

Washington State Register

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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

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 March 2002 pursuant to RCW 19.52.020 is twelve point zero percent (12.00%).

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

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

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Subscription Clerk

STYLE AND FORMAT OF THE WASHINGTON STATE REGISTER

1. ARRANGEMENT OF THE REGISTER

The Register is arranged in the following eight sections:

- (a) **PREPROPOSAL**-includes the Preproposal Statement of Inquiry that will be used to solicit public comments on a general area of proposed rule making before the agency files a formal notice.
- (b) **PROPOSED**-includes the full text of formal proposals, continuances, supplemental notices, and withdrawals.
- (c) **EXPEDITED RULE MAKING**-includes the full text of the rule being proposed using the expedited rule-making process. Expedited rule makings are not consistently filed and may not appear in every issue of the register.
- (d) **PERMANENT**-includes the full text of permanently adopted rules.
- (e) **EMERGENCY**-includes the full text of emergency rules and rescissions.
- (f) **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.
- (g) **TABLE**-includes a cumulative table of the WAC sections that are affected in the current year.
- (h) **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].

2001-2002
DATES FOR REGISTER CLOSING, DISTRIBUTION, AND FIRST AGENCY ACTION

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

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

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

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

⁴ A minimum of forty-five days is required between the distribution date of the Register giving notice of the expedited adoption and the agency adoption date. No hearing is required, but the public may file written objections. See RCW 1.12.040 and 34.05.353.

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;

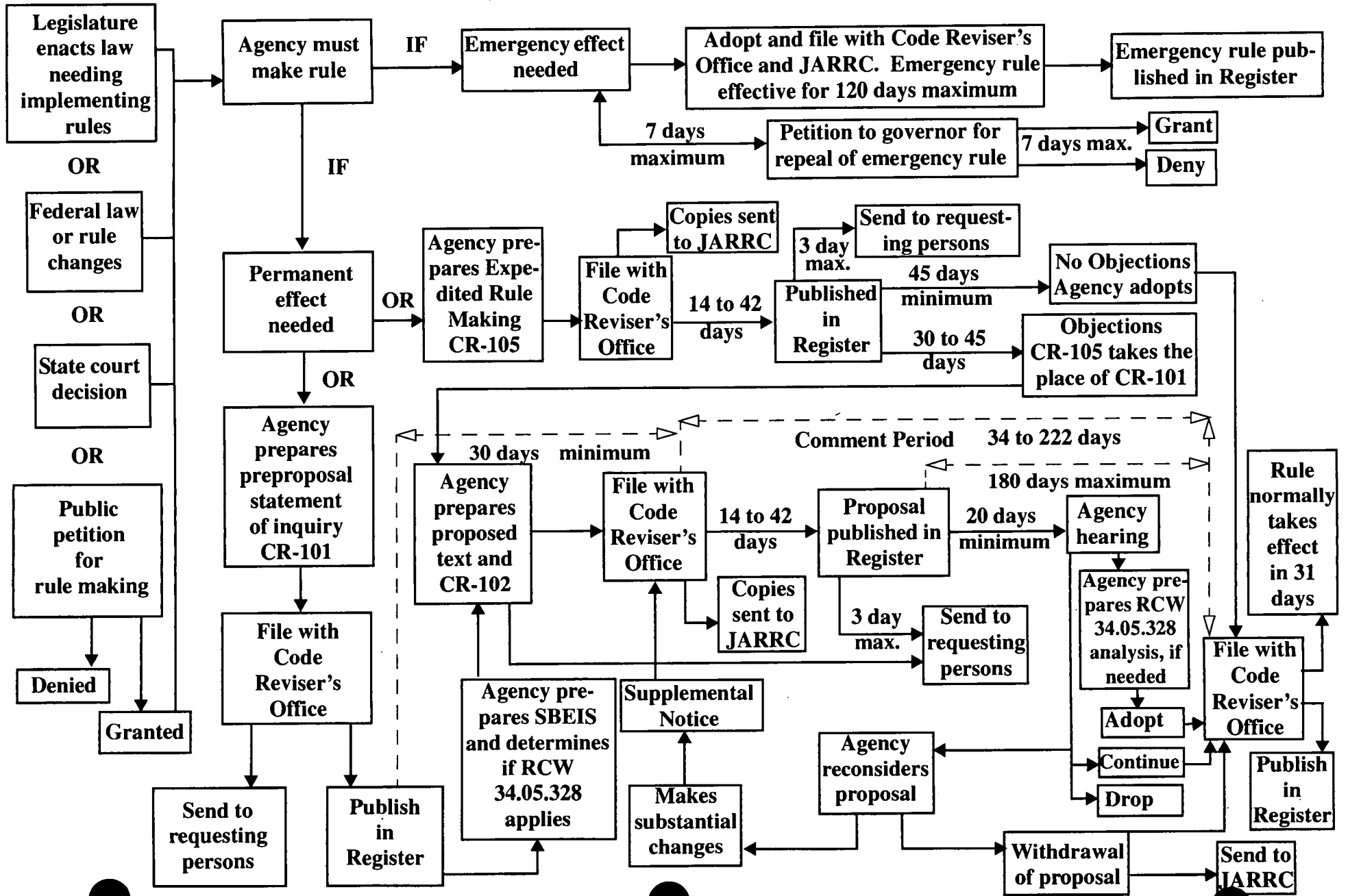
There is less than minor economic impact on business;

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



WSR 02-05-002**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF LICENSING**

[Filed February 7, 2002, 1:50 p.m.]

Subject of Possible Rule Making: Chapter 308-96A WAC, Vehicle licenses, to include but not limited to WAC 308-96A-046, 308-96A-050, 308-96A-056, 308-96A-057, 308-96A-073, 308-96A-074, and 308-96A-530.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 46.01.110, 46.16.335, 46.12.070, 46.16.276.

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 Katherine Iyall Vasquez, Rules Manager, Title and Registration Services, Vehicle Services, Mailstop 48001, P.O. Box 2957, Olympia, WA 98507-2957, or by phone (360) 902-3718, fax (360) 664-0831, TTY (360) 664-8885, e-mail kvasquez@dol.wa.gov.

February 5, 2002

D. McCurley, Administrator
Title and Registration Services**WSR 02-05-011****PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF ECOLOGY**

[Order 02-02—Filed February 8, 2002, 3:15 p.m.]

Subject of Possible Rule Making: Changes to chapter 173-401 WAC may include: (1) Changing the treatment of insignificant emissions units at air operating permit sources, (2) updating the definition of "major source" to reflect certain changes made in federal rules, (3) adding certain definitions that deal with compliance, and (4) updating the audit requirements, and certain other minor housekeeping changes.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 70.94.161 directs the Department of Ecology to obtain and maintain an approved air operating permit program consistent with federal rules.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: These changes are being made to conform the state rule to federal requirements, to make clear how compliance is reported and to make the program audit procedures more useful.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The Environmental Protection Agency has oversight responsibility on this program, ecology and the seven local air pollution authorities are the implementing agencies. At least one state agency (Washington State University) is a per-

mittee under this regulation. All of these agencies will be notified, and consulted during rule making.

Process for Developing New Rule: We will involve the public through a hearing and mailings of a focus sheet to a list of ~500 persons who are already interested in the air operating permit program.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Tom Todd, Department of Ecology, P.O. Box 47600, Olympia, WA 98516, phone (360) 407-7528, fax (360) 407-7534, e-mail ttod461@ecy.wa.gov. A focus sheet will be mailed to all interested parties. If a person would like to be added to the existing list, please contact Tom Todd. A public hearing on this rule amendment will also be held.

February 8, 2002

Mary E. Burg
Air Quality Program Manager**WSR 02-05-013****PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF LICENSING**

[Filed February 11, 2002, 10:31 a.m.]

Subject of Possible Rule Making: Chapter 308-56A WAC, Certificates of title—Motor vehicles, etc., to include but not limited to WAC 308-56A-640.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 46.16.110, 46.12.030.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Rule making may be required as 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 Katherine Iyall Vasquez, Rules Manager, Title and Registration Services, Vehicle Services, Mailstop 48001, P.O. Box 2957, Olympia, WA 98507-2957, or by phone (360) 902-3718, fax (360) 664-0831, TTY (360) 664-8885, e-mail kvasquez@dol.wa.gov.

February 7, 2002

D. McCurley, Administrator
Title and Registration Services**WSR 02-05-014****PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF LICENSING**

[Filed February 11, 2002, 10:32 a.m.]

Subject of Possible Rule Making: Chapter 308-56A WAC, Certificates of title—Motor vehicles, etc., to include

but not limited to WAC 308-56A-300, 308-56A-305, 308-56A-310, 308-56A-315, 308-56A-320, 308-56A-325, and 308-56A-330.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 46.01.110, 46.12.101.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Rule making may be required as 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 Katherine Iyall Vasquez, Rules Manager, Title and Registration Services, Vehicle Services, Mailstop 48001, P.O. Box 2957, Olympia, WA 98507-2957, or by phone (360) 902-3718, fax (360) 664-0831, TTY (360) 664-8885, e-mail kvasquez@dol.wa.gov.

February 7, 2002

D. McCurley, Administrator
Title and Registration Services

WSR 02-05-015

**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF LICENSING**

[Filed February 11, 2002, 10:33 a.m.]

Subject of Possible Rule Making: Chapter 308-56A WAC, Certificates of title—Motor vehicles, etc., to include but not limited to WAC 308-56A-070 and 308-56A-075.

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

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Rule making may be required as 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 Katherine Iyall Vasquez, Rules Manager, Title and Registration Services, Vehicle Services, Mailstop 48001, P.O. Box 2957, Olympia, WA 98507-2957, or by phone (360) 902-3718, fax (360) 664-0831, TTY (360) 664-8885, e-mail kvasquez@dol.wa.gov.

February 7, 2002

D. McCurley, Administrator
Title and Registration Services

WSR 02-05-016

**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF LICENSING**

[Filed February 11, 2002, 10:34 a.m.]

Subject of Possible Rule Making: Chapter 308-56A WAC, Certificates of title—Motor vehicles, etc., to include but not limited to WAC 308-56A-250, 308-56A-265, 308-56A-270, and 308-56A-275.

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

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Rule making may be required as 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 Katherine Iyall Vasquez, Rules Manager, Title and Registration Services, Vehicle Services, Mailstop 48001, P.O. Box 2957, Olympia, WA 98507-2957, or by phone (360) 902-3718, fax (360) 664-0831, TTY (360) 664-8885, e-mail kvasquez@dol.wa.gov.

February 7, 2002

D. McCurley, Administrator
Title and Registration Services

WSR 02-05-017

**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF LICENSING**

[Filed February 11, 2002, 10:35 a.m.]

Subject of Possible Rule Making: Chapter 308-56A WAC, Certificates of title—Motor vehicles, etc., to include but not limited to WAC 308-56A-640.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 46.01.10 [46.01.110], 46.12.020.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Rule making may required as 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 Katherine Iyall Vasquez, Rules Manager, Title and Registration Services, Vehicle Services, Mailstop 48001, P.O. Box 2957, Olympia, WA 98507-2957,

or by phone (360) 902-3718, fax (360) 664-0831, TTY (360) 664-8885, e-mail kvasquez@dol.wa.gov.

February 7, 2002

D. McCurley, Administrator
Title and Registration Services

WSR 02-05-018

**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF LICENSING**

[Filed February 11, 2002, 10:36 a.m.]

Subject of Possible Rule Making: Chapter 308-56A WAC, Certificates of title—Motor vehicles, etc., to include but not limited to WAC 308-56A-140, 308-56A-150, 308-56A-160, 308-56A-200, and 308-56A-215.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 46.01.110, 46.12.040, 46.16.216.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Rule making may be required as 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 Katherine Iyall Vasquez, Rules Manager, Title and Registration Services, Vehicle Services, Mailstop 48001, P.O. Box 2957, Olympia, WA 98507-2957, or by phone (360) 902-3718, fax (360) 664-0831, TTY (360) 664-8885, e-mail kvasquez@dol.wa.gov.

February 7, 2002

D. McCurley, Administrator
Title and Registration Services

WSR 02-05-019

**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF LICENSING**

[Filed February 11, 2002, 10:37 a.m.]

Subject of Possible Rule Making: Chapter 308-56A WAC, Certificates of title—Motor vehicles, etc., to include but not limited to WAC 308-56A-030, 308-56A-040, 308-56A-056, 308-56A-060, 308-56A-110, 308-56A-115, 308-56A-210, and 308-56A-295.

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

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Rule making may be required as 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 Katherine Iyall Vasquez, Rules Manager, Title and Registration Services, Vehicle Services, Mailstop 48001, P.O. Box 2957, Olympia, WA 98507-2957, or by phone (360) 902-3718, fax (360) 664-0831, TTY (360) 664-8885, e-mail kvasquez@dol.wa.gov.

February 7, 2002

D. McCurley, Administrator
Title and Registration Services

WSR 02-05-020

**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF LICENSING**

[Filed February 11, 2002, 10:38 a.m.]

Subject of Possible Rule Making: Chapter 308-96A WAC, Vehicle licenses, to include but not limited to WAC 308-96A-080, 308-96A-085, 308-96A-090, and 308-96A-095.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 46.08.066.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Rule making may be required as 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 Katherine Iyall Vasquez, Rules Manager, Title and Registration Services, Vehicle Services, Mailstop 48001, P.O. Box 2957, Olympia, WA 98507-2957, or by phone (360) 902-3718, fax (360) 664-0831, TTY (360) 664-8885, e-mail kvasquez@dol.wa.gov.

February 7, 2002

D. McCurley, Administration
Title and Registration Services

WSR 02-05-025

**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
RETIREMENT SYSTEMS**

[Filed February 12, 2002, 8:04 a.m.]

Subject of Possible Rule Making: Consolidate law enforcement officers' and fire fighters' (LEOFF) WAC 415-104-011 - 415-103-0125 into one section and revise into "Plain English" as needed. Consolidate school employees' retirement system (SERS) WAC 415-110-010 - 415-110-0111 into one section and revise into "Plain English" as

needed. Consolidate teachers' retirement system (TRS) WAC 415-112-015 - 415-112-0167 into one section and revise into "Plain English" as needed.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 41.50.050(5), chapters 41.26, 41.32, and 41.35 RCW.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: 1. Regulatory reform principles dictate that agencies find ways to cut down on the total number of WACs.

2. Regulatory reform principles dictate that agencies review their rules periodically and ensure that they are clear and understandable to members of the public.

3. Many of the TRS and LEOFF rules have not been updated in many years. Some of the SERS rules were based on existing rules that are overdue for review.

4. DRS reviewed and updated its public employees' retirement system definitions recently. This exercise will provide an opportunity to review the other similar rules for similarities and differences.

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

Process for Developing New Rule: Department staff will work on the project, with the assistance of the Office of the Attorney General. The public is invited and encouraged to participate, as described below.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. The Department of Retirement Systems encourages your active participation in the rule-making process. Anyone interested in participating should contact the rules coordinator, below. After the rule(s) is drafted, DRS 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. For more information on how to participate, please contact Merry A. Kogut, Rules Coordinator, Department of Retirement Systems, Mailstop 48380, P.O. Box 48380, Olympia, WA 98504-8380, voice (360) 664-7291, TTY (360) 586-5450, e-mail merryk@drs.wa.gov, fax (360) 753-3166.

February 11, 2002

Merry A. Kogut
Rules Coordinator

WSR 02-05-027

PREPROPOSAL STATEMENT OF INQUIRY HORSE RACING COMMISSION

[Filed February 12, 2002, 8:08 a.m.]

Subject of Possible Rule Making: New subsection added to WAC 260-70-660(6) regarding the bleeder list.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 67.16.040.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The ability of [to] add a horse to the bleeder list without first proving the horse to be a bleeder.

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

Process for Developing New Rule: Agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Bruce Batson, Executive Secretary, Washington Horse Racing Commission, 6326 Martin Way, Suite 209, Olympia, WA 98516-5578, phone (360) 459-6462, fax (360) 459-6461.

February 8, 2002

Bruce Batson
Executive Secretary

WSR 02-05-037

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF RETIREMENT SYSTEMS

[Filed February 13, 2002, 8:01 a.m.]

Subject of Possible Rule Making: Rules that will be required to be adopted as an outcome of the 2002 legislature's changes to pension law.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 41.50.050(5) and statutes to be identified in bills.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Currently, Department of Retirement Systems (DRS) anticipates that the 2002 legislature will pass several pension bills that will require DRS to quickly amend some of its existing rules and/or add new rules. Any rules proposed under this preproposal (CR-101) will be directly related to these anticipated pension bills.

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

Process for Developing New Rule: Department staff will work on the project, with the assistance of the Office of the Attorney General. The public is invited and encouraged to participate, as described below.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. The Department of Retirement Systems encourages your active participation in the rule-making process. Anyone interested in participating should contact the rules coordinator, below. After the rule(s) is drafted, DRS 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. For more information on how to participate, please contact Merry A. Kogut, Rules Coordinator, Department of Retirement Systems, Mailstop 48380, P.O. Box 48380, Olympia, WA 98504-8380, voice (360) 664-7291, TTY (360) 586-5450, e-mail merryk@drs.wa.gov, fax (360) 753-3166.

February 12, 2002

Merry A. Kogut
Rules Coordinator

WSR 02-05-045**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
FINANCIAL INSTITUTIONS**

[Filed February 13, 2002, 10:29 a.m.]

Subject of Possible Rule Making: Regulatory relief for small credit unions.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 31.12.516 (2), (3), (4), 43.17.060, 43.320.040.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To alleviate unnecessary regulatory burden on the smallest credit unions - those with no more than \$10 million in assets.

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

Process for Developing New Rule: Consultation with credit unions and their trade association.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Parker Cann, Director of Credit Unions, 210 11th Street S.W., Room 300, P.O. Box 41200, Olympia, WA 98504-1200, phone (360) 902-8778, fax (360) 704-6978, e-mail pcann@dfi.wa.gov.

February 13, 2002
Mark Thomson
Acting Director

WSR 02-05-051**PREPROPOSAL STATEMENT OF INQUIRY
BELLEVUE COMMUNITY COLLEGE**

[Filed February 15, 2002, 8:02 a.m.]

Subject of Possible Rule Making: Use of college facilities.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 34.05 RCW and RCW 28B.50.140.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Bellevue Community College has chapter 132H-140 WAC defining rules for facility usage, but the rules need to be revised to make them concurrent with practice. The revised rules will be more clear and pertain to topics such as trespass, alcohol use and abuse of facilities that were not previously covered in the original policy.

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

Process for Developing New Rule: Agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Jamie Dye, Facilities and Events Manager, Bellevue Community College, 3000 Landerholm Circle S.E., Bellevue, WA 98007-6484, phone (425) 564-4050, fax (425) 564-5600.

February 13, 2002
Elise J. Erickson
Rules Coordinator

WSR 02-05-048**PREPROPOSAL STATEMENT OF INQUIRY
LOTTERY COMMISSION**

[Filed February 14, 2002, 2:41 p.m.]

Subject of Possible Rule Making: Scratch ticket rules, chapter 315-10 WAC.

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

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The lottery is considering rules regarding the sale of scratch tickets.

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

Process for Developing New Rule: Agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Mary Jane Ferguson, Rules Coordinator, at (360) 664-4833, fax (360) 586-6586, P.O. Box 43025, Olympia, WA 98504-3025, with any comments or questions regarding this statement of intent.

February 14, 2002
Mary Jane Ferguson
Rules Coordinator

WSR 02-05-054**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF ECOLOGY**

[Order 0201—Filed February 15, 2002, 10:52 a.m.]

Subject of Possible Rule Making: The scope of this rule making to amend chapter 173-303 WAC is to propose a rule based on the emergency rule ecology adopted on January 25, 2002, (WSR 02-04-030) that conditionally excludes certain controlled substances held as evidence by law enforcement agencies in Washington state. The proposal may include legend drugs not covered under the emergency rule. In addition, the rule making will correct typographical errors, make technical corrections such as correcting citations and other necessary clarifications based on the recent authorization process.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapters 70.105 and 43.21A RCW.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The emergency rule was adopted to allow local waste to energy facilities to accept controlled substances for disposal. Prior this exclusion, such facilities could not accept controlled substances for disposal leaving no appropriate disposal option for law enforcement agencies in Washington state that must destroy controlled substances according to their handling procedures. The emergency rule is in effect for one hundred twenty days. A permanent rule will be proposed before the emergency rule

expires. No other substantive changes will be proposed as part of the rule making; however, technical corrections will be proposed such as typographical errors, correcting citations, and clarifications.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Ecology is coordinating with law enforcement agencies within Washington state that regulate these wastes. Ecology has been in discussion with state and local law enforcement agencies, and with Spokane County where the municipal incinerator is located that can accept these conditionally excluded wastes. Ecology is and will continue to communicate with them via meetings, phone calls, electronic means such as list serves, and written communication.

Process for Developing New Rule: This rule is being developed through a process of discussing all aspects of the situation with the affected entities. Communication that led to development of the emergency rule language is a basis for the next step of developing a proposal. This communication will continue, together with notification of a broader range of stakeholders throughout the rule-making process using ecology websites, list serves, and interested persons mailing lists.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. For information on the substantive content of the conditional exclusion contact Ty Thomas, P.O. Box 7600, Olympia, WA 98502, e-mail ttho461@ecy.wa.gov, (360) 407-6758.

For information on the rule process and the technical corrections contact Chipper Hervieux, P.O. Box 7600, Olympia, WA 98502, e-mail pher461@ecy.wa.gov, (360) 407-6756.

February 15, 2002
Greg Sorlie
Program Manager

WSR 02-05-060

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

[Filed February 15, 2002, 3:02 p.m.]

Subject of Possible Rule Making: WAC 180-79A-250 Initial/residency and continuing/professional certificates—Renewal, reinstatement, and continuing education requirements.

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

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: This proposed amendment clarifies the time period for renewal credits for the professional certificate, distinguishing between an expired and unexpired certificate the time of renewal.

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

Process for Developing New Rule: Early solicitation of public comments and recommendations respecting new,

amended or repealed rules, and consideration of the comments and recommendations in the course of drafting rules.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by sending written comments to Rules Coordinator, State Board of Education, Office of Superintendent of Public Instruction, P.O. Box 47200, Olympia, WA 98504-7200, fax (360) 586-2357, TTY (360) 664-3631. For telephone assistance contact Larry Davis at (360) 725-6024.

February 14, 2002
Larry Davis
Executive Director

WSR 02-05-061

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

[Filed February 15, 2002, 3:04 p.m.]

Subject of Possible Rule Making: WAC 180-79A-206.

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

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: This proposed amendment deletes the reference to the completion of the provisional status in this section of WAC. When included here, it is confusing as to whether or not individuals who qualify for the professional certificate through NBPTS certification or by having completed a similar program out-of-state, etc. need to complete provisional status in Washington prior to obtaining a professional certificate. Completion of provisional status prior to admission to a professional certificate program is required by WAC 180-78A-535(1).

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

Process for Developing New Rule: Early solicitation of public comments and recommendations respecting new, amended or repealed rules, and consideration of the comments and recommendations in the course of drafting rules.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by sending written comments to Rules Coordinator, State Board of Education, Office of Superintendent of Public Instruction, P.O. Box 47200, Olympia, WA 98504-7200, fax (360) 586-2357, TTY (360) 664-3631. For telephone assistance contact Larry Davis at (360) 725-6024.

February 14, 2002
Larry Davis
Executive Director

WSR 02-05-064

**WITHDRAWAL OF
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES**
(Aging and Adult Services Administration)

[Filed February 15, 2002, 3:50 p.m.]

The Aging and Adult Services Administration (AASA) would like to withdraw preproposal statement of inquiry filed as WSR 98-11-031, filed on May 14, 1998.

Brian Lindgren, Manager
Rules and Policies Assistance Unit

WSR 02-05-065

**WITHDRAWAL OF
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES**
(Aging and Adult Services Administration)

[Filed February 15, 2002, 3:52 p.m.]

The Aging and Adult Services Administration (AASA) would like to withdraw preproposal statement of inquiry filed as WSR 99-09-051, filed on April 19, 1999.

Brian Lindgren, Manager
Rules and Policies Assistance Unit

WSR 02-05-066

**WITHDRAWAL OF
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES**
(Aging and Adult Services Administration)

[Filed February 15, 2002, 3:54 p.m.]

The Aging and Adult Services Administration (AASA) would like to withdraw preproposal statement of inquiry filed as WSR 00-11-092, filed on May 16, 2000.

Brian Lindgren, Manager
Rules and Policies Assistance Unit

WSR 02-05-071

**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF ECOLOGY**

[Order 02-04—Filed February 19, 2002, 4:29 p.m.]

Subject of Possible Rule Making: Revision of chapter 173-422 WAC, Motor vehicle emission inspection.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 70.120.120.

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

- Upgrades the vehicle emission testing procedures for diesel cars and light trucks.
- Clarifies that all emission tests are valid for at least twelve months.
- Requires that automotive repair businesses have the equipment to check on-board diagnostic system of 1996 and newer vehicles if they wish to be on the list of businesses provided to owners of vehicles that fail the test.
- Removes obsolete language.

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

- The Department of Licensing is responsible for notifying vehicle owners when emission testing is required. The Department of Licensing has requested that this rule be revised to simplify computer reprogramming that checks whether or not a vehicle has met an emission test requirement.
- There are federal rules that apply to some motor vehicle emission inspection procedures. When possible these federal rules have been already included by reference in the rule.

Process for Developing New Rule: Agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting John Raymond, Air Quality Program, Department of Ecology, P.O. Box 47600, Olympia, WA 98504-7600, e-mail jray461@ecy.wa.gov, phone (360) 407-6856, fax (360) 407-7543.

February 19, 2002
Mary E. Burg
Program Manager

WSR 02-05-074

**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
FISH AND WILDLIFE**

[Filed February 20, 2002, 8:55 a.m.]

Subject of Possible Rule Making: Commercial fishing rules describing closed areas, boundaries and districts for sea urchin and sea cucumber fisheries.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 77.12.047.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Captures by permanent rules those closed area descriptions that have been used in emergency orders over the last few years, plus clarifies boundary area descriptions and redefines district definitions. These changes will reduce the amount of text to be included with in-season regulations, reduce the length of hotline messages to provide better public service, and provide a clearer boundary description for better management and enforcement.

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

Process for Developing New Rule: Agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Morris Barker, State Marine Resource Manager, 600 Capitol Way North, Olympia, WA 98501-1091, phone (360) 902-2826. Contact by June 17, 2002, expected proposal filing is June 19, 2002.

February 20, 2002
Evan Jacoby
Rules Coordinator

WSR 02-05-079

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF LICENSING

[Filed February 20, 2002, 10:02 a.m.]

Subject of Possible Rule Making: Amend WAC 308-15-040 What are the minimum requirements to be eligible for a geologist or specialty license? Create a new WAC chapter to implement the rules of professional conduct for geologists licensed in Washington.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 18.220.040, 18.220.050.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Clarify and simplify the language for the minimum requirements to be eligible for licensure as a professional geologist or specialist.

Add a new section, WAC 308-15-140 What are the rules of professional conduct?

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, review of all rules pursuant to 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 by contacting Margaret Epting, Department of Licensing, Business and Professions Division, Geologist Licensing Board, P.O. Box 9045, Olympia, WA 98507-9045, (360) 664-1386, fax (360) 664-2551.

February 20, 2002
Margaret Epting
Administrator

WSR 02-05-083

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF AGRICULTURE

[Filed February 20, 2002, 10:27 a.m.]

Subject of Possible Rule Making: The Department of Agriculture is considering making minor changes (house-keeping) to WAC 16-301-025 Special requirements for label-

ing of vegetable and flower seed as prepared for use in the home, 16-301-050 Restricted noxious weeds, 16-302-091 What is the program for early sampling of ryegrass?, 16-302-125 Who may condition seed in Washington state?, 16-302-250 Definitions, 16-302-260 Field tolerances and requirements for bean seed certification, 16-302-330 Field isolation requirements for grass seed, 16-302-385 Grass seed standards for certification, 16-302-390 Inspection and final grass seed certification fees—Options, 16-302-410 Standards for sod quality seed, 16-302-435 Sudan grass lot standards for certification, 16-302-440 Standards for verification of turf seed ingredients, 16-302-490 Seed standards for rapeseed certification, 16-302-545 Seed standards for white clover and trefoil seed certification, 16-302-685 Small grain standards for seed certification, and 16-302-250 Miscellaneous charges for seed certification. In addition, two noxious weeds need to be added to WAC 16-301-045 Prohibited noxious weed seeds, which were accidentally deleted from the list when the section was amended in December of 2000.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 34.05 RCW and RCW 15.49.370(3).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To correct errors and make the rules more readable.

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

Process for Developing New Rule: Public hearing.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Graydon Robinson, Program Manager, Seed Program, 21 North First Avenue, Yakima, WA 98902, phone (509) 225-2636, fax (509) 454-4395.

February 20, 2002
Robert W. Gore
Assistant Director

WSR 02-05-085

PREPROPOSAL STATEMENT OF INQUIRY FOREST PRACTICES BOARD

[Filed February 20, 2002, 10:40 a.m.]

Subject of Possible Rule Making: Develop the board's administrative procedures and ethics rules.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 34.05.220, 42.17.250, 42.17.260, and 76.09.040.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The Forest Practices Board is considering development of rules that would:

- Govern the procedures before the agency,
- Describe the agency organization, and how to obtain information, and
- Address conflict of interest rules recommended by the Executive Ethics Board and provide guidance on other ethical issues.

Development of these rules would provide guidance and clarification on how state ethics laws pertain to the Forest Practices Board and provide clarity on administrative procedures.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Executive Ethics Board and Office of Financial Management will be advised during the rule development process.

Process for Developing New Rule: Consultation with assistant attorney general, staff, and board members to develop draft rules and policies as well as solicit public comments and prepare a draft for board consideration.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by mailing, faxing, or e-mailing comments to Patricia Anderson, Rules Coordinator, Forest Practices Board, Department of Natural Resources, Forest Practices Division, 1111 Washington Street, 4th Floor, P.O. Box 47012, Olympia, WA 98504-4701, fax (360) 902-1428, e-mail forest.practicesboard@wadnr.gov.

February 19, 2002
Pat McElroy
Chair

WSR 02-05-088

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF SOCIAL AND HEALTH SERVICES

(Health and Rehabilitative Services Administration)

[Filed February 20, 2002, 11:19 a.m.]

Subject of Possible Rule Making: Sections of chapter 388-825 WAC specific to application and determination of eligibility for services with the Division of Developmental Disabilities (DDD), including but not limited to WAC 388-825-030 Eligibility for services, 388-825-035 Determination of eligibility, 388-825-040 Application for services, and 388-825-045 Determination for necessary services.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 71A.10.020, 71A.16.020, 71A.16.030, 71A.16.040, and 71A.16.050.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: These WAC need to be merged; edited to correct erroneous internal WAC references; or rewritten in clear rule-writing format. In addition the department intends to make major changes to the eligibility criteria for the eligible conditions of epilepsy, autism, and "another neurological or other condition." For children birth to age three, rule changes will align DDD eligibility rules more closely with the federal eligibility requirements under Part C of the Individuals with Disabilities Education Act (IDEA).

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: DSHS is the only state agency regulating eligibility for DDD services. However, DDD will consult with other DSHS agencies, the Superintendent of Public Instruction, and other stakeholder and constituent groups.

Process for Developing New Rule: The department invites the interested public to participate in developing these rules. Advisory workgroups comprised of DSHS staff, professionals, and other interested parties will be consulted in the writing of the draft regulations. A proposed rule-making notice and the proposed rule text will be distributed for formal comment at a later date, a public hearing will be held, and the department will consider all comments before adopting final rules. 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 Sue Poltl, Program Manager, DSHS Division of Development Disabilities, P.O. Box 45310, Olympia, WA 98504-5310, phone (360) 902-8474, fax (360) 902-8482, e-mail Poltlse@dshs.wa.gov.

February 20, 2002
Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

WSR 02-05-089

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF AGRICULTURE

[Filed February 20, 2002, 11:48 a.m.]

Subject of Possible Rule Making: Rules relating to noxious weed seed and plant quarantine, chapter 16-752 WAC.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapters 17.24 and 17.10 RCW.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Kudzu, *Pueraria sp.*, is an extremely invasive woody vine weed species that has caused severe economic and environmental problems in the southeastern region of the United States. In August 2001, a small, rapidly growing infestation was discovered and eradicated in Clark County. Amendment of the existing noxious weed seed and plant quarantine rule to add one or two kudzu species to the list of species forbidden from sale or distribution in the state was requested by the Washington State Noxious Weed Control Board and the Washington State Weed Coordinators Association. The quarantine is intended to aid in prevention of kudzu introduction and spread in this state.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: USDA APHIS regulates a limited number of species under the federal noxious weed regulations. However, the federal list is mainly intended to apply to international shipment, and the federal agency is not usually active in interstate or intrastate noxious weed regulation. The state office of USDA APHIS will be notified. The Washington State Noxious Weed Control Board establishes the state noxious weed list under authority of chapter 17.10 RCW. It requested addition of kudzu species to WSDA quarantine rules to complement its own and the county noxious weed boards' efforts.

Process for Developing New Rule: The Washington State Noxious Weed Control Board and the Washington State Weed Coordinators Association have requested the changes

to this rule. Representatives of the Washington State Department of Agriculture discuss specific provisions of the proposal with interested agencies and stakeholders such as the Nursery Advisory Board, and then publish the rule proposal.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Mary A. Martin Toohey, Assistant Director, Washington State Department of Agriculture, Laboratory Services Division, P.O. Box 42560, Olympia, WA 98504-2560, phone (360) 902-1907, fax (360) 902-2094, e-mail mtoohey@agr.wa.gov.

February 20, 2002
Mary A. Martin Toohey
Assistant Director

WSR 02-05-028
PROPOSED RULES
HORSE RACING COMMISSION

[Filed February 12, 2002, 8:10 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 02-01-089.

Title of Rule: New section WAC 260-48-930 Future wager pool.

Purpose: Enable associations to offer a wager to patrons that would allow them to participate in wagering contests on future wagers such as the Kentucky Derby.

Statutory Authority for Adoption: RCW 67.16.040.

Summary: Allow Washington patrons of racing facilities to participate in pools on major racing events months prior to the race actually taking place, as in a contest.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Bruce Batson, Olympia, (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: This new section to the mutuel chapter will allow horse racing patrons to participate in wagering on major racing events months prior to the race being run as in a contest.

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.

Hearing Location: Auburn City Hall, Council Chambers, 25 West Main, Auburn, WA 98001, on April 24, 2002, at 1:00 p.m.

Submit Written Comments to: Bruce Batson, Executive Secretary, Washington Horse Racing Commission, 6326 Martin Way, Suite 209, Olympia, 98516, fax (360) 459-6461, by April 23, 2002.

Date of Intended Adoption: April 24, 2002.

February 11, 2002

Bruce Batson

Executive Secretary

NEW SECTION

WAC 260-48-930 Future wager pool. (1) The future wager requires selection of the first-place finisher in a specified contest.

(2) The association shall apply in writing to the Washington horse racing commission for approval to offer the future wager on the specified contest and shall not offer the wager until the commission approval has been granted. The written application shall include the date and time for the pool to be opened and closed, a description of the system for compiling the pool and calculating odds and payout prices, and the time interval for displaying the odds.

(3) The association, or in the case of interjurisdiction common pool wagering the host track, shall name the contes-

tants included in each betting interest on which future wagers may be made and shall assign a program number to each betting interest.

(4) The amount wagered on the betting interest which finishes first in the specified race is deducted from the net pool, the balance remaining being the profit; the profit is divided by the amount wagered on the betting interest finishing first, such quotient being the profit per dollar wagered in the future pool on that betting interest.

(5) The net future pool shall be distributed as a single price pool to winning wagers in the following precedence, based upon the official order of finish:

(a) To those whose selection finished first; but if there are no such wagers, then

(b) To those whose selection finished second; but if there are no such wagers, then

(c) To those whose selection finished third; but if there are no such wagers, then

(d) The entire pool shall be refunded on future pool wagers for that contest.

(6) If there is a dead heat for first involving:

(a) Contestants representing the same betting interest, the future pool shall be distributed as if no dead heat occurred.

(b) Contestants representing two or more betting interests, the future pool shall be distributed as a profit split.

(7) No refund shall be issued for future wager pool wagers on betting interests that do not start or finish the race. If the association becomes aware or is notified that a betting interest is ineligible or unable to start the race and the pool is still open, the association shall immediately close betting on that betting interest.

(8) The entire future wager pool shall be refunded if:

(a) The situation described at subsection 5(d) occurs; or

(b) The specified race is declared no contest by the judges/stewards having jurisdiction over the specified race; or

(c) The specified race does not occur; or

(d) For whatever reason, the future wager pool cannot be determined and the payout price cannot be calculated.

WSR 02-05-029

PROPOSED RULES

HORSE RACING COMMISSION

[Filed February 12, 2002, 8:11 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 02-01-090.

Title of Rule: WAC 260-36-040 Registration of personnel other than owners, trainers and jockeys—Fee.

Purpose: Amend rule to allow for temporary licensing of temporary employees at the race track.

Statutory Authority for Adoption: RCW 67.16.040.

Summary: Enable associations to offer employment on a temporary basis on large crowd capacity days.

PROPOSED

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Bruce Batson, Olympia, (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: Adding language to WAC 260-36-040 to allow associations to employ temporary employees on a temporary basis on large capacity crowd days.

Proposal Changes the Following Existing Rules: Amending WAC 260-36-040.

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: Auburn City Hall, Council Chambers, 25 West Main, Auburn, WA 98001, on April 24, 2002, at 1:00 p.m.

Submit Written Comments to: Bruce Batson, Executive Secretary, Washington Horse Racing Commission, 6326 Martin Way, Suite 209, Olympia, 98516, fax (360) 459-6461, by April 23, 2002.

Date of Intended Adoption: April 24, 2002.

February 11, 2002

Bruce Batson

Executive Secretary

AMENDATORY SECTION (Amending Rules of racing [Order 89-03], filed 6/9/89)

WAC 260-36-040 Registration of personnel other than owners, trainers and jockeys—Fee. (1) Any person acting in an official capacity or any person employed on a race track shall be licensed or issued a temporary permit by the Washington horse racing commission for one year and the fee shall be \$5.00.

(2) Upon application by an association the Washington horse racing commission may issue a temporary permit for employment on the race track of a temporary employee. Such temporary permit shall be valid for employment in a non-restricted area of the race track for a period not to exceed three days during a licensed live race meet or simulcast period in any calendar year. No temporary employee may work without a temporary work permit.

(a) A racing association shall provide to the Washington horse racing commission licensing department the name, date of birth and social security number of the temporary employee. The particular job or area where the temporary employee is to be assigned shall also be provided.

(b) Should an association desire to employ a temporary employee after the maximum three days allowed by the temporary permit such employee shall be required to obtain a regular occupational license issued by the Washington horse racing commission.

~~((2)) (3) ((All employees of the Washington horse racing commission shall be exempt from any license fees but shall~~

~~be issued a photo identification badge which shall be displayed in the same manner as all other licensees while in the performance of their duties at the track.)) Members and employees of the Washington horse racing commission shall be exempt from any license. Employees of the Washington horse racing commission shall be issued official and distinctive credentials, which shall include name, photograph and job identification or position. The identification or credentials issued to members or employees of the Washington horse racing commission shall bear the signature of the chairperson of the Commission or such other person as may be designated by said chairperson. Identification credentials of members or employees of the Washington horse racing commission shall be displayed when required for entry to secured areas of the race track and at any other time official recognition is necessary or required.~~

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

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

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

WSR 02-05-030

PROPOSED RULES'

HORSE RACING COMMISSION

[Filed February 12, 2002, 8:13 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 02-02-091.

Title of Rule: WAC 260-70-650 Furosemide (Lasix).

Purpose: Common drug name Lasix is being replaced with Salix.

Statutory Authority for Adoption: RCW 67.16.040.

Summary: Registered name Lasix being changed to Salix.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Bruce Batson, Olympia, (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: Trade name of Lasix is being replaced by the trade name Salix.

Proposal Changes the Following Existing Rules: Amending WAC 260-70-650.

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: Auburn City Hall, Council Chambers, 25 West Main, Auburn, WA 98001, on April 24, 2002, at 1:00 p.m.

Submit Written Comments to: Bruce Batson, Executive Secretary, Washington Horse Racing Commission, 6326 Martin Way, Suite 209, Olympia, WA 98516, fax (360) 459-6461, by April 23, 2002.

Date of Intended Adoption: April 24, 2002.

February 22 [11], 2002

Bruce Batson

Executive Secretary

AMENDATORY SECTION (Amending Rules of Racing [WSR 96-10-001], filed 4/17/96)

WAC 260-70-650 Furosemide ((~~Lasix~~®)) (Salix®).

(1) Furosemide ((~~Lasix~~®)) (Salix®) may be administered intravenously to a horse which is entered to compete in a race. Except under the instructions of the official veterinarian for the purpose of removing a horse from the veterinarian's list or to facilitate the collection of a urine sample, furosemide ((~~Lasix~~®)) (Salix®) shall be permitted only after the official veterinarian has placed the horse on the bleeder list.

(2) The use of furosemide ((~~Lasix~~®)) (Salix®) shall be permitted under the following circumstances:

(a) Furosemide ((~~Lasix~~®)) (Salix®) shall be administered on the grounds of the association, no less than four hours prior to post time for the race for which the horse is entered.

(b) The furosemide ((~~Lasix~~®)) (Salix®) dosage administered shall not exceed 500 mg. Nor be less than 150 mg.

(c) The trainer of the treated horse shall cause to be delivered to the official veterinarian or his/her designee no later than one hour prior to post time for the race for which the horse is entered the following information under oath on a form provided by the commission:

(i) The racetrack name, the date and time the furosemide ((~~Lasix~~®)) (Salix®) was administered to the entered horse;

(ii) The dosage amount of furosemide ((~~Lasix~~®)) (Salix®) administered to the entered horse; and

(iii) The printed name and signature of the attending licensed veterinarian who administered the furosemide ((~~Lasix~~®)) (Salix®).

(d) Failure to administer furosemide ((~~Lasix~~®)) (Salix®) in accordance with these rules may result in the horse being scratched from the race by the stewards.

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

WSR 02-05-031

**WITHDRAWAL OF PROPOSED RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION**

(By the Code Reviser's Office)

[Filed February 12, 2002, 10:52 a.m.]

WAC 392-139-241 and 392-139-312, proposed by the Superintendent of Public Instruction in WSR 01-16-108 appearing

in issue 01-16 of the State Register, which was distributed on August 15, 2001, is withdrawn by the code reviser's office under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor
Washington State Register

WSR 02-05-032

**WITHDRAWAL OF PROPOSED RULES
BUILDING CODE COUNCIL**

(By the Code Reviser's Office)

[Filed February 12, 2002, 10:53 a.m.]

WAC 51-56-1500, proposed by the Building Code Council in WSR 01-16-122 appearing in issue 01-16 of the State Register, which was distributed on August 15, 2001, is withdrawn by the code reviser's office under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor
Washington State Register

WSR 02-05-033

**WITHDRAWAL OF PROPOSED RULES
HORSE RACING COMMISSION**

(By the Code Reviser's Office)

[Filed February 12, 2002, 10:53 a.m.]

WAC 260-48-930, proposed by the Horse Racing Commission in WSR 01-16-124 appearing in issue 01-16 of the State Register, which was distributed on August 15, 2001, is withdrawn by the code reviser's office under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor
Washington State Register

WSR 02-05-034

**WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF ECOLOGY**

(By the Code Reviser's Office)

[Filed February 12, 2002, 10:54 a.m.]

WAC 173-173-030 and 173-173-070, proposed by the Department of Ecology in WSR 01-16-131 appearing in issue 01-16 of the State Register, which was distributed on August 15, 2001, is withdrawn by the code reviser's office under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor
Washington State Register

WSR 02-05-035**WITHDRAWAL OF PROPOSED RULES****DEPARTMENT OF
FISH AND WILDLIFE**

(By the Code Reviser's Office)

[Filed February 12, 2002, 10:54 a.m.]

WAC 220-16-410, proposed by the Department of Fish and Wildlife in WSR 01-16-148 appearing in issue 01-16 of the State Register, which was distributed on August 15, 2001, is withdrawn by the code reviser's office under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor
Washington State Register

WSR 02-05-047**PROPOSED RULES****OLYMPIC AIR POLLUTION
CONTROL AUTHORITY**

[Filed February 14, 2002, 10:43 a.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 70.94.141(1).

Title of Rule: OAPCA Regulation 1, Article 7 Notice of Construction and Application for Approval (and associated definition changes in OAPCA Regulation 1, Article 1, Section 1.07 Definitions).

Purpose: To amend sections of the OAPCA regulation to address programmatic issues between the state and local implementations of New Source Review.

Statutory Authority for Adoption: Chapter 70.94 RCW.

Statute Being Implemented: Chapter 70.94 RCW.

Summary: Amendatory Sections:

Section 1.07, include new definitions used in new sections of Article 7, revisions to the definition of *major modification* and *control officer*, and other minor changes. New definitions and the revision to *major modification* are copied directly from chapter 173-400 WAC. *Control officer* was revised to include the term Executive Director.

Section 7.05, clarify wording regarding issuance of approval orders. New sections also address these issues.

New Sections:

Section 7.17, add requirements for new sources in nonattainment areas. Requirements are copied directly from WAC 173-400-112(2), except for minor changes to authority.

Section 7.18, add requirements for new sources in attainment or unclassifiable areas. Requirements are copied directly from WAC 173-400-113(2), except for minor changes to authority.

Section 7.19, add requirements for replacement or substantial alteration of emission control technology at an existing stationary source. Requirements are copied directly from WAC 173-400-114, except for minor changes to authority.

Section 7.20, add requirements for change of conditions. Requirements are copied directly from WAC 173-400-

110(10), except for minor changes to authority and procedure for requesting and processing the change of conditions.

Section 7.21, add requirements for application processing. Requirements are copied directly from WAC 173-400-110 (6) and (7), except for minor changes to authority and removal of language that applies to ecology only.

Reasons Supporting Proposal: OAPCA currently enforces both state and local New Source Review (NSR) regulations, which is confusing to the regulated community. These changes make OAPCA's NSR program complete and the regulated community will need only comply with local NSR regulations, once program approval is received from EPA. These changes will not affect how OAPCA currently implements NSR.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Richard Stedman, Executive Director, 909 Sleater Kinney Road S.E. #1, Lacey, WA 98503, (360) 438-8768.

Name of Proponent: Olympic Air Pollution Control Authority, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: See Summary and Reasons Supporting Proposal above.

Proposal Changes the Following Existing Rules: See Summary and Reasons Supporting Proposal above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This agency is not subject to the Regulatory Fairness Act (chapter 19.85 RCW) because air pollution control authorities are not deemed state agencies (RCW 70.94.141).

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: Olympic Air Pollution Control Authority, 909 Sleater Kinney Road S.E. #1, Lacey, WA 98503, on April 10, 2002, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Craig Weckesser by April 3, 2002.

Submit Written Comments to: Richard Stedman, Executive Director, Olympic Air Pