:36 p.m., effective January 8, 2000, 12:01 a.m.]

Date of Adoption: January 6, 1999 [2000].

Purpose: Personal use fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-57-34500A; and amending WAC 220-57-345.

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: Winter chum escapement in the Nisqually River for the 1999-2000 season is expected to be well below the spawning goal of 18,000. The most recent in-season runsize update was for 13,000 chum, which is well below the escapement goal. Tribal and sport fishery managers have agreed that harvest will be closed to maximize the number of winter chum making it to the spawning grounds. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: January 8, 2000, 12:01 a.m.

January 6, 2000

Evan Jacoby

for Jeff P. Koenings

Director

NEW SECTION

**WAC 220-57-34500A Nisqually River.** Notwithstanding the provisions of WAC 220-57-345, effective 12:01 a.m. January 8, 2000 through January 31, 2000, it is unlawful to fish for or possess salmon in those waters of the Nisqually River.

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. February 1, 2000:

WAC 220-57-34500A Nisqually River.

**WSR 00-03-013**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**

(Economic Services Administration)

[Filed January 7, 2000, 10:52 a.m.]

Date of Adoption: January 7, 2000.

Purpose: Amend WAC 388-310-1850 to enable clients to return to work as quickly as possible by removing restrictions around the timing of the cash incentive.

Citation of Existing Rules Affected by this Order: Amending WAC 388-310-1850.

Statutory Authority for Adoption: RCW 74.08.090 and 74.04.050.

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: Reemploy Washington Workers (RWW) provides rapid reemployment services to low-wage unemployment insurance claimants. RWW offers cash incentives to encourage rapid reemployment. However, under current WAC the cash incentives are not available until the participant has been working for twelve weeks. To help more clients return to work as quickly as possible, this emergency rule removes the restrictions around the timing of the cash incentive so that it can help participants return to work quickly by providing funds for transitional work expenses.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Effective Date of Rule: Immediately.

January 7, 2000

Marie Myerchin-Redifer, Manager  
Rules and Policies Assistance Unit

**AMENDATORY SECTION** (Amending WSR 99-14-044, filed 6/30/99, effective 7/31/99)

**WAC 388-310-1850 Re-employ Washington Workers (RWW).** (1) **What is the Re-employ Washington Workers (RWW) program?**

Re-employ Washington Workers (RWW) is an eight-week job search program administered by the employment security department to help low-income parents connect with jobs as rapidly as possible. The RWW program and services are offered at selected sites throughout Washington state. RWW participation satisfies unemployment insurance work search requirements while providing additional services and activities.

**(2) Who can participate in RWW?**

You can participate in RWW if:

(a) You are a Washington state resident; and

(b) You worked and earned enough to establish ((~~an~~) a Washington unemployment insurance benefit claim (see RCW 50.04.030), regardless of why your job ended; and

((~~b~~)) (c) Your family's income during the base year used to establish your unemployment insurance claim was not more than one hundred seventy-five percent of the federal poverty level ((~~during the time period on which your unemployment insurance claim is based; and~~

(e)) for your family's size. See WAC 388-290-400 for a definition of family and WAC 388-450-0030, 388-450-0025, and 388-450-0015 for definitions of income.

(d) You do not currently receive TANF or SFA cash assistance; and

((~~d~~) You have)

(e) On the date your unemployment insurance application was filed, you had a dependent child under eighteen years of age living in your household; and

(f) The dependent child lives in your household more than fifty percent of the time.

**(3) How do I get into RWW?**

To get into RWW, you must first apply for unemployment insurance ((~~and establish an unemployment insurance benefit claim~~)). A job service specialist who has been trained to do the RWW program will screen your claim and contact you if it appears that you qualify. The RWW job service specialist will then determine your eligibility based on ((~~additional~~)) the criteria of subsection (2) using income and family information you provide.

**(4) What happens when I participate in RWW?**

(a) In addition to any unemployment insurance benefits you receive during your claim period, you also get:

(i) Intensive job referral services (including a thirty-hour, job search workshop within the first four weeks of participation, and access to the resource room);

(ii) Help with paying your child care costs under the working connections child care program (see chapter 388-290 WAC for program rules);

(iii) Support services to help you participate in work and RWW activities, following the guidelines in WAC 388-310-0800.

(b) ~~((You may also qualify for cash incentives if you meet the following requirements:~~

~~(i) You participate in the RWW program; and~~

~~(ii) Go to work within six weeks; and~~

~~(iii) Are still working twelve weeks later in a job that takes you off unemployment insurance)) RWW also provides cash incentives, within available funds, to encourage rapid re-employment.~~

**(5) How much of a cash incentive can I receive?**

~~((If you return to work with earnings high enough to make you ineligible for unemployment insurance benefits, you can receive a RWW cash incentive once during the time period your unemployment insurance claim is based on. Earnings are calculated in accordance with the unemployment insurance laws in RCW 50.04.320. The cash incentives are as follows:~~

| CASH INCENTIVES                          |                            |                              |                                 |
|--|----------------------------|------------------------------|---------------------------------|
| Average-gross-weekly earnings            | Employed-within-four-weeks | Employed-in-week-five-or-six | Employed-in-week-seven-or-eight |
| At or above earnings from your last job* | \$300                      | \$100                        | N/A**                           |
| Below the earnings from your last job*   | \$200                      | \$100                        | N/A**                           |

\*"Last job" means your most recent job that meets the definition of work in WAC 388-310-0400 (2)(a).  
\*\*Although you do not qualify for a cash incentive, you would continue to receive support services and child care assistance provided you continue to participate.

~~)) You may receive a total of up to three hundred dollars in RWW cash incentives per unemployment insurance benefit year (that is, the one year period that begins on the date you filed your unemployment insurance application).~~

**(6) What are the requirements to participate in RWW?**

To be eligible for RWW program benefits, you must participate in RWW program activities, including:

(a) Attend a thirty-hour job search workshop as soon as possible (during your first four weeks in the program);

(b) Report to the RWW program site ((daily during the first four weeks and sign-in)) to get job leads(;

EMERGENCY

WSR 00-03-025  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE

[Order 00-03—Filed January 10, 2000, 4:29 p.m.]

(e)) and meet with fellow job seekers to support and encourage each members' job search efforts ((~~sometimes called the RWW job club~~);

(d) ~~Report to the RWW program site at least twice a week during weeks five to eight and sign in to receive job leads~~)).

**(7) Can I continue to participate in RWW if I don't find a job in eight weeks?**

Your participation in RWW may be extended for an additional eight weeks if:

- (a) You meet the participation requirements and
- (b) RWW staff determine that an additional eight weeks of participation is likely to help you find a job.

**(8) Can my RWW services be stopped once I enter the program?**

If you do not follow RWW program requirements, RWW services will be stopped.

**(9) What can I do if I ~~(disagree with a decision about my)~~ do not receive RWW services or benefits I think I should get?**

If you ~~((disagree with the decision about your))~~ do not receive RWW services or benefits that you think you should get, you can:

- (a) Ask an RWW job service specialist to take a statement from you ~~((explaining the reason you disagree))~~ asking for a written decision about the services or benefits.
- (b) ~~((To determine if the decision was correct, the))~~ Local employment security department ((local job service center)) management will review your statement and let you know their decision, in writing, within fifteen days.

(c) If you disagree with the local management decision, you may request a ~~((final))~~ review by the employment security department regional office. You must request this review within thirty days of the local management decision.

(d) ~~((You may request a fair hearing under chapter 388-08 WAC))~~ The regional office will notify you in writing of their decision within fifteen days of receipt of your request.

(e) If you want to appeal the decision of the employment security department regional office, you may request a fair hearing under chapter 388-08 WAC. You must file your request for fair hearing within ninety days of the date you receive the regional office decision.

**(10) Can I go back into the RWW program if ~~((there were interruptions in my participation))~~ I was dropped from the program?**

~~((RWW job search is designed to last for eight consecutive weeks. If you stopped participating but you are now able and willing to participate, you may complete the balance of your eight week job search activities and receive the related RWW services and benefits))~~ If you were dropped from the program, you may contact a RWW specialist to find out if you can resume RWW participation. You may resume RWW participation if the RWW specialist determines that:

- (a) You have not exhausted your unemployment insurance benefits; and
- (b) It has not been more than one year since you applied for unemployment insurance benefits.

Date of Adoption: January 7, 2000.

Purpose: To eliminate the black bear drawing deadline.

Citation of Existing Rules Affected by this Order: Amending WAC 232-28-260.

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: Year 2000 licenses will not be available until after the second Friday of February deadline established by the permanent rule. Permit applicants are required to write their license number on the application form. By extending the deadline, hunters will be able to make a timely application, and successful applicants will be able to hunt for the harvestable surplus of spring bears. Without this rule there would be a loss of hunting opportunity and a reduction in license sales that would affect the ability of the department to manage the bear harvest. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 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: Immediately.

January 7, 2000

J. P. Koenings

Director

by Larry Peck

**NEW SECTION**

**WAC 232-28-26000A Black bear permit hunts - application deadline extended.** Notwithstanding the provisions of WAC 232-28-260, the application deadline for spring bear hunting for the year 2000 is extended to a date to be selected and announced by the Department. The date will be posted on the Department's web page, provided to the media, and notification will be given to Department license dealers.

EMERGENCY



**WSR 00-03-036**  
**EMERGENCY RULES**  
**SECRETARY OF STATE**  
 [Filed January 12, 2000, 4:21 p.m.]

Date of Adoption: January 12, 2000.

Purpose: For clarification of existing statutes, and providing alternative methods for presidential primary ballots.

Citation of Existing Rules Affected by this Order: Amending WAC 434-219-202 and 434-219-160.

Statutory Authority for Adoption: RCW 29.19.070.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: [No information supplied by agency.]

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Immediately.

January 12, 2000

Donald F. Whiting

Assistant Secretary of State

NEW SECTION

**WAC 434-240-202 Mailing of absentee ballots.** Absentee ballots for the March 14, 2000, special election may be mailed no later than fifteen days before the day of the special election. Overseas and out-of-state voter's ballots should be mailed at the earliest possibility for the March 14, 2000, special election. As provided by RCW 29.30.075 the county auditor shall have sufficient absentee ballots ready to mail to absentee voters of that county at least twenty days before the election.

AMENDATORY SECTION (Amending WSR 00-03-003, filed 1/6/00)

**WAC 434-219-160 Political party and unaffiliated ballots—Arrangement.** Ballots for each major political party and unaffiliated ballots shall be provided as follows:

(1) Where candidate names are listed on physically separate ballots, each ballot shall be identified by color and

either the name of the political party or as an unaffiliated ballot. Each separate ballot shall contain a machine readable code to distinguish each ballot type within each precinct.

(2) Where candidate names are listed on a consolidated ballot, they shall be printed in such a manner that each part's group of candidates is clearly distinguishable and identified by party name. The unaffiliated ballot may be listed in a separate listing or may be considered a combination of the party ballots. The order of the parties shall be the same as the order in which candidates names are listed on partisan general election ballots.

At a polling place, each ballot must be coded so that only votes cast for candidates of the party matching the oath signed by the voter are counted.

The code shall be a response position on the consolidated ballot identifying one of the major political parties or the unaffiliated status. Its purpose will be to exclude any vote cast on the ballot that does not correspond to the party or unaffiliated status indicated by the voter on the response position. The voter must mark or punch the appropriate response position corresponding to the oath or declaration on the absentee ballot return envelope. If the vote is cast at a polling place, the voter or precinct election official shall mark or punch the code. If the code is marked or punched by the voter, the precinct election official shall ensure that the code matches the oath or declaration as signed in the poll book. If a consolidated ballot is used in a mail ballot precinct or as an absentee ballot and a party/unaffiliated code is not used, each returning ballot must be segregated by oath and then subsequently inspected to ensure that only votes cast for candidates corresponding to the oath signed by the voter are counted.

(3) Any alternative method approved by the office of the secretary of 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.

**WSR 00-03-041**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 00-04—Filed January 13, 2000, 2:32 p.m., effective January 16, 2000, 12:01 a.m.]

Date of Adoption: January 12, 2000.

Purpose: Personal use rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 232-28-61900D; and amending WAC 232-28-619.

Statutory Authority for Adoption: RCW 77.12.040.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The harvestable number of wild-run steelhead (838 for Snohomish River system; 232 for

Stillaguamish River system) is expected to be taken in the tribal and recreational fisheries by January 15, 2000, based on anticipated exploitation rates. This rule requires the release of wild steelhead after January 15, 2000. 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: January 16, 2000, 12:01 a.m.

January 12, 2000

J. P. Koenings

Director

by Larry Peck

- Item 6: Wallace River From the mouth to mouth of Olney Creek: Wild steelhead release January 16, 2000 through February 29, 2000.
- Item 7: Sultan River From its mouth to a point 400' downstream from the diversion dam at river mile 9.7: Wild steelhead release January 16, 2000 through February 29, 2000.
- Item 8: Pilchuck River From its mouth to 500' downstream from the Snohomish City diversion dam: Wild steelhead release January 16, 2000 through February 29, 2000.
- Item 9: Tolt River From its mouth to the USFS trolley cable near the confluence of the North and South Forks: Wild steelhead release January 16, 2000 through February 29, 2000.
- Item 10: Raging River From its mouth to the Highway 18 Bridge (three miles upstream from Preston): Wild steelhead release January 16, 2000 through February 29, 2000.
- Item 11: Tokul Creek From its mouth to the posted cable boundary marker located approximately 700' upstream from the mouth: Wild steelhead release January 16, 2000 through March 31, 2000.
- Item 12: Stillaguamish River All sloughs downstream of Warm Beach-Stanwood Highway: Wild steelhead release January 16, 2000 through February 29, 2000.  
From Warm Beach-Stanwood Highway upstream to forks: Wild steelhead release January 16, 2000 through February 29, 2000.
- Item 13: Stillaguamish River (North Fork) From mouth to Swede Heaven Bridge: Wild steelhead release January 16, 2000 through February 29, 2000.
- Item 14: Stillaguamish River (South Fork) From mouth to Mt. Loop Highway Bridge (above Granite Falls): Wild steelhead release January 16, 2000 through February 29, 2000.
- Item 15: Canyon Creek From mouth to Forks: Wild steelhead release January 16, 2000 through February 29, 2000.
- Item 16: Pilchuck Creek From mouth of Highway 9 Bridge: Wild steelhead release January 16, 2000 through February 29, 2000.

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 12:01 a.m. April 1, 2000:

**WAC 232-28-61900D** Exceptions to statewide rules—Snohomish River, Snoqualmie River, Skykomish River, Wallace River, Sultan River, Pilchuck River, Tolt River, Raging River, Tokul Creek, Stillaguamish River, Canyon Creek, and Pilchuck Creek.

**NEW SECTION**

**WAC 232-28-61900D** Exceptions to statewide rules—Snohomish River, Snoqualmie River, Skykomish River, Wallace River, Sultan River, Pilchuck River, Tolt River, Raging River, Tokul Creek, Stillaguamish River, Canyon Creek, and Pilchuck Creek. Notwithstanding the provisions of WAC 232-28-619, effective 12:01 a.m. January 16, 2000, the following regulations apply:

- Item 1: Snohomish River From mouth (Burlington Northern Railroad bridges (including all channels, sloughs and inter-connected waterways) upstream to the confluence of the Skykomish and Snoqualmie rivers (all channels): Wild steelhead release January 16, 2000 through March 31, 2000.
- Item 2: Snoqualmie River From mouth to falls: Wild steelhead release January 16, 2000 through March 31, 2000.
- Item 3: Skykomish River (Mainstem) From its mouth to mouth of Sultan River: Wild steelhead release January 16, 2000 through February 29, 2000.  
From the mouth of the Sultan River to the forks: Wild steelhead release January 16, 2000 through March 31, 2000.
- Item 4: Skykomish River (North Fork) From its mouth to 1000' downstream from Bear Creek Falls: Wild steelhead release January 16, 2000 through February 29, 2000.
- Item 5: Skykomish River (South Fork) From its mouth to 600' downstream from the Sunset Falls Fishway: Wild steelhead release January 16, 2000 through February 29, 2000.

EMERGENCY

**WSR 00-03-044**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 00-06—Filed January 13, 2000, 4:25 p.m., effective January 14, 2000, 8:00 a.m.]

Date of Adoption: January 13, 2000.

Purpose: Commercial fishing rules.

Citation of Existing Rules Affected by this Order:  
 Repealing WAC 220-52-07300R and 220-52-07300S; and  
 amending WAC 220-52-073.

Statutory Authority for Adoption: RCW 75.08.080.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Harvestable amounts of sea urchins exist in the areas described but are lower than previous estimates, hence the reduced opportunity. Two divers are allowed when a vessel is designated on two licenses, consistent with SB 5658 passed by the 1999 legislature. Prohibition of all diving within two days of scheduled sea urchin openings discourages the practice of fishing on closed days and hiding the unlawful catch underwater until the legal opening. 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 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: January 14, 2000, 8:00 a.m.

January 13, 2000

J. P. Koenings

Director

by Larry Peck

**NEW SECTION**

**WAC 220-52-07300S** Sea urchins Notwithstanding the provisions of WAC 220-52-073, effective 8:00 a.m. January 14, 2000, until further notice it is unlawful to take or possess sea urchins taken for commercial purposes except as provided for in this section:

(1) Red sea urchins: Sea Urchin Districts 1 and 2 are open only on January 18, and 19, 2000. It is unlawful to har-

vest red sea urchins smaller than 4.0 inches or larger than 5.5 inches (size in diameter exclusive of the spines).

(2) Green sea urchins: Sea Urchin Districts 1, 2, 3 and 4 are open only on January 18, and 19, 2000. The minimum size for green sea urchins is 2.25 inches in diameter exclusive of the spines.

(3) Only one diver from each harvesting vessel is allowed in the water at any one time during the sea urchin harvest operation or when commercial quantities of sea urchins are aboard, except that two divers may be in the water if the vessel has been designated on two sea urchin dive fishery licenses.

(4) It is unlawful to dive for any purpose from a commercially-licensed fishing vessel, except vessels actively fishing geoducks under contract with the Washington Department of Natural Resources on Sundays and Mondays of each week.

(5) Sea Urchin Districts:

(a) Sea Urchin District 1 (Northern San Juan Islands) is defined as Marine Fish-Shellfish Management and Catch Reporting Areas 20A, 20B, and those waters of Area 22A north of a line projected east-west one-quarter mile north of Lime Kiln Light on San Juan Island and west of a line projected true north from Limestone Point on San Juan Island.

(b) Sea Urchin District 2 (Southern San Juans and Port Townsend) is defined as those waters of Marine Fish/Shellfish Management and Catch Reporting Area 22A south of a line projected east-west one-quarter mile north of Lime Kiln Light on San Juan Island and east of a line projected true north from Limestone Point on San Juan Island, and Areas 21A, 21B, 22B, 23A, 23B, 25A, and 25B. The following areas within Sea Urchin District 2 are closed to the harvest of sea urchins at all times:

(i) Those waters of Haro Strait north of a line projected east-west one-half mile south of Eagle Point on San Juan Island and south of a line projected east-west one-quarter mile north of Lime Kiln Light on San Juan Island.

(ii) Those waters of San Juan Channel and Upright Channel within the following lines: north of a line from Cattle Point on San Juan Island to Davis Point on Lopez Island, south of a line projected from Flat Point on Lopez Island true west to Shaw Island, west of a line from Neck Point on Shaw Island to Steep Point on Orcas Island, and south of a line from Steep Point on Orcas Island to Limestone Point on San Juan Island.

**REPEALER**

The following section of the Washington Administrative Code is repealed effective 8:00 a.m. January 14, 2000:

WAC 220-52-07300R      Sea urchins (00-01)

The following section of the Washington Administrative Code is repealed effective January 20, 2000 one-half hour after official sunset:

WAC 220-52-07300S      Sea urchins.

**WSR 00-03-053**  
**EMERGENCY RULES**  
**PUBLIC EMPLOYMENT**  
**RELATIONS COMMISSION**  
 [Filed January 14, 2000, 3:47 p.m.]

Date of Adoption: January 11, 2000.

Purpose: To give designated staff members the authority to assign cases and to take various actions in the processing of unfair labor practice cases, including issuing preliminary rulings, deficiency notices, orders of dismissal, deferral rulings, and order on motions to amend complaints.

Citation of Existing Rules Affected by this Order: Amending WAC 391-45-070, 391-45-110, and 391-45-130.

Statutory Authority for Adoption: RCW 28B.52.080, 41.56.090, 41.59.110, 41.58.050.

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: Amendments are necessary to implement a reorganization designed to promote efficiency (RCW 41.58.005) and the general welfare of the public. The amendments allow the executive director to delegate his authority to designated staff members, in order to provide more efficient services to clientele.

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 3, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 3, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Immediately.

January 14, 2000  
 Marvin L. Schurke  
 Executive Director

**AMENDATORY SECTION** (Amending WSR 90-06-074, filed 3/7/90)

**WAC 391-45-070 Amendment.** (1) ~~((Any))~~ A complaint may be amended upon motion made by the complainant ~~((to the executive director or the examiner prior to the transfer of the case to the commission:)), if:~~

(a) The proposed amendment only involves the same parties as the original complaint;

(b) The proposed amendment is timely under any statutory limitation as to new facts;

(c) The subject matter of the proposed amendment is germane to the subject matter of the complaint as originally filed or previously amended; and

(d) Granting the amendment will not cause undue delay of the proceedings.

(2) Motions to amend complaints shall be subject to the following limitations:

(a) Prior to the appointment of an examiner, amendment shall be freely allowed upon motion to the agency official responsible for making preliminary rulings under WAC 391-45-110;

(b) After the appointment of an examiner but prior to the opening of an evidentiary hearing, amendment may be allowed upon motion to the examiner and subject to due process requirements;

(c) After the opening of an evidentiary hearing, amendment may only be allowed to conform the pleadings to evidence received without objection, upon motion made prior to the close of the evidentiary hearing.

(3) Where a motion for amendment is denied, the proposed amendment shall be processed as a separate case.

**AMENDATORY SECTION** (Amending WSR 98-14-112, filed 7/1/98)

**WAC 391-45-110 Deficiency notice—Preliminary ruling** ~~((by executive director))~~—**Deferral to arbitration.** The executive director or a designated staff member shall determine whether the facts ~~((as))~~ alleged in the complaint may constitute an unfair labor practice within the meaning of the applicable statute.

(1) ~~((it is determined that))~~ the facts ~~((as))~~ alleged do not, as a matter of law, constitute a violation, ~~((the executive director shall issue and cause to be))~~ a deficiency notice shall be issued and served on all parties, identifying the defects and specifying a due date for the filing and service of an amended complaint. If the defects are not cured in a timely manner, an order ~~((of dismissal))~~ shall be issued and served, ~~((containing))~~ dismissing the defective allegation(s) and stating the reasons for that action. Unless appealed to the commission under WAC 391-45-350, an order of dismissal issued under this subsection shall be the final order of the agency on the defective allegation(s), with the same force and effect as if issued by the commission.

(2) ~~((the complaint is found to))~~ one or more allegations state a cause of action for unfair labor practice proceedings before the commission, ~~((the executive director shall set a period))~~ a preliminary ruling summarizing the allegation(s) shall be issued and served on all parties. The preliminary ruling shall establish the due date for the respondent to file its answer ~~((, which shall be ten days or more following the issuance of the preliminary ruling)).~~

(3) The agency may defer the processing of allegations which state a cause of action under subsection (2) of this section, pending the outcome of related contractual dispute resolution procedures, but shall retain jurisdiction over those allegations.

(a) Deferral to arbitration may be ordered where:

(i) Employer conduct alleged to constitute an unlawful unilateral change of employee wages, hours or working con-

ditions is arguably protected or prohibited by a collective bargaining agreement in effect between the parties at the time of the alleged unilateral change;

(ii) The parties' collective bargaining agreement provides for final and binding arbitration of grievances concerning its interpretation or application; and

(iii) There are no procedural impediments to a determination on the merits of the contractual issue through proceedings under the contractual dispute resolution procedure.

(b) Processing of the unfair labor practice allegation under this chapter shall be resumed following issuance of an arbitration award or resolution of the grievance, and the results of the contractual proceedings shall be considered binding, except where:

(i) The contractual procedures were not conducted in a fair and orderly manner; or

(ii) the contractual procedures have reached a result which is repugnant to the purposes and policies of the applicable collective bargaining statute.

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

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

**AMENDATORY SECTION** (Amending WSR 96-07-105, filed 3/20/96)

**WAC 391-45-130 Examiner—Who may act.** The executive director or a designated staff member shall assign an examiner to conduct further proceedings in the matter, and shall notify the parties of that assignment. The examiner may be a member of the agency staff or any other individual designated by the commission or executive director. Upon notice to all parties, an examiner may be substituted for the examiner previously presiding.

**WSR 00-03-055  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 00-08—Filed January 14, 2000, 4:35 p.m.]

Date of Adoption: January 14, 1999 [2000].

Purpose: Personal use fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 232-28-61900D and 232-28-61900E; and amending WAC 232-28-619.

Statutory Authority for Adoption: RCW 77.12.040.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Region 4 staff has reviewed the current status of egg takes at collection traps for hatchery

origin winter steelhead, and as of January 11, 2000, these problem areas were identified: Skagit/Cascade - has 90,000 eggs, an additional thirty fish on-hand, but release goal for the system is 530,000 smolts. Additional eggs needed for the Nooksack and Samish rivers. Snohomish system - Tokul Creek has approximately 250,000 eggs, but Stillaguamish needs at least 100,000 more to meet their release goal. Reiter Pond recently opened the trap for winter fish, with the smolt release goal for the system being 430,000. Green River - no adults trapped yet, and the smolt release goal for the river is 180,000. Puyallup River - few adults trapped, and smolt goal is 200,000. Deschutes - smolt goal approximately 30,000. In an attempt to meet these needs, the defined areas adjacent to hatcheries are being closed. Specific closures would be rescinded prior to February 29 if egg take needs are met. 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 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: Immediately.

January 14, 2000

Evan Jacoby

for Jeff P. Koenings

Director

**NEW SECTION**

**WAC 232-28-61900E Exceptions to statewide rules—Snohomish River, Snoqualmie River, Skykomish River, Wallace River, Sultan River, Pilchuck River, Tolt River, Raging River, Tokul Creek, Stillaguamish River, Cascade River, Canyon Creek, and Pilchuck Creek.** Notwithstanding the provisions of WAC 232-28-619, effective immediately the following regulations apply:

|         |                 |  |
|---------|-----------------|--|
| Item 1: | Snohomish River | From mouth (Burlington Northern Railroad bridges (including all channels, sloughs and inter-connected waterways) upstream to the confluence of the Skykomish and Snoqualmie rivers (all channels): Wild steelhead release January 16, 2000 through March 31, 2000. |
|---------|-----------------|--|

- Item 2: Snoqualmie River** From mouth to Plum Access boat launch ramp (located approximately 1/4 mile downstream of the mouth of Tokul Creek): Wild steelhead release January 16, 2000 through March 31, 2000.  
From Plum Access boat launch ramp (located approximately 1/4 mile downstream of the mouth of Tokul Creek) to Snoqualmie Falls: Closed to fishing for gamefish January 16, 2000 through February 29, 2000. Wild steelhead release March 1, 2000 through March 31, 2000.
- Item 3: Skykomish River (Mainstem)** From mouth to mouth of Sultan River: Wild steelhead release January 16, 2000 through February 29, 2000.  
From mouth of Sultan River to 1000 feet downstream of Reiter Ponds: Wild steelhead release January 16, 2000 through March 31, 2000.  
From 1000 feet downstream to 1500 feet upstream of Reiter Ponds outlet: Closed to fishing for gamefish January 16, 2000 through February 29, 2000. Wild steelhead release March 1, 2000 through March 31, 2000.  
From 1500 feet upstream of Reiter Ponds outlet to the forks: Wild steelhead release January 16, 2000 through March 31, 2000.
- Item 4: Skykomish River (North Fork)** From its mouth to 1000' downstream from Bear Creek Falls: Wild steelhead release January 16, 2000 through February 29, 2000.
- Item 5: Skykomish River (South Fork)** From its mouth to 600' downstream from the Sunset Falls Fishway: Wild steelhead release January 16, 2000 through February 29, 2000.
- Item 6: Wallace River** From the mouth to mouth of Olney Creek: Wild steelhead release January 16, 2000 through February 29, 2000.
- Item 7: Sultan River** From its mouth to a point 400' downstream from the diversion dam at river mile 9.7: Wild steelhead release January 16, 2000 through February 29, 2000.
- Item 8: Pilchuck River** From its mouth to 500' downstream from the Snohomish City diversion dam: Wild steelhead release January 16, 2000 through February 29, 2000.
- Item 9: Tolt River** From its mouth to the USFS trolley cable near the confluence of the North and South Forks: Wild steelhead release January 16, 2000 through February 29, 2000.
- Item 10: Raging River** From its mouth to the Highway 18 Bridge (three miles upstream from Preston): Wild steelhead release January 16, 2000 through February 29, 2000.
- Item 11: Tokul Creek** From mouth to posted cable boundary marker (approximately 700 feet upstream of the mouth). Closed to fishing for gamefish January 16, 2000 through February 29, 2000. Wild steelhead release March 1, 2000 through March 31, 2000.
- Item 12: Stillaguamish River** All sloughs downstream of Warm Beach-Stanwood Highway: Wild steelhead release January 16, 2000 through February 29, 2000.  
From Warm Beach-Stanwood Highway upstream to forks: Wild steelhead release January 16, 2000 through February 29, 2000.
- Item 13: Stillaguamish River (North Fork)** From mouth to Swede Heaven Bridge: Wild steelhead release January 16, 2000 through February 29, 2000.
- Item 14: Stillaguamish River (South Fork)** From mouth to Mt. Loop Highway Bridge (above Granite Falls): Wild steelhead release January 16, 2000 through February 29, 2000.
- Item 15: Cascade River** From mouth to Rockport-Cascade Road Bridge. Closed to fishing for gamefish January 16, 2000 through February 29, 2000..
- Item 16: Canyon Creek** From mouth to Forks: Wild steelhead release January 16, 2000 through February 29, 2000.
- Item 17: Pilchuck Creek** From mouth of Highway 9 Bridge: Wild steelhead release January 16, 2000 through February 29, 2000.

**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 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.

### REPEALER

The following section of the Washington Administrative Code is repealed:

**WAC 232-28-61900D** Exceptions to statewide rules—Snohomish River, Snoqualmie River, Skykomish River, Wallace River, Sultan River, Pilchuck River, Tolt River, Raging River, Tokul Creek, Stillaguamish River, Canyon Creek, and Pilchuck Creek. (00-04)

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. April 1, 2000:

**WAC 232-28-61900E** Exceptions to statewide rules—Snohomish River, Snoqualmie River, Skykomish River, Wallace River, Sultan River, Pilchuck River, Tolt River, Raging River, Tokul Creek, Stillaguamish River, Cascade River, Canyon Creek, and Pilchuck Creek.

**WSR 00-03-002**

**NOTICE OF PUBLIC MEETINGS  
NOXIOUS WEED CONTROL BOARD**

[Memorandum—January 5, 2000]

The Washington State Noxious Weed Control Board 2000 meetings will be held as follows:

March 21, 2000  
8:30 a.m. to 5:00 p.m.  
Enzian Inn  
Alpine Room  
590 Highway 2  
Leavenworth, WA

May 16, 2000  
8:30 a.m. to 5:00 p.m.  
Best Western Heritage Inn  
Conference Center  
1405 Smittys Boulevard  
Ritzville, WA

July 18, 2000  
8:30 a.m. to 5:00 p.m.  
United Church of Christ  
Fellowship Hall  
Third and Spokane Streets  
Newport, Washington

September 19, 2000  
8:30 a.m. to 5:00 p.m.  
Washington Cattlemen's Association  
1301 North Dollar Way  
Ellensburg, WA

November 13 and 14, 2000  
8:30 a.m. to 5:00 p.m.  
Long Beach PUD  
9610 Sandridge Road  
Long Beach, WA

The public is welcome to attend all meetings. Contact Lisa Lantz, Executive Secretary, Washington State Noxious Weed Control Board, (253) 872-2972, if you have any questions.

**WSR 00-03-004**

**NOTICE OF PUBLIC MEETINGS  
BELLINGHAM TECHNICAL COLLEGE**

[Memorandum—January 6, 2000]

The regularly scheduled meeting of the board of trustees of Bellingham Technical College will be held on Thursday, January 20, 2000, 9-11 a.m., in the College Services Building Board Room on the Bellingham Technical College campus. Call 738-3105 ext. 334 for information.

**WSR 00-03-005**

**NOTICE OF PUBLIC MEETINGS  
EDMONDS COMMUNITY COLLEGE**

[Memorandum—January 4, 2000]

**EDMONDS COMMUNITY COLLEGE**

**BOARD OF TRUSTEES**

**NOTICE OF SPECIAL MEETINGS**

**TO MEDIA/OTHER**

January 10, 2000\* VIP Social, Edmonds Community College, Triton Union Building, Room 202, 20000 68th Avenue West, Lynnwood, WA, 1:30 - 2:00 p.m.  
*Purpose: Formal greeting of new international students*

January 20, 2000\* Edmonds Community College Board of Trustees Study Session, EdCC, Snohomish Hall, Room 304A, 20226 68th Avenue West, Lynnwood, WA, 1:00 - 3:00 p.m.  
*Purpose: To address special college issues*

January 20, 2000\* Edmonds Community College Board of Trustees Special Board Meeting, EdCC, Snohomish Hall, Room 304A, 20226 68th Avenue West, Lynnwood, WA, 4:00 p.m.  
*Purpose: To address routine college business issues*

\*This event is being scheduled as a special meeting, which is a study session where no action will be taken.

**WSR 00-03-009**

**NOTICE OF PUBLIC MEETINGS  
OFFICE OF THE  
INTERAGENCY COMMITTEE**

(Salmon Recovery Funding Board)

[Memorandum—January 6, 1999 [2000]]

**2000 Salmon Recovery Funding Board Meeting Schedule**

At its regular meeting on December 3, 1999, the Salmon Recovery Funding Board adopted the following meeting schedule and possible meeting locations, in addition to those meetings previously adopted (January 21, February 17 - 18, and March 16 - 17).

|                              |                        |               |
|------------------------------|------------------------|---------------|
| Thursday, April 20, 2000     | Board Workshop or Tour | Bellingham    |
| Friday, April 21, 2000       | Regular Meeting        |               |
| Wednesday, June 21, 2000     | Work Session or Tour   | Snoqualmie or |
| Thursday, June 22, 2000      | Regular Meeting        | Pt. Angeles   |
| Wednesday, July 12, 2000     | Regular Meeting        | LaConner      |
| Thursday, July 13, 2000      | Work Session or Tour   |               |
| Thursday, September 14, 2000 | Board Workshop or Tour | Tri-Cities    |
| Friday, September 15, 2000   | Regular Meeting        |               |
| Thursday, November 30, 2000  | Board Workshop or Tour | Olympia       |
| Friday, December 1, 2000     | Regular Meeting        |               |

MISC.

WSR 00-03-014
NOTICE OF PUBLIC MEETINGS
COMMISSION ON
HISPANIC AFFAIRS
[Memorandum—January 7, 2000]

WASHINGTON STATE COMMISSION ON HISPANIC AFFAIRS
MEETING SCHEDULE
2000

Table with 2 columns: DATE, LOCATION. Rows include January 22 Tacoma, March 25 Mount Vernon, May 20 Pasco, July 29 Othello, September 16 Wenatchee, November 11 Vancouver, WA.

(b) That pursuant to the emergency provisions of GR 9(i), the new rule will be published expeditiously and become effective upon publication.

DATED at Olympia, Washington this 6th day of January, 2000.

Guy, C.J.

Table with 2 columns for signatures. Names listed include Smith, J., Johnson, J., Madsen, J., Talmadge, J., Ireland, J., and Bridge, J.

WSR 00-03-016
NOTICE OF PUBLIC MEETINGS
BUILDING CODE COUNCIL
[Memorandum—January 7, 2000]

The following schedule of regular meetings of the state Building Code Council for 2000 was adopted at their January 7, 2000, meeting. Meeting locations are to be determined.

Table with 3 columns: DATE, TIME, LOCATION. Rows include January 7, 2000 10:00 a.m. Olympia, March 8, 2000 9:00 a.m. Seattle area, May 12, 2000 9:00 a.m. Spokane, June 9, 2000 9:00 a.m. Seattle area, July 14, 2000 9:00 a.m. Seattle area, September 15, 2000 9:00 a.m. Spokane, October 13, 2000 9:00 a.m. Seattle area, November 17, 2000 9:00 a.m. Seattle area.

WSR 00-03-018
RULES OF COURT
STATE SUPREME COURT
[January 6, 2000]

IN THE MATTER OF THE ADOPTION ) ORDER
NEW GR 23 - PROFESSIONAL GUARD- ) NO. 25700-A-675
IAN RULE )

The Professional Guardian Oversight Board having recommended the adoption of New GR 23 - Professional Guardian Rule, and the Court having determined that the proposed new rule will aid in the prompt and orderly administration of justice and further determined that an emergency exists which necessitates an early adoption;

Now, therefore, is hereby

ORDERED:

(a) That the new rule as attached hereto is adopted.

PROPOSED NEW GR 23.
Rule for Certifying Professional Guardians

(a) Purpose and Scope. This rule establishes the standards and criteria for the certification of professional guardians as defined by RCW 11.88.008 and prescribes the conditions of and limitations upon their activities. This rule does not duplicate the statutory process by which the courts supervise guardians nor is it a mechanism to appeal a court decision regarding the appointment or conduct of a guardian.

(b) Jurisdiction. All professional guardians who practice in the state of Washington are subject of these rules and regulations. Jurisdiction shall continue whether or not the professional guardian retains certification under this rule, and regardless of the professional guardian's residence.

(c) Certified Professional Guardian Board.

(1) Establishment. The Supreme Court shall appoint a Certified Professional Guardian Board ("Board") of 12 or more members. The Board shall include representatives from the following areas of expertise: professional guardians; attorneys; guardianship advocates; courts; state agencies; and those employed in medical, social, health, financial, or other fields pertinent to guardianships. The term for a member of the Board shall be three years. Terms shall be established such that one-third shall end each year. All terms of office begin October 1 and end September 30 or when a successor has been appointed, whichever occurs later. The Supreme Court shall designate the Chair of the Board. The Board shall designate the Vice-Chair, who shall serve in the absence of or at the request of the Chair.

(2) Duties and Powers.

(i) Applications. The Board shall process applications for professional guardian certification under this rule. The Board may delay or deny certification if an applicant fails to provide required basic or supplemental information.

(ii) Standards of Practice. The Board shall adopt and implement policies or regulations setting forth minimum standards of practice which professional guardians shall meet.

MISC.



(iii) **Training Program.** The Board shall adopt and implement regulations establishing a professional guardian-training program.

(iv) **Examination.** The Board may adopt and implement regulations governing the preparation and administration of certification examinations.

(v) **Recommendation of Certification.** The Board may recommend certification to the Supreme Court. The Supreme Court shall review the Board's recommendation and enter an appropriate order.

(vi) **Denial of Certification.** The Board may deny certification. If the Board denies certification, it shall notify an applicant in writing of the basis for denial of certification and inform the applicant of the appeal process.

(vii) **Continuing Education.** The Board may adopt and implement regulations for continuing education.

(viii) **Grievances and Discipline.** The Board shall adopt and implement procedures to review any allegation that a professional guardian has violated an applicable statute, fiduciary duty, standard of practice, rule, or regulation. The Board may impose sanctions upon a finding of violation. Sanctions may include decertification or lesser remedies or actions designed to ensure compliance with duties, standards, and requirements for professional guardians.

(ix) **Investigation.** The Board may investigate to determine whether an applicant for certification meets the certification requirements established in this rule. The Board may also investigate to determine whether a professional guardian has violated the duty, standard of practice, rule, regulation, or statute governing the conduct of professional guardians.

(x) **Authority to Conduct Hearings.** The Board may adopt regulations pertaining to the orderly conduct of hearings.

a) **Subpoenas.** The Chair of the Board, Hearing Officer, or designated attorney shall have the power to issue subpoenas.

b) **Orders.** The Chair or Hearing Officer may make such pre-hearing or other orders as are necessary for the orderly conduct of any hearing.

c) **Enforcement.** The Board may refer a Subpoena or order to the Supreme Court for enforcement.

(xi) **Confidentiality.** Information in the Board's possession shall be disclosed upon request, except that the following information shall not be disclosed without a court order:

a) Personal information, including, but not limited to, home address, financial information, medical information, or Social Security number;

b) Records required by law, regulation, or court order to be confidential;

c) Records of reviews or investigations by the Board which did not result in sanctions;

d) Professional guardian examination questions, answers, or sources;

e) Records of investigations shall remain confidential except for documents showing the results of the investigation where there has been an appeal; and

f) Records of disciplinary actions shall remain confidential except all formal complaints and the process after filing the formal complaint shall be public.

(xii) **Meetings.** The Board shall hold meetings as determined necessary by the chair. Meetings of the Board will be open to the public except for executive sessions of the Board and review panel and disciplinary meetings prior to filing of a formal complaint.

(xiii) **Fees.** The Board shall establish and collect fees in such amounts as are necessary to carry out the duties and responsibilities of the Board.

(xiv) **Immunity from Liability.** No cause of action against the Board, its members, or agents shall accrue in favor of a professional guardian or any other person arising from any act taken pursuant to this rule, provided that the Board or individual acted in good faith. The burden of proving that the acts were not taken in good faith shall be on the party asserting it.

**(d) Certification Requirements.** Applicants, Certified Professional Guardians, and Certified Agencies shall comply with the provisions of Chapter 11.88 and 11.92 RCW. In addition, individuals and agencies must meet the following requirements.

(1) **Individual Certification.** An individual applicant shall:

(i) Be at least 18 years of age;

(ii) Be of sound mind;

(iii) Have no felony or misdemeanor convictions involving moral turpitude;

(iv) Possess a high school diploma or equivalency (GED) and five years experience working in a discipline pertinent to the provision of guardianship services, such as legal, financial, social service, or health care; or an Associate of Arts degree and three years experience working in a discipline pertinent to the provision of guardianship services, such as legal, financial, social service, or health care; or a Bachelor of Arts degree and one year of experience working in a discipline pertinent to the provision of guardianship services, such as legal, financial, social service, or health care; and

(v) Have completed the mandatory certification training.

(2) **Agency Certification.** Agencies must meet the following additional requirements:

(i) All officers and directors of the corporation must meet the qualifications of Chapter 11.88.020 RCW for guardians;

(ii) Each agency shall have at least two (2) individuals in the agency certified as professional guardians, whose residence or principal place of business is in Washington State and who are so designated in minutes or a resolution from the Board of Directors; and

(iii) Each agency shall file and maintain in every guardianship court file a current designation of each certified professional guardian with final decision-making authority for the incapacitated person or their estate.

(3) **Training Program and Examination.** Applicants must satisfy the Board's training program and examination requirements.

(4) **Insurance Coverage.** In addition to the bonding requirements of Chapter 11.88 RCW, applicants must be insured or bonded at all times in such amount as may be determined by the Board and shall notify the Board immediately of cancellation of required coverage.

(5) *Financial Responsibility.* Applicants must provide proof of ability to respond to damages resulting from acts or omissions in the performance of services as a guardian. Proof of financial responsibility shall be in such form and in such amount as the Board may prescribe by regulation.

(6) *Application and Oath.* Applicants must execute and file with the Board an approved application under oath.

(7) *Fees.* Applicants must pay fees as the Board may require by regulation.

(8) *Denial of Certification.* The Board may deny certification of an individual or agency based on the following criteria:

(i) Removal as guardian by a court order;

(ii) Judgment entered against the professional guardian as a result of the performance of services as a guardian;

(iii) Finding by the court that the professional guardian is guilty of malfeasance, nonfeasance, misfeasance, a felony, or crime of moral turpitude;

(iv) Any adjudication of the types specified in RCW 43.43.830, and RCW 43.43.842;

(v) Finding by the court that the professional guardian has violated the guardian's duties to the incapacitated person or their estate; and

(vi) Pending or final professional licensing or disciplinary board actions or findings of violations.

(e) **Disclosure Requirements.** A Certified Professional Guardian or Certified Agency shall disclose to the Board upon application and on a continuing basis:

(i) Removal as guardian by a court order;

(ii) Judgment entered against the professional guardian as a result of the performance of services as a guardian;

(iii) Finding by a court that the professional guardian is guilty of malfeasance, nonfeasance, misfeasance, and felony, or crime of moral turpitude;

(iv) Any adjudication of the types specified in RCW 43.43.830, and RCW 43.43.842;

(v) Finding by a court that the professional guardian has violated the guardian's duties to the incapacitated person or their estate;

(vi) Pending or final professional licensing or disciplinary board actions or findings of violations;

(vii) Residential or business moves or changes in employment; and

(viii) Names of Certified Professional Guardians they employ or who leave their employ.

(f) **Regulations.** The Board shall adopt regulations to implement this rule.

(g) **Provisional Certification.** The Board may adopt and implement regulations permitting provisional certification of professional guardians and the initial certification of successful applicants.

(h) **Personal Identification Number.** The Board shall establish an identification numbering system for professional guardians. The Personal Identification Number shall be included with the professional guardian's signature on documents filed with the court.

(i) **Expenses of the Board.** Members of the Board shall not be compensated for their services. Consistent with the Office of Financial Management rules, Board members shall

be reimbursed for their actual and necessary expenses incurred in the performance of their duties. All expenses shall be paid pursuant to a budget submitted to and approved by the Supreme Court. Funds accumulated from examination fees, annual fees, and other revenues shall be used to defray expenses of the board.

(j) **Administration.** The Office of the Administrator for the Courts (OAC) shall provide administrative support to the Board, and may contract with agencies or organizations to carry out the Board's administrative functions.

(k) **Title.** An individual certified under this rule may use the initials "CPG" following the individual's name to indicate status as "Certified Professional Guardian." An agency certified under this rule may indicate that it is a "Certified Professional Guardian Agency" by using the initials "CPGA" after its name.

(l) **Existing Law Unchanged.** This rule shall not expand, narrow, or otherwise affect existing law, including but not limited to, Title 11 RCW.

WSR 00-03-019  
RULES OF COURT  
STATE SUPREME COURT

[January 6, 2000]

IN THE MATTER OF THE ADOPTION ) ORDER  
OF THE AMENDMENTS TO BJAR 1 ) NO. 25700-A-676  
AND 2 AND NEW BJAR 3, 4, AND 5 )

The Board for Judicial Administration having recommended the adoption of the proposed amendments to BJAR 1 and 2 and New BJAR 3, 4, and 5, and the Court having determined that the proposed amendments and new rules 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 and new rules as attached hereto are adopted.

(b) That pursuant to the emergency provisions of GR 9(i), the amendments and new rules will be published expeditiously and become effective upon publication.

DATED at Olympia, Washington this 6th day of January, 2000.

Guy, C. J.

Smith, J.

Johnson, J.

Madsen, J.

Sanders, J.

Talmadge, J.

Ireland, J.

Alexander, J.

Bridge, J.

MISC.

BOARD FOR JUDICIAL ADMINISTRATION  
RULES (BJAR) (12/29/99)

PREAMBLE

The power of the judiciary to make administrative policy governing its operations is an essential element of its constitutional status as an equal branch of government. The Board for Judicial Administration is established to adopt policies and provide strategic leadership for the courts at large, enabling the judiciary to speak with one voice.

Rule 1. BOARD FOR JUDICIAL ADMINISTRATION

~~It is the intent of the Supreme Court that a Board for Judicial Administration be designated to develop statewide policy to enhance the administration of the court system in the State of Washington by providing a representative means by which the judiciary can address matters that affect the administration of the courts at the state and local levels.~~

The Board for Judicial Administration is created to provide effective leadership to the state courts and to develop policy to enhance the administration of the court system in Washington State. Judges serving on the Board for Judicial Administration shall pursue the best interests of the judiciary at large.

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.

Rule 2. COMPOSITION

~~(a) Membership. The Board for Judicial Administration shall be representative of the judicial branch of government of the state of Washington and its consist of judges from all levels of court selected for their demonstrated interest in and commitment to judicial administration and court improvement. The Board shall consist of the Chief Justice and Acting Chief Justice of the Supreme Court; three Court of Appeals judges, one from each Division, to include the Presiding Chief Judge and two Chief Judges; five members from the appellate courts (two from the Supreme Court, one of whom shall be the Chief Justice, and one from each division of the Court of Appeals), three judges designated by the Superior Court Judges' Association; five members from the superior courts, one of whom shall be the President of the Superior Court Judges' Association, and three judges designated by the District and Municipal Court Judges' Association five members of the courts of limited jurisdiction, one of whom shall be the President of the District and Municipal Court Judges' Association, two members of the Washington State Bar Association (non-voting) and the Administrator for the Courts (non-voting).~~

~~(b) Nonvoting Representatives. In addition the board shall have the following nonvoting representatives: two members of the Washington State Bar Association appointed by the Board of Governors. Selection - Members shall be selected based upon a process established by their respective associations or court level which considers demonstrated commitment to improving the courts, racial and gender diversity as well as geographic and caseload differences.~~

~~(c) Terms of Office. The Superior Court and District and Municipal Court representatives shall serve staggered 3-year terms. The terms of all other members shall be commensurate with the term of the officers designated in section (a). Nonvoting representatives shall serve 2-year terms. (1) Of the members first appointed, one justice of the Supreme Court shall be appointed for a two-year term; one judge from each of the other levels of court for a four-year term; one judge from each of the other levels of court and one Washington State Bar Association member for a three-year term; one judge from the other levels of court and one Washington State Bar Association for a two-year term; and one judge from each level of trial court for a one-year term. Thereafter, voting members shall serve four-year terms and the Washington State Bar Association members for three year terms commencing annually on June 1. The Chief Justice, the President Judges and the Administrator for the Courts shall serve during tenure.~~

~~(2) Members serving on the BJA shall be granted equivalent pro tempore time.~~

~~(d) Operation.~~

~~(1) The Chief Justice of the Supreme Court shall be the chair of the board.~~

~~(2) The vice chair shall be elected annually from among the voting members representing the other levels of the judiciary.~~

~~(3) Meetings of the board shall be held quarterly, or more often as needed, at the direction of the chair, or at the request of any two members. The board and the Court Management Council shall meet jointly twice a year.~~

~~(4) Ad hoc and standing committees and task forces may be appointed for the purpose of facilitating the work of the board, conducting special studies and making recommendations to the Board for Judicial Administration. Such committees and task forces may include persons who are not members of the judiciary or of the board such as lay persons, trial court clerks and administrators.~~

~~(5) The Board for Judicial Administration will speak on behalf of the judicial branch of government on those matters which it has unanimously approved and may state the position of the various levels of the court on matters where there is a diversity of opinion.~~

~~(e) Scope. The Board for Judicial Administration does not replace or restrict the activities of the existing judicial associations or courts. This rule shall not be construed as extending the Supreme Court's control over the courts.~~

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.

Rule 3. OPERATION

(a) Leadership. The Board for Judicial Administration shall be chaired by the Chief Justice of the Washington Supreme Court in conjunction with a Member Chair who shall be elected by the Board. The duties of the Chief Justice Chair and the Member Chair shall be clearly articulated in the by-laws. The Member Chair shall serve as chair of the Long-range Planning Committee. Meetings of the Board may be

convened by either chair and held at least bi-monthly. Any Board member may submit issues for the meeting agenda.

(b) Committees. Ad hoc and standing committees may be appointed for the purpose of facilitating the work of the Board. Non-judicial committee members shall participate in non-voting advisory capacity only.

(1) The Board shall appoint at least three standing committees: Long-range Planning, Core Missions/Best Practices and Legislative. Other committees may be convened as determined by the Board.

(2) The Chief Justice and the Member Chair shall nominate for the Board's approval the chairs and members of the committees. Committee membership may include citizens, experts from the private sector, members of the legal community, legislators, clerks and court administrators.

(c) Voting. All decisions of the Board shall be made by majority vote of those present and voting provided there is one affirmative vote from each level of court. Eight voting members will constitute a quorum provided at least one judge from each level of court is present. Telephonic or electronic attendance shall be permitted but no member shall be allowed to cast a vote by proxy.

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.

**Rule 4. DUTIES**

(a) The Board shall establish a long-range plan for the judiciary;

(b) The Board shall continually review the core missions and best practices of the courts;

(c) The Board shall develop a funding strategy for the judiciary consistent with the long-range plan and RCW 43.135.060;

(d) The Board shall assess the adequacy of resources necessary for the operation of an independent judiciary;

(e) The Board shall speak on behalf of the judicial branch of government and develop statewide policy to enhance the operation of the state court system;

(f) The Board shall have the authority to conduct research or create study groups for the purpose of improving the courts.

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.

**Rule 35. STAFF**

Staff for the Board for Judicial Administration shall be provided by the Administrator for the Courts.

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.

**WSR 00-03-020  
NOTICE OF PUBLIC MEETINGS  
CONVENTION AND TRADE  
CENTER**

[Memorandum—January 6, 2000]

A regular meeting of the Washington State Convention and Trade Center's board of directors will be held on Wednesday, January 12, 2000, at 1:30 p.m. in Room 403 of the Convention Center, 800 Convention Place, Seattle.

If you have any questions regarding this meeting, please call (206) 694-5000.

**WSR 00-03-021  
NOTICE OF PUBLIC MEETINGS  
EDMONDS COMMUNITY COLLEGE**

[Memorandum—January 7, 2000]

At the November 18, 1999, meeting of the Edmonds Community College board of trustees, Resolution No. 99-11-2, 2000 EdCC Board of Trustees Meeting Schedule, was passed by the board of trustees.

**2000 EdCC Board of Trustees Meeting Schedule**

|                    |           |          |
|--------------------|-----------|----------|
| January 20, 2000   | 4:00 p.m. | Thursday |
| February 17, 2000  | 4:00 p.m. | Thursday |
| March 16, 2000     | 4:00 p.m. | Thursday |
| April 20, 2000     | 4:00 p.m. | Thursday |
| May 18, 2000       | 4:00 p.m. | Thursday |
| * June 15, 2000    | 4:00 p.m. | Thursday |
| July 20, 2000      | 4:00 p.m. | Thursday |
| August 17, 2000    | 4:00 p.m. | Thursday |
| September 21, 2000 | 4:00 p.m. | Thursday |
| * October 19, 2000 | 4:00 p.m. | Thursday |
| November 16, 2000  | 4:00 p.m. | Thursday |
| December 21, 2000  | 4:00 p.m. | Thursday |

\*CONFLICT  
6/15 - ACCT, San Antonio  
10/19 - ACCT, Nashville

**WSR 00-03-022  
NOTICE OF PUBLIC MEETINGS  
EASTERN WASHINGTON UNIVERSITY**

[Memorandum—January 10, 2000]

**CORRECTED NOTICE  
Eastern Washington University  
BOARD OF TRUSTEES**

January 7, 2000, 11:00 a.m.

**CONFERENCE CALL  
Showalter Hall 214**

526 5th Street  
Cheney, WA 99004-2431

MISC.

### Announcement of Special Meeting

A special meeting has been called by the EWU board of trustees for the purpose of discussing one agenda item. It is anticipated that the board will go into executive session pursuant to RCW 42.30.110 to discuss agency matters with legal counsel. Final disposition shall not be taken on any other matter at such meeting by the governing body.

#### WSR 00-03-024

#### INTERPRETIVE AND POLICY STATEMENT DEPARTMENT OF LABOR AND INDUSTRIES

[Filed January 10, 2000, 4:09 p.m.]

In accordance with RCW 34.05.230(12), the following policies and interpretive statements were recently issued by the department:

Insurance Services Division:

**Insurance Services Policy #2.94, "Determining Liable Insurer for Hearing Loss Claims,"** is a new policy that gives direction for determining the liable insurer on hearing loss claims when medical opinion cannot determine which insurer is liable. (Issued 09/01/1999).

**Insurance Services Policy #91.05, "Identification and Referral of Employer Fraud to the Economic Crimes Unit,"** is repealed. This policy provided direction to employer services staff when suspecting employer fraud. This policy is deleted. (Repealed 09/01/1999).

**Insurance Services Policy #91.21, "Sampling One Quarter,"** is amended to give direction to audit staff when auditing a single quarter of an employer's records. (Issued 09/01/1999).

**Insurance Services Policy #91.25, "Sampling Workers and Records,"** is a new policy that gives direction to audit staff for auditing a sample of workers and records when auditing an employer's records. (Issued 09/01/1999).

**Insurance Services Policy #10.30, "Authorizing and Paying for Interpretive Services,"** is amended to give direction for authorizing interpretive services for injured workers who need communication assistance. The updated policy no longer requires adjudicator authorization every six months, provides for document translation on a case-by-case basis, increases the amount of time the interpretive service provider may bill for completing forms or waiting for the injured worker's appointment to begin, and sets limits on mileage reimbursement. (Issued 10/01/1999).

**Insurance Services Policy #16.10, "Medical Documentation for Claim Closures,"** is repealed. This policy gave direction for medical documentation needed to close claims. This policy is deleted. (Repealed 12/15/1999).

**Insurance Services Policy #61.10, "Determining Industrial Insurance Coverage for Sole Proprietors,"** is amended to give direction for determining State Fund industrial insurance coverage for sole proprietors. (Issued 12/15/1999).

**Insurance Services Policy #61.18, "Industrial Insurance for Corporate Officers,"** is amended to give direction for determining industrial insurance coverage for corporate officers. (Issued 12/15/1999).

**Insurance Services Policy #63.65, "Municipalities & Special Purpose Districts,"** is a new policy that gives direction for determining industrial insurance coverage for municipalities and special purpose districts. (Issued 12/15/1999).

**Insurance Services Policy #91.02, "Claim Investigation Assignments,"** is amended to give direction for which investigation referrals are treated as urgent and how to handle them. (Issued 12/15/1999).

**Insurance Services Policy #91.20, "Using Internal Revenue Information,"** is a new policy that gives direction for how collections and field audit staff must handle confidential information from the IRS. (Issued 12/15/1999).

Contact: Linda Norris, Mailstop 4-4310, (360) 902-4999, Douglas Connell, Assistant Director.

Specialty Compliance Division:

**Electrical Inspection Policy #99-15, "Electrical Work Performed by Leaseholders,"** is a new policy that gives direction for electrical installations or alterations to existing buildings by leaseholders. Any person, firm, partnership, corporation, or other entity holding a valid, signed lease from the property owner shall be allowed to do electrical work on or within the building or structure described in the lease. The lessee and/or his or her regularly employed employees shall perform the electrical maintenance and installation. The lessee who performs the electrical maintenance or installation work must be the occupant of the building or structure. Property owners or leaseholders cannot perform electrical work on new buildings for rent, sale, or lease, without the proper electrical licensing and certification. Refer to RCW 19.28.610 for exemptions from licensing certification. (Issued 08/01/1999).

**Electrical Inspection Policy #99-16, "Scope of Work for Limited Energy System (06) Specialty Contractors and Electricians,"** is a new policy that clarifies the scope of work the limited energy system specialty (06) is allowed to perform. The intent of the Electrical Board and the department when the (06) Limited Energy System was to restrict the (06) specialty to installations of "low energy circuits and equipment." This specialty is restricted to Class 1 power-limited circuits (30 volts maximum), Class 2 circuits (30 volts maximum), and Class 3 circuits (up to 100 volts maximum). (Issued 12/01/1999).

Contact: Theresa Deering, Mailstop 4-4460, (360) 902-5259, Patrick Woods, Assistant Director.

WISHA Services Division:

**WISHA Regional Directive #1.00, "WISHA Policy Process"** is a new policy that outlines the simplified process for the adoption of formal policy guidance and directives that relate to the department's state-wide responsibilities under the Washington Industrial Safety and Health Act. This WISHA Regional Directive replaces and rescinds WISHA Interim Operations Memorandum #96-2-A. (Issued 08/24/1999).

**WISHA Regional Directive 32.49, "Respiratory Protection in the Fire Service,"** is a new policy that delays enforcement of the new provisions of the respiratory protection standard as they apply to the fire service until November 1, 1999. This Regional Directive will remain in effect until that date. (Issued 08/31/1999).

**WISHA Interim Operations Memorandum #99-1-D, "Mechanical Removal of Asbestos-containing Roofing Materials,"** which provided guidance to WISHA enforcement and consultation staff regarding appropriate application of the standards to that process has been rescinded. This issue has now been addressed by changes to the Asbestos Standard that took effect on 11/10/1999. (Repealed 11/10/1999).

**WISHA Interim Operations Memorandum #99-4-A, "Asbestos-Containing Asphalt Roof Cements, Coatings and Mastics"** which enacted a stay in enforcement of WAC 296-62-077 and chapter 296-65 WAC has been rescinded. This issue has now been addressed by changes to the Asbestos Standard that took effect on 11/10/1999. (Repealed 11/10/1999).

**WISHA Regional Directive 3.25, "Accompanied Visits in Consultation,"** is a new policy that provides guidance to WISHA Consultation Supervisors on the frequency and content of accompanied visits.

**WISHA Regional Directive 19.10, "Explosives Act Exemptions in Relation to WISHA,"** is a new policy that provides guidance to WISHA enforcement and consultation staff whenever they must address issues concerning employee exposure to hazards involving explosives or fireworks.

Contact: Marcia Benn, Mailstop 4-4648, (360) 902-5503, Dr. Michael Silverstein, Assistant Director.

Doric Olson  
Legislative and  
Governmental Affairs Office

WSR 00-03-026

RULES COORDINATOR

**WASHINGTON CITIZENS COMMISSION ON SALARIES FOR ELECTED OFFICIALS**

[Filed January 11, 2000, 9:02 a.m.]

This letter is to advise you that in accord with the provisions of RCW 34.05.312, Carol Sayer, Executive Director, Washington Citizens Commission on Salaries for Elected Officials, P.O. Box 43120, 5707 Lacey Boulevard S.E., Suite 106, Olympia, WA 98504-3120, phone (360) 407-0785, fax (360) 407-0787, e-mail wccseoexecd@connectcorp.net, is the designated rules coordinator for the Washington Citizens Commission on Salaries for Elected Officials.

Carol Sayer  
Executive Director

WSR 00-03-027

NOTICE OF PUBLIC MEETINGS

**EASTERN WASHINGTON UNIVERSITY**

[Memorandum—January 11, 2000]

Eastern Washington University

**BOARD OF TRUSTEES**

January 6, 2000, 8:00 a.m.

**CONFERENCE CALL**

Showalter Hall 214

526 5th Street

Cheney, WA 99004-2431

**Announcement of  
Special Meeting**

A special meeting has been called by the EWU board of trustees for the purpose of discussing one agenda item. It is anticipated that the board will go into executive session pursuant to RCW 42.30.110 to discuss agency matters with legal counsel. Final disposition shall not be taken on any other matter at such meeting by the governing body.

WSR 00-03-039

NOTICE OF PUBLIC MEETINGS

**BATES TECHNICAL COLLEGE**

[Memorandum—January 6, 2000]

The board of trustees of Bates Technical College hereby notifies you of an additional meeting in 2000.

The board will meet in informal session on January 20, 2000, as part of its "Connecting with the Community" series. It will be from 7:30-8:30 a.m. in the Cafeteria at Bates' South Campus, 2201 South 78th Street, Tacoma, WA 98409-5847. No official board business will be conducted at this time.

MISC.

**WSR 00-03-045**  
**NOTICE OF PUBLIC MEETINGS**  
**HEALTH CARE AUTHORITY**  
 (Public Employees Benefits Board)  
 [Memorandum—January 12, 2000]

The following is revised 2000 Public Employees Benefits Board (PEBB) meeting information.

Please contact 923-2802, if you have any questions or need further information.

Public Employees Benefits Board  
 Proposed 2000 Meeting Schedule

If you are a person with a disability and need a special accommodation, please contact Judy Lamm at (360) 923-2828.

January 11, 1:15 p.m.  
 Cavanaugh's Hotel  
 Olympia, Washington

February 22, 1:00 p.m.  
 Lacey Community Center  
 Lacey, Washington

March 28, 1:00 p.m.  
 Lacey Community Center  
 Lacey, Washington

April 18, 1:00 p.m.  
 Lacey Community Center  
 Lacey, Washington

May 23, 1:00 p.m.  
 Lacey Community Center  
 Lacey, Washington

June 27, 1:00 p.m.  
 Lacey Community Center  
 Lacey, Washington

July 18, 1:00 p.m.  
 Location Unknown  
 Olympia, Washington

August 1 (tentative), 1:00 p.m.  
 Location Unknown  
 Olympia, Washington

August 7 (tentative), 1:00 p.m.  
 Location Unknown  
 Olympia, Washington

October 24, 8:00 a.m.  
 Planning Session  
 Possibly Burien

November 28, 1:00 p.m.  
 Location Unknown  
 Olympia, Washington

**WSR 00-03-054**  
**PUBLIC EMPLOYMENT**  
**RELATIONS COMMISSION**  
 [Filed January 14, 2000, 3:50 p.m.]

Authority is delegated under the emergency rules filed by the commission on this date, as follows:

Mark S. Downing is authorized to act for the agency under WAC 391-45-070 and 391-45-110.

Mark S. Downing, Rex L. Lacy, Katrina I. Boedecker and Frederick J. Rosenberry are authorized to assign cases to staff members, including assignment of examiners under WAC 391-45-130.

Marvin L. Schurke  
 Excutive Director

**WSR 00-03-058**  
**NOTICE OF PUBLIC MEETINGS**  
**WHATCOM COMMUNITY COLLEGE**  
 [Memorandum—January 18, 2000]

**NOTIFICATION OF MEETING**

The board of trustees of Whatcom Community College, District Number Twenty-One, has cancelled its regularly scheduled meeting for February 8, 2000, at 2:00 p.m. in the Board Room at 237 West Kellogg Road, Bellingham, WA. The rescheduled meeting will be held on February 1, 2000, at the same time and location.

|                         |                  |                                  |
|-------------------------|------------------|----------------------------------|
| <b>February 1, 2000</b> | <b>2:00 p.m.</b> | <b>Whatcom Community College</b> |
| Wednesday               |                  | 237 West Kellogg Road            |
|                         |                  | Bellingham, WA 98226             |

**WSR 00-03-059**  
**AGENDA**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**  
 [Filed January 18, 2000, 12:27 p.m.]

Shown below, in accordance with RCW 34.05.314, is the Department of Labor and Industries' updated Semi-annual Rules Development Agenda for January 1 - June 30, 2000.

Please feel free to contact 902-4206 or e-mail at walx235@lni.wa.gov, if you have any questions.

**The Department of Labor and Industries**  
**Semi-annual Rules Development Agenda (January 1,**  
**2000 - July [June] 30, 2000)**

**MISC.**

| WAC CHAPTER               | CHAPTER TITLE  | AGENCY CONTACT                                     | PROPOSED TIMELINE   | DESCRIPTION OF RULE(S)  |
|---------------------------|--|--|---|---|
| <b>Insurance Services</b> |  |  |   |   |
| 296-17-31001 - 296-17-930 | General reporting rules, classifications, and rating system for Washington workers' compensation insurance | Nancy Junk<br>902-4775                             | CR-101: 1/5/00<br>CR-102: 3/22/00<br>Hearing: 4/25/00<br>CR-103: 5/23/00<br>Effective: 7/1/00 | To streamline and update the employer classification language in the general workers' compensation rules and classification definitions to ensure rate payer equity in the premium rate plan.   |
| 296-20-135                | Conversion factors   | Tom Davis<br>902-6687                              | CR-101: 12/22<br>CR-102: 2/16<br>Hearing: 3/22/00<br>CR-103: 4/18<br>Effective: 7/1/00        | To revise and adopt the provider fee schedule used to calculate provider reimbursement levels with the assistance of the technical advisory group made up of providers and the anesthesia technical advisory group. This review is done annually. |
| 296-23-220                | Physical therapy rules   | Tom Davis<br>902-6687                              | CR-101: 12/22<br>CR-102: 2/16<br>Hearing: 3/22/00<br>CR-103: 4/18<br>Effective: 7/1/00        | To revise and adopt the physical therapy daily maximum fees used to calculate provider reimbursement levels with the assistance of the technical advisory group made up of providers. This review is done annually.                               |
| 296-23-230                | Occupational therapy rules   | Tom Davis<br>902-6687                              | CR-101: 12/22<br>CR-102: 2/16<br>Hearing: 3/22/00<br>CR-103: 4/18<br>Effective: 7/1/00        | To revise and adopt the occupational therapy daily maximum fees used to calculate provider reimbursement levels with the assistance of the technical advisory group made up of providers. This review is done annually.                           |
| 296-20-022                | Payment of out-of-state providers  | Evonne Peryea<br>902-6828                          | CR-101: 12/22<br>CR-102: 2/16<br>Hearing: 3/22<br>CR-103: 4/18<br>Effective: 7/1/00           | To revise provider reimbursement rules so that the same reimbursement methods, coverage, and payment policies apply to all providers regardless of geographic location.   |
| 296-21-290                | Physical medicine  | Evonne Peryea<br>902-6828                          | CR-101: 12/22<br>CR-102: 2/16<br>Hearing: 3/22<br>CR-103: 4/18<br>Effective: 7/1/00           | To revise provider reimbursement rules so that any attending doctor whose scope of practice includes physical therapy may provide limited physical therapy services.  |
| 296-23A-0230              | Payment to out-of-state hospitals  | Evonne Peryea<br>902-6828                          | CR-101: 12/22<br>CR-102: 2/16<br>Hearing: 3/22<br>CR-103: 4/18<br>Effective: 7/1/00           | To revise hospital reimbursement rules so that all out-of-state hospitals are paid under the same reimbursement methodology, coverage, and payment rules.   |
| 296-23A-0220              | Hospitals  | James Dick<br>902-5131                             | CR-101: Complete<br>CR-102: 3/1/00<br>Hearing: 3/21/00<br>CR-103: 4/18/00                     | To allow for changes in reimbursement of outpatient facility charges and describe outpatient prospective payment system.  |
| 296-20-XXX                | NEW SECTION<br>Provider application process  | Evonne Peryea<br>902-6828                          | CR-101: 12/22<br>CR-102: 2/16<br>Hearing: 3/22<br>CR-103: 4/18<br>Effective: 7/1/00           | To adopt requirements for the provider application process and establish rules governing provider status with the department.   |
| 296-23A-XXX               | NEW SECTION<br>Calculation for out-of-state hospitals  | Evonne Peryea<br>902-6828                          | CR-101: 12/22<br>CR-102: 2/16<br>Hearing: 3/22<br>CR-103: 4/18<br>Effective: 7/1/00           | To establish provider reimbursement rules that define the calculation method for the percentage of allowed charges for out-of-state hospitals.  |
| 296-23A                   | Hospitals  | James Dick<br>902-5131<br>Mary Kaempfe<br>902-6814 | CR-102XA: 12/99<br>CR-103: 2/00   | To clarify provider rules that pertain to hospital inpatient reimbursement in order to comply with Executive Order 97-02 on regulatory improvement.   |

MISC.



| WAC CHAPTER                             | CHAPTER TITLE  | AGENCY CONTACT  | PROPOSED TIMELINE  | DESCRIPTION OF RULE(S)  |
|---|--|---|--|---|
| 296-18A                                 | Vocational rehabilitation  | Blake Maresh<br>902-6564                              | CR-101: 2/3/00<br>CR-102: 3/30/00<br>Effective: 8/31/00  | To revise and adopt vocational rehabilitation rules to improve vocational rehabilitation purchasing practices. This is in accordance with the recent JLARC audit and recommendations from a study by William M. Mercer, Inc. conducted as part of the vocational rehabilitation purchasing improvement project. |
|   | <b>POLICY REVIEW</b>   |   |  |   |
| New                                     | To be determined   | Jami Lifka<br>902-4941                                | To be determined:<br>CR-101:<br>CR-102:<br>Hearing:<br>CR-103:<br>Effective: 6/30/00           | To review medical coverage policies to see if by law they should be in rule and to comply with Executive Order 97-02 on regulatory reform.  |
| 296-30 WAC<br><br>296-31 WAC            | Rules for the administration of the crime victim compensation program<br>Crime victims compensation mental health treatment rules and fees | Valerie Estes<br>902-5369                             | CR-101: 11/3/99<br>CR-102: 12/22/99<br>Hearing: 1/25/00<br>CR-103: 3/3/00<br>Effective: 4/3/00 | To review, revise, and adopt requirements relating to the crime victims program to comply with Executive Order 97-02 on regulatory improvement.   |
| 296-17                                  | General reporting rules, classifications, audit and recordkeeping, rates and rating system for workers' compensation insurance             | Frank Romero<br>902-4835                              | CR-101:<br>CR-102:<br>Hearing:<br>CR-103: 2/28/00<br>Effective:                                | To revise and adopt rules relating to the retrospective rating program in accordance with SB 6048 and the JLARC performance audit recommendations.  |
| 296-17                                  | General reporting rules, classifications, audit and recordkeeping, rates and rating system for workers' compensation insurance             | Frank Romero<br>902-4835                              | CR-101: 6/00<br>CR-102: 9/00<br>Hearing: 11/00<br>CR-103: 11/00<br>Effective: 1/1/01           | To revise and adopt retrospective rating program rules to update the retro premium size table. This is an annual update to maintain equity in the retrospective rating program.   |
| <b>Specialty Compliance Services</b>    |  |   |  |   |
| 296-402-010 - 200<br>296-402A-010 - 660 | Electrical testing laboratory  | Ron Fuller<br>902-5249<br>Josh Swanson<br>902-6411    | To be determined:<br>CR-101:<br>CR-102:<br>Hearing:<br>CR-103:<br>Effective: March-00          | To repeal and adopt rules relating to electrical testing laboratory accreditation. The rules will be rewritten using clear rule writing techniques and usability testing.   |
| 296-81-100                              | Elevator rules   | Rich Atkinson<br>902-6128<br>Josh Swanson<br>902-6411 | To be determined:<br>CR-101:<br>CR-102:<br>Hearing:<br>CR-103:<br>Effective: June-00           | To repeal and adopt safety rules relating to elevators, dumbwaiters, escalators, and moving walks in compliance with Executive Order 97-02 on regulatory improvement.   |
| 296-82                                  | Belt manlifts  | Rich Atkinson<br>902-6128<br>Josh Swanson<br>902-6411 | To be determined:<br>CR-101:<br>CR-102:<br>Hearing:<br>CR-103:<br>Effective: June-00           | To repeal and adopt safety rules relating to existing standards for belt manlifts in compliance with Executive Order 97-02 on regulatory improvement.   |
| 296-84                                  | Hand manlifts  | Rich Atkinson<br>902-6128<br>Josh Swanson<br>902-6411 | To be determined:<br>CR-101:<br>CR-102:<br>Hearing:<br>CR-103:<br>Effective: June-00           | To repeal and adopt safety rules relating to handpower manlifts in compliance with Executive Order 97-02 on regulatory improvement.   |
| 296-85                                  | Parking garages  | Rich Atkinson<br>902-6128<br>Josh Swanson<br>902-6411 | To be determined:<br>CR-101:<br>CR-102:<br>Hearing:<br>CR-103:<br>Effective: June-00           | To repeal and rewrite safety rules for mechanized parking garage equipment in compliance with Executive Order 97-02 on regulatory improvement.  |

| WAC CHAPTER  | CHAPTER TITLE  | AGENCY CONTACT  | PROPOSED TIMELINE  | DESCRIPTION OF RULE(S)   |
|--|--|---|--|--|
| 296-87   | Construction elevators   | Rich Atkinson<br>902-6128<br>Josh Swanson<br>902-6411 | To be determined:<br>CR-101:<br>CR-102:<br>Hearing:<br>CR-103:<br>Effective: June-00         | To repeal and adopt safety rules for workmen's construction elevators in compliance with Executive Order 97-02 on regulatory improvement.  |
| 296-89   | Boat elevators   | Rich Atkinson<br>902-6128<br>Josh Swanson<br>902-6411 | To be determined:<br>CR-101:<br>CR-102:<br>Hearing:<br>CR-103:<br>Effective: June-00         | To repeal and adopt safety rules for boat launching elevators in compliance with Executive Order 97-02 on regulatory improvement. Repeal chapter, rewrite utilizing clear rule-writing guidelines. Eight sections. |
| 296-91   | Casket lifts   | Rich Atkinson<br>902-6128<br>Josh Swanson<br>902-6411 | To be determined:<br>CR-101:<br>CR-102:<br>Hearing:<br>CR-103:<br>Effective: June-00         | To repeal and adopt safety rules for casket lifts in compliance with Executive Order 97-02 on regulatory improvement.  |
| 296-93A  | Material lifts   | Rich Atkinson<br>902-6128<br>Josh Swanson<br>902-6411 | To be determined:<br>CR-101:<br>CR-102:<br>Hearing:<br>CR-103:<br>Effective: June-00         | To repeal and adopt safety rules for material lifts in compliance with Executive Order 97-02 on regulatory improvement.  |
| 296-94   | Passenger lifts  | Rich Atkinson<br>902-6128<br>Josh Swanson<br>902-6411 | To be determined:<br>CR-101:<br>CR-102:<br>Hearing:<br>CR-103:<br>Effective: June-00         | To repeal and adopt safety rules for passenger lifts in compliance with Executive Order 97-02 on regulatory improvement.   |
| 296-95   | Misc. elevators and escalators   | Rich Atkinson<br>902-6128<br>Josh Swanson<br>902-6411 | To be determined:<br>CR-101:<br>CR-102:<br>Hearing:<br>CR-103:<br>Effective: June-00         | To repeal and adopt safety rules relating to miscellaneous elevators and escalators.   |
| 296-100  | Material hoists  | Rich Atkinson<br>902-6128<br>Josh Swanson<br>902-6411 | To be determined:<br>CR-101:<br>CR-102:<br>Hearing:<br>CR-103:<br>Effective: June-00         | To repeal and adopt safety rules for material hoists in compliance with Executive Order 97-02 on regulatory improvement.   |
| 296-56-60139 -60153<br>296-56-60183 -60153             | Electric manlifts located in grain facilities; handpowered manlifts located in grain elevators | Josh Swanson<br>902-6411                              | To be determined:<br>CR-101:<br>CR-102:<br>Hearing:<br>CR-103:<br>Effective: June-00         | To repeal and adopt safety rules relating to electric manlifts and handpowered manlifts in grain facilities in compliance with Executive Order 97-02 on regulatory improvement.                                    |
| 296-04-001 - 480                                       | Internal rules, state apprenticeship and training council                                      | Rich Atkinson<br>902-6128<br>Josh Swanson<br>902-6411 | To be determined:<br>CR-101:<br>CR-102:<br>Hearing:<br>CR-103:<br>Effective: June-00         | To repeal and adopt rules relating to apprenticeship. The apprenticeship council has started the review process.   |
| <b>WASHINGTON INDUSTRIAL SAFETY AND HEALTH (WISHA)</b> |  |   |  |  |
| 296-27 and 296-350                                     | Recordkeeping and reporting and reassumption of jurisdiction pursuant to RCW 49.17.140         | Christy Wood<br>902-5524                              | CR-101: 4/5/99<br>CR-102: 2/1/00<br>Hearing: 3/10/00<br>CR-103: 5/23/00<br>Effective: 8/1/00 | To amend the administrative rules relating to penalties, appeals, and reassumptions to comply with Executive Order 97-02 on regulatory improvement.  |

MISC.

| WAC CHAPTER | CHAPTER TITLE  | AGENCY CONTACT               | PROPOSED TIMELINE  | DESCRIPTION OF RULE(S)   |
|-------------|--|------------------------------|--|--|
| 296-32      | Safety standards for telecommunications                        | Jennie Hays<br>902-5523      | CR-101: 7/6/99<br>CR-102: 4/4/00<br>Hearing: 5/21/00<br>CR-103: 8/15/00<br>Effective: 12/1/00  | To revise and adopt the telecommunication requirements with the assistance of the Telecommunications Safety Advisory Committee.  |
| 296-155     | Safety standards for construction work                         | Ken Lewis<br>902-4568        | CR-101: 3/9/99<br>CR-102: 2/1/00<br>Hearing: 3/7/00<br>CR-103: 5/23/00<br>Effective: 8/1/00  | To revise and adopt concrete pumper requirements with the assistance of the Construction Advisory Committee.   |
| 296-155     | Safety standards for construction work                         | Jim Hughes<br>902-4504       | CR-101: 12/21/99<br>CR-102: 2/7/00<br>Hearing: 3/21/00<br>CR-103: 7/12/00<br>Effective: 10/1/00  | To revise and adopt attached personnel platform requirements with the assistance of the Construction Advisory Committee.   |
| 296-307     | Safety standards for agriculture                               | Ken Lewis<br>902-4568        | CR-101: 11/17/99<br>CR-102: 11/17/99<br>Hearing: 1/6/00<br>(Wenatchee, Everett, Yakima, Tri-Cities via interactive technology)<br>CR-103: 2/1/00<br>Effective: 5/1/00                  | To revise and adopt rules relating to temporary worker housing. This is a joint rule making with the Department of Health in accordance with chapter 374, Laws of 1999 (ESSB 5599).                          |
| 296-62      | General occupational health standards                          | Christy Wood<br>902-5524     | CR-102XA: 12/20/99<br>CR-103: 3/1/00<br>Effective: 4/10/00   | In part I-1, we will correct WAC references and clarify asbestos clearance monitoring. Also, in WAC 296-62-07515 we will update the PEL table to include the new methylene chloride PEL in WAC 296-62-07470. |
| 296-52      | Safety standards for the possession and handling of explosives | Linda Dausener<br>902-5516   | CR-101: 10/19/99<br>CR-102: 8/30/00<br>Hearing: 10/25/00<br>CR-103: 2/28/01<br>Effective: 4/3/01   | This standard is being reviewed for possible updates to the blasting requirements with the assistance of an advisory committee.  |
| 296-62      | General occupational health standards                          | Jennie Hays<br>902-5523      | CR-101: 12/01/98<br>CR-102: 11/15/99<br>Hearing: 1/4/00 - 1/15/00<br>(Seattle, Tacoma, Everett, Vancouver, Yakima, Tumwater, Spokane)<br>CR-103: 5/1/00<br>Effective: To be determined | To create rules for the prevention of work-related musculoskeletal disorders.  |
| 296-115     | Safety requirements for charter boats                          | Michael McCauley<br>902-5779 | To be determined:<br>CR-101:<br>CR-102:<br>Hearing:<br>CR-103:<br>Effective:   | To revise and adopt rules relating to charter boats in accordance with chapter 111, Laws of 1999 (HB 1996).  |
| 296-62      | General occupational health standards                          | Ken Lewis<br>902-4568        | To be determined:<br>CR-101:<br>CR-102:<br>Hearing:<br>CR-103:<br>Effective:   | Cholinesterase monitoring requirements will be reviewed to determine if blood testing after pesticide exposure should be mandatory.  |
| 296-155     | Safety standards for construction work                         | Cindy Ireland<br>902-5522    | To be determined:<br>CR-101:<br>CR-102:<br>Hearing:<br>CR-103:<br>Effective:   | To revise and adopt the fall protection requirements to be as effective as the federal final rule.   |

MISC.

| WAC CHAPTER   | CHAPTER TITLE   | AGENCY CONTACT               | PROPOSED TIMELINE  | DESCRIPTION OF RULE(S)  |
|---|---|------------------------------|--|---|
| 296-155   | Safety standards for construction work  | Michael McCauley<br>902-5779 | To be determined:<br>CR-101:<br>CR-102:<br>Hearing:<br>CR-103:<br>Effective: | We plan to review part D for possible updates concerning the use of the term "Salamanders" to comply with Executive Order 97-02 on regulatory improvement.                      |
| 296-304   | Safety standards for ship repairing, shipbuilding and shipbreaking  | Jim Hughes<br>902-4504       | To be determined:<br>CR-101:<br>CR-102:<br>Hearing:<br>CR-103:<br>Effective: | To revise and adopt requirements relating to ship repairing, shipbuilding and shipbreaking to comply with Executive Order 97-02 on regulatory improvement.                      |
| 296-24 and 296-62   | General safety and health standards and general occupational health standards   | Jim Hughes<br>902-4504       | To be determined:<br>CR-101:<br>CR-102:<br>Hearing:<br>CR-103:<br>Effective: | To adopt new federal OSHA requirements relating to diptanks. Also, spray finishing requirements will be amended to comply with Executive Order 97-02 on regulatory improvement. |
| 296-24  | General safety and health standards   | Cindy Ireland<br>902-5522    | To be determined:<br>CR-101:<br>CR-102:<br>Hearing:<br>CR-103:<br>Effective: | To revise and adopt requirements relating to woodworking - machine guarding to comply with Executive Order 97-02 on regulatory improvement.                                     |
| 296-24, 32, 36, 37, 45, 54, 56, 62, 67, 78, 79, 99, 155, 304, and 307 | General safety and health standards, safety standards for telecommunications, safety standards for compressed air work, standards for commercial diving operations, safety standards for electrical workers, safety standards for logging operations, safety standards—Longshore, stevedore and related waterfront operations, general occupational health standards, safety standards for process safety management of highly hazardous chemicals, safety standards for sawmills and woodworking operations, safety standards for pulp, paper, and paperboard mills and converters, safety standards for grain handling facilities, safety standards for construction work, safety standards for ship repairing, shipbuilding and shipbreaking, safety standards for agriculture | Linda Dausener<br>902-5516   | To be determined:<br>CR-101:<br>CR-102:<br>Hearing:<br>CR-103:<br>Effective: | To adopt federal miscellaneous OSHA requirements to be as effective as the federal final rules.   |

PLEASE NOTE: WISHA's agenda is scheduled to change as new federal OSHA rules become effective.

Selwyn S.C. Walters  
Rules Coordinator

MISC.

WSR 00-03-064  
OFFICE OF THE GOVERNOR

[Filed January 18, 2000, 4:07 p.m.]

January 18, 2000

VIA FIRST CLASS MAIL

Mr. T. Wade Clegg III  
No. 7 Organic Farm  
P.O. Box 367  
163 Wills Road  
Glenoma, Washington 98336

*Re: Appeal of the November 4, 1999 denial by the Department of Natural Resources Forest Practices Board (the "Board") of that certain Petition for Adoption, Amendment, or Repeal of a State Administrative Rule, dated April 1998, filed by T. Wade Clegg III, seeking amendment of rules related to pesticides (the "Petition")*

Dear Mr. Clegg:

Pursuant to RCW 34.05.330(3), I have fully reviewed your appeal of the Petition and the relevant statutes and regulations, and after careful consideration, hereby deny the appeal. The Board denied the Petition in good faith after substantial review and consideration. The actions of the Board in denying the Petition are not such that intervention by the Governor is appropriate.

It is apparent that, as an organic farmer, you are wholeheartedly committed to providing produce free from any chemical contamination from whatever sources. This is evident from your communications with the Department of Transportation regarding roadside vegetation management and your extensive correspondence with the Department of Agriculture. Your objective is worthwhile, and it seems likely that your customers would appreciate your efforts.

When an executive branch agency adopts regulations, it must do so under statutory direction from the legislature. This was re-emphasized specifically in the Regulatory Reform Act of 1995, which states:

(a) Unless otherwise authorized, substantial policy decisions affecting the public [should] be made by those directly accountable to the public, namely the legislature, and that state agencies [should] not use their administrative authority to create or amend regulatory programs;

(Section 1, chapter 403, laws of 1995). The statute also spells out a number of tests an agency must apply before it can adopt a rule; these include coordination with other federal, state and local laws (RCW 34.05.328 (1)(h)).

Accordingly, the Board was acting appropriately within its discretion to consult with the Department of Agriculture, which regulates the use of pesticides and which also certifies organic farms. The letter sent to you by Mary Beth Lang of the Agriculture Department describes that agency's reasons for believing that current law (controlling pesticide applicator obligations), labeling requirements, and procedures for han-

dling pesticide drift are adequate to address many of the issues raised in your proposal.

You have clearly recognized the absence of statutory authority for stronger protection of organic farms from chemical intrusion. This is apparent from the bill "to address the needs of Organic Farms as Highly Sensitive Areas" that you drafted and sent to Representative Richard DeBolt on June 4, 1999. Your proposal has not yet been considered by the legislature.

Since the legislative session has just begun, you may want to contact Representative DeBolt to determine his willingness to promote the legislation you suggested. I believe the legislative process is the most appropriate avenue for you to establish the kinds of controls and protections you are seeking for yourself and other organic farmers.

Thank you for your extensive efforts to protect the integrity of organically grown crops in our state.

Sincerely,

Gary Locke  
Governor

cc: Dennis W. Cooper, Code Reviser  
Tim Martin, Co-Chief Clerk, House of Representatives  
Cindy Zehnder, Co-Chief Clerk, House of Representatives  
Tony Cook, Secretary of the Senate  
John Daly, Forest Practices Board  
Mary Beth Lang, Department of Agriculture

WSR 00-03-065  
OFFICE OF THE GOVERNOR

[Filed January 18, 2000, 4:07 p.m.]

January 18, 2000

SaltWater Islanders for Timberedlands  
c/o Laura Bienen  
13337 108th Avenue SW  
Vashon, Washington 98070

*Re: December 3, 1999 appeal of the November 4, 1999 denial by the Department of Natural Resources Forest Practices Board (the "Board") of that certain Petition for Adoption, Amendment, or Repeal of a State Administrative Rule, presented to the Board on May 14, 1997, filed by SaltWater Islanders for Timberedlands ("SWIFT"), seeking rulemaking related to saltwater islands (the "Petition")*

Dear Ms. Bienen:

Pursuant to RCW 34.05.330(3), I have fully reviewed your appeal of the Petition and the relevant statutes and regulations, and after careful consideration, hereby deny the appeal. Your letter did not state the reasons for your appeal other than your belief that the Board's action did not respond to your original proposal. The Board denied the Petition in good faith after

substantial review and consideration, and did not abuse its discretion. The actions of the Board in denying the Petition are not such that intervention by the Governor is appropriate.

The Board divided the issues you presented into four categories. As the Board stated in its November 4, 1999 letter, the first three categories are being or will be addressed by the Board, or addressed by the Department of Natural Resources administratively. Accordingly, they do not pertain to your appeal.

The fourth category is the subject of your appeal. Requests in this area were officially denied because, in the Board's words, they were "outside of the Board's authority." I have reviewed your concerns and concur with the Board's decisions for the following reasons:

1. Forest fragmentation on islands. While forest fragmentation is not limited to island geography but is a statewide issue, the Board's rulemaking authority does not extend directly to this area. Forest fragmentation is a local government land use issue to be covered under the Growth Management Act and other authorities.
2. Regulatory incentives to limit forest conversion. The Board has limited authority in this area to restrict conversion, and existing tools for that purpose are already in place. A more full regime of regulatory incentives is beyond the purview of the Board's authority and would require new state law or local government actions.
3. Compliance with the Shoreline Management Act. Local government, with state Department of Ecology oversight, has responsibility to ensure compliance with the Shoreline Management Act. The Board does not.
4. Problems with absentee ownership. State law allows absentee ownership and therefore the Board has no authority to apply forest practices regulations on that basis.

For these reasons, I have affirmed the Board's decision to deny rulemaking on these issues. Thank you for your obvious concern and extensive efforts to protect the ecology of our state.

Sincerely,

Gary Locke  
Governor

- cc: Dennis W. Cooper, Code Reviser  
Tim Martin, Co-Chief Clerk, House of Representatives  
Cindy Zehnder, Co-Chief Clerk, House of Representatives  
Tony Cook, Secretary of the Senate  
Amy F. Bell, Forest Practices Board

WSR 00-03-086

NOTICE OF PUBLIC MEETINGS  
UNIVERSITY OF WASHINGTON

[Memorandum—January 14, 2000]

In accordance with RCW 42.30.075, the University of Washington is providing the enclosed meeting schedules for governing bodies of schools, colleges, departments and programs at the university that maintain regular meeting schedules at the University of Washington Office of Public Records and Open Public Meetings.

Year 2000 regular meeting schedules for governing bodies of schools, colleges, departments and programs at the university which maintain regular meeting schedules at the University of Washington Office of Public Records and Open Public Meetings

| <i>Department</i>                            | <i>Chair or Respondent</i> |
|--|----------------------------|
| American Ethnic Studies                      | Angelica Hernandez-Cordero |
| Animal Care Committee                        | William Wheeler            |
| Anthropology                                 | Miriam Kahn                |
| Applied Mathematics                          | Ka Kit Tung                |
| Astronomy                                    | unknown                    |
| ASUW, A & E                                  | Alisa Felthous             |
| ASUW, Board of Control                       | Ryan Biava                 |
| ASUW, Crime Prevention                       | David Roberts              |
| ASUW, Elections Administration               | TBD                        |
| ASUW, Finance & Budget                       | Jeff Meyers                |
| ASUW, Governance                             | Michael Tuncap             |
| ASUW, Judicial                               | Jamal Whitehead            |
| ASUW, LSC                                    | Ashley Kolberg             |
| ASUW, Personnel                              | Lauren Struck              |
| ASUW, SARVA                                  | Gillian Wickwire           |
| ASUW, Senate                                 | Colleen Quinn              |
| Biochemistry                                 | Kenneth A. Walsh           |
| Bioengineering                               | Yongmin Kim                |
| Biostatistics                                | Thomas R. Fleming          |
| Board of Regents                             | Jennefer Penfold           |
| Botany                                       | Jerry Pangiliaman          |
| Building and Facility Use, UW-Tacoma         | Gary Comfort               |
| Chancellor's Cabinet, UW-Bothell             | Warren Buck                |
| Chemistry                                    | Paul Hopkins               |
| Civil & Environmental Engineering            | Fred L. Mannering          |
| Classics                                     | unknown                    |
| Comparative Medicine                         | Melvin B. Dennis, Jr.      |
| Computer Science & Engineering               | Professor Lazowska         |
| Computing & Software Systems                 | William Erdly              |
| Drama  | Sarah Nash Gates           |
| Economics                                    | Richard Startz             |
| Ecosystem Sciences (Forestry)                | Lynn Catlett               |
| Education (Faculty Council)                  | Ilene Schwartz             |
| Education (Faculty Meeting)                  | Ilene Schwartz             |
| Educational Outreach, Administrative Council | David Szatmary             |
| Educational Outreach, Finance & Planning     | Carl Krikorian             |
| Educational Outreach, HR Committee           | Kei Quinlan                |
| Educational Outreach, Operations             | Nance Diaker/Meg Haley     |
| Educational Outreach, Program Committee      | Rotating Chair             |

MISC.

Educational Outreach, Web  
 Endodontics  
 Environmental Health & Community Med.  
 Family & Child Nursing  
 Family Medicine  
 Finance & Budget Committee  
 Fisheries  
 Genetics  
 Geography  
 GPSS Senate  
 Graduate School Council  
 Harborview, Board Educational Session  
 Harborview, Board Meeting  
 Harborview, Executive Committee  
 Harborview, Finance Committee  
 Harborview, Health Care Committee  
 Harborview, Joint Conference Committee  
 Harborview, Quality Assurance  
 Harborview, Strategic Planning Committee  
 History  
 Immunology  
 Law  
 Library & Information Science  
 Linguistics  
 Management & Engineering, Forestry  
 Materials Science & Engineering  
 Mathematics  
 Mechanical Engineering  
 Medical Education  
 Microbiology  
 Minority Affairs, OMA Directors  
 Minority Affairs, Counseling & Planning  
 Music  
 Near Eastern Languages & Civilization  
 Neurology  
 Nursing, APT Faculty Council  
 Nursing, Deans and Chairs  
 Nursing, Faculty (Governing Council)  
 Nursing, UW-Bothell  
 Nursing, UW-Tacoma  
 Oceanography  
 Oral Biology  
 Orthodontics  
 Pathobiology  
 Pediatric Dentistry  
 Pediatrics  
 Periodontics  
 Pharmacy  
 Philosophy  
 Physics  
 Prosthodontic  
 Psychiatry & Behavioral Science  
 Public Affairs  
 Public Health  
 RAPP Group, UW-Tacoma  
 Rehabilitation Medicine  
 Scandanavian Studies

Dan Trippel  
 Gerald W. Harrington  
 unknown  
 unknown  
 Al Berg  
 Jeff Meyers  
 unknown  
 Prof. Breck Byers  
 Victoria Lawson  
 Richard Heyman  
 John Slattery

Robert Stacey  
 Christopher Wilson  
 Roland Hjorth  
 Michael Eisenberg  
 Frederick S. Newmeyer  
 Rick Gustafson  
 Rajendra K. Bordia  
 Donald Marshall  
 William R. D. Wilson  
 Sherrilyne Fuller  
 James I. Mullins  
 Bill Baker  
 Steve Simeona  
 Robin McCabe  
 Michael A. Williams  
 Bruce Ransom  
 Marie Annette Brown  
 Nancy Woods  
 Nancy Woods  
 Anne Loustau  
 Marjorie Dobratz  
 unknown  
 Kenneth Izutsu  
 Kathie Long  
 Kenneth D. Stuart  
 Peter Domoto  
 F. Bruder Stapleton  
 M. R. Robinovitch  
 Danny Shen  
 Ken Clatterbaugh  
 David G. Boulware  
 L. Brian Toolson  
 Richard C. Veith  
 Marc Lindenberg  
 Patricia Wahl  
 MacDonald Lazzari  
 Marjorie E. Anderson  
 Terje Leiren

Sociology  
 Speech Communication  
 Statistics  
 Student Publications  
 Teacher Education  
 Technical Communication  
 University Facilities  
 Washington Technology Center  
 Zoology

Robert Crutchfield  
 Barbara Warnick  
 Michael D. Perlman  
 Nic Peterson  
 unknown  
 Judy Ramey  
 Norm Arkans  
 Molly K. Corrigan  
 unknown

[These schedules are available for public inspection at the following address:

Office of Public Records and Open Public Meetings  
 4014 University Way N.E.  
 Seattle, WA 98105-6203  
 UW Internet Mail: Box 355502]

### WSR 00-03-087

#### NOTICE OF PUBLIC MEETINGS FOREST PRACTICES BOARD

[Memorandum—January 18, 2000]

#### Notice of 2000 Regular Meetings of the Forest Practices Board

Per WAC 222-08-040, the Forest Practices Board will hold regular meetings on:

February 9, 2000

May 10, 2000

August 9, 2000

November 8, 2000

Forest Practices Board meetings are normally held at the at the Natural Resources Building, 1111 Washington Street S.E., Olympia, beginning at 9 a.m. Notice of alternate locations and times will be published in the register.

Dates, locations, and times of any special meetings held by the board will also be published in the register.

Notice is also provided by mailing meeting agendas to all individuals and groups on the board's mail list. Contact the board secretary about being added to this list.

For more information, check the board's web site at [www.wa.gov/dnr](http://www.wa.gov/dnr) or contact the Forest Practices Board secretary at Department of Natural Resources, Forest Practices Division, P.O. Box 47012, Olympia, WA 98504-7012, phone (360) 902-1413, fax (360) 902-1789, e-mail [forest.practices-board@wadnr.gov](mailto:forest.practices-board@wadnr.gov).

MISC.

**WSR 00-03-087A**  
**AGENDA**  
**FOREST PRACTICES BOARD**  
 [Filed January 19, 2000, 11:21 a.m.]

**Forest Practices Board**  
**Rule Development Agenda**  
**January-June 2000**

Numerous sections of Title 222 WAC, Forest Practices Board, are in the rule-making process or being developed. The board's mandate is to adopt rules to protect the state's public resources while maintaining a viable forest products industry.

**1. New Forest Practices Rules: Initial Draft of Permanent Rules:** The board initiated the rule-making process with an initial draft of the forestry module proposed rules on October 12, 1998. The notice was published on November 4, 1999 [1998] (WSR 98-21-015); text was published on December 2, 1998. This filing was continued in WSR 99-09-078 in [and] WSR 99-22-032. The proposed rules incorporate new public resource protection requirements in the following categories: Riparian protection for fish-bearing and nonfish-bearing streams; water typing; wetlands, Class IV-Special; SEPA guidance; application procedures; roads; slope stability; forest chemicals; enforcement; monitoring; adaptive management; and watershed analysis.

The board received five comprehensive proposals for permanent forestry module rules, conducted scoping for the EIS, and has identified three alternatives for environmental review. The Department of Natural Resources has contracted the preparation of the draft EIS and anticipates publication in March 2000.

A new set of draft rules is being prepared that would implement the Forests and Fish Report (April 29, 1999) and ESHB 2091 (effective August 19, 1999). The board plans to conduct the thirty day review required by the Forest Practices Act for these rules in late spring 2000. A supplemental notice, along with the second phase of the small business economic impact statement, may be filed in the fall. Public hearings are scheduled for October 2000. All of these dates are subject to change.

**Water Type and Salmonid Emergency Rules:** In the interim, the board has continued an emergency stream typing rule:

- WAC 222-16-030 Water typing systems. The emergency rule modifies the definitions of Type 2 and 3 waters so that appropriate riparian protection is provided along fish-bearing streams.
- WAC 222-12-090(13) Implementation guidelines in the Forest Practices Board manual.

The board has also readopted an emergency rule to protect threatened and endangered salmonids listed by the United States Fish and Wildlife Service and the National Marine Fisheries Service. The rule provides protection to the listed species by setting SEPA triggers that would classify certain forest practices within the listed areas as Class IV-Special. The rule includes a "salmonid listed areas" map; SEPA guidance; road maintenance and abandonment plan requirements; and stream temperature provisions for some

nonfish-bearing streams in listed areas. The map is [in] the rule has been updated each time new listings have occurred.

**New Emergency Rules:** ESHB 2091 passed by the 1999 legislature declares salmon recovery efforts an emergency and provides additional power to the Forest Practices Board to adopt emergency rules to protect aquatic resources based on the Forests and Fish Report. These emergency rules were published in the Washington State Register on October 20, 1999, and a public hearing with opportunity for oral and written comment was held on November 9, 1999. The board anticipates adopting new emergency rules on January 20, 2000. These new emergency rules would remain in effect until new permanent rules are adopted or until June 30, 2001, whichever is sooner. The new emergency rules would have a delayed effective date of March 20, 2000, in order to allow time for training of DNR staff and stakeholders.

ESHB 2091 established the forest riparian easement program and directs the board to adopt rules for this program. These may be proposed and added to the new emergency rules during the first half of 2000.

**2. Rule-making Petitions:**

**A. Forest practices on saltwater islands.** The board issued a partial denial of this petition on November 4, 1999. The board's islands committee has not yet established a timeline for dealing with the other issues.

**B. Use of chemical sprays near organic farms.** The board denied this petition on November 4, 1999, based on a recommendation from the Department of Agriculture.

**C. Vulnerable forest soils.** The board will receive a recommendation from the Department of Natural Resources at the February 2000 meeting.

**D. Recreation and scenic issues.** The board has established a committee to address this petition. A fact-finding meeting is scheduled for February 2000 with a report to be given at the following board meeting.

**3. Other:** The board plans to propose editorial, procedural and minor rule changes. These may be a separate proposal or may be included within a supplemental notice for the permanent rule proposal in 1 above. These include corrections, SEPA guidance, clarifying some watershed analysis rules, clarifying timelines associated with civil penalty appeals, and reviewing forest practices relationship with other laws.

**Contact Person:** Judith Holter, Forest Practices Board, Rules Coordinator, Department of Natural Resources, Forest Practices Division, P.O. Box 47012, Olympia, WA 98504-7012, phone (360) 902-1412, fax (360) 902-1789, e-mail [judith.holter@wadnr.gov](mailto:judith.holter@wadnr.gov).

**WSR 00-03-095**  
**DEPARTMENT OF ECOLOGY**  
 [Filed January 19, 2000, 11:35 a.m.]

NOTICE OF EXTENTION OF THE PUBLIC COMMENT PERIOD FOR  
 THE REISSUANCE OF THE GENERAL PERMIT FOR HATCHERIES

**Introduction:** Ecology is proposing to reissue a wastewater discharge permit for the upland fin-fish hatching and



rearing industry. The last permit was issued February 3, 1995, and will expire on April 1, 2000. The purpose of the permit is to control the discharge of pollutants from hatcheries into waters of the state. The permit contains best management practices; and effluent limitations and monitoring requirements necessary to protect state water quality. Interested persons and Indian Nations are encouraged to submit comments on the proposed permit and attend the public workshop and hearing described below. The public comment period has been extended until March 15, 2000. The public comment period has been extended because the draft permit is not available for review. It is anticipated that the draft permit will be available on or about February 2, 2000. Written comments must now be postmarked by March 15, 2000.

The proposed permit implements the Federal Clean Water Act, the State Water Pollution Control Act and chapter 173-221A WAC, Wastewater discharge standards and effluent limitations. Dischargers who require coverage under this permit include all state and private hatcheries that produce more than 20,000 pounds of fish per year or feed more than 5,000 pounds per month.

**Public Workshop/Hearing:** Public workshop and hearing on the proposed reissuance of the upland fin-fish hatching and rearing permit will be held on March 2, 2000. The purpose of the workshops are to explain the permit conditions, answer questions and facilitate meaningful testimony during the hearing. The purpose of the hearings are to provide interested parties an opportunity to give formal oral testimony and comment on the proposed general permit. The workshop and hearing will be held at the Washington State Department of Ecology, Main Auditorium, 300 Desmond Drive, Lacey, WA 98503.

The public workshop will begin at 7:00 p.m. and last until 8:00 p.m. The formal public hearing will begin at 8:00 p.m.

**Small Business Economic Impact Statement:** Ecology has determined that the small business economic impact statement, prepared for the initial issuance of the upland fin-fish hatching and rearing permit, remains valid and satisfies the requirements for an economic impact analysis under the provisions of WAC 173-226-120, for the reissuance of this permit.

**How to Request Copies of the Proposed Permit:** Requests for copies of the proposed permit, fact sheet and the small business economic impact statement may be made by contacting Paul Stasch through the address noted below or by telephoning him at (360) 407-6446.

**Where to Submit Written Comments:** If you wish to comment on the proposed permit you may send your written comments to Paul Stasch, Water Quality Program, Washington Department of Ecology, P.O. Box 47600, Olympia, WA 98504-7600, e-mail Psta461@ecy.wa.gov.

Written comments must be postmarked no later than March 15, 2000.

**Final Determination:** A final determination to reissue this permit will not be made until ecology evaluates all the public testimony and written comments received pursuant to this notice. If ecology reissues the upland fin-fish hatching and rearing permit, a copy of the final determination and the

responsiveness summary will be sent to all parties who submitted written comments or gave public testimony.

Ecology is an equal opportunity agency. If you have special accommodations needs or require this document in an alternative format, please contact Paul Stasch at (360) 407-6446 or (360) 407-6006 (TDD).



**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- 25-830   | PREP   | 00-03-033 | 16-228-1400  | PREP   | 00-03-078 | 173-303-190 | AMD-P  | 00-02-081 |
| 16- 70-001  | REP-P  | 00-03-070 | 16-228-1500  | PREP   | 00-03-079 | 173-303-200 | AMD-P  | 00-02-081 |
| 16- 70-005  | AMD-P  | 00-03-070 | 16-228-1520  | PREP   | 00-03-079 | 173-303-201 | AMD-P  | 00-02-081 |
| 16- 70-010  | AMD-P  | 00-03-070 | 16-228-1540  | PREP   | 00-03-080 | 173-303-240 | AMD-P  | 00-02-081 |
| 16- 70-030  | REP-P  | 00-03-070 | 16-228-1545  | PREP   | 00-03-079 | 173-303-280 | AMD-P  | 00-02-081 |
| 16- 74-001  | REP-P  | 00-03-069 | 16-228-1580  | PREP   | 00-03-080 | 173-303-281 | AMD-P  | 00-02-081 |
| 16- 74-005  | NEW-P  | 00-03-069 | 16-228-2000  | PREP   | 00-03-077 | 173-303-300 | AMD-P  | 00-02-081 |
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| 16- 74-020  | AMD-P  | 00-03-069 | 16-409       | PREP   | 00-03-085 | 173-303-360 | AMD-P  | 00-02-081 |
| 16- 74-030  | AMD-P  | 00-03-069 | 16-445       | PREP   | 00-03-084 | 173-303-370 | AMD-P  | 00-02-081 |
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| 308- 77-280  | PREP   | 00-03-037 | 315- 11A-188 | REP-XR | 00-02-055 | 388- 71-0105  | NEW    | 00-03-029 |
| 308- 91-090  | PREP   | 00-03-038 | 315- 11A-189 | REP-XR | 00-02-055 | 388- 71-0110  | NEW    | 00-03-029 |
| 308- 96A-005 | AMD-P  | 00-03-094 | 315- 11A-190 | REP-XR | 00-02-055 | 388- 71-0115  | NEW    | 00-03-029 |
| 308- 96A-345 | AMD    | 00-03-057 | 315- 11A-191 | REP-XR | 00-02-055 | 388- 71-0120  | NEW    | 00-03-029 |
| 308- 96A-350 | AMD    | 00-03-057 | 315- 11A-192 | REP-XR | 00-02-055 | 388- 71-0150  | NEW    | 00-03-029 |
| 308- 96A-355 | AMD    | 00-03-057 | 315- 11A-193 | REP-XR | 00-02-055 | 388- 71-0155  | NEW    | 00-03-029 |
| 308- 96A-360 | REP    | 00-03-057 | 315- 11A-194 | REP-XR | 00-02-055 | 388- 71-0500  | NEW    | 00-03-043 |
| 308- 96A-365 | AMD    | 00-03-057 | 315- 11A-195 | REP-XR | 00-02-055 | 388- 71-0505  | NEW    | 00-03-043 |
| 308- 96A-370 | REP    | 00-03-057 | 315- 11A-196 | REP-XR | 00-02-055 | 388- 71-0510  | NEW    | 00-03-043 |
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| 308-124H-027 | NEW-P  | 00-03-063 | 315- 11A-207 | REP-XR | 00-02-055 | 388- 71-0580  | NEW    | 00-03-043 |
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| 388-542-0100 | NEW-P  | 00-03-061 | 392-140-731  | REP    | 00-02-063 |              |        |           |
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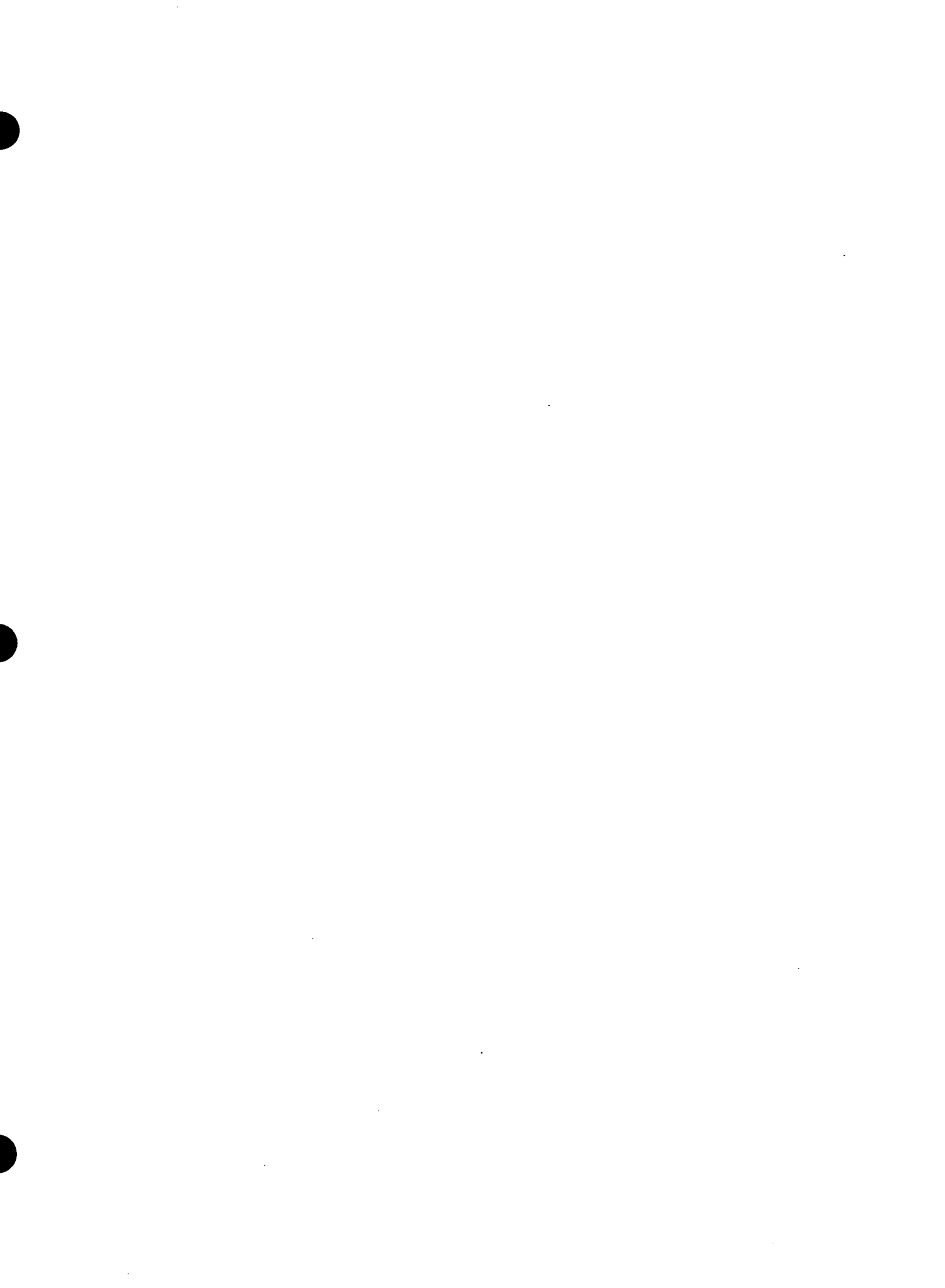
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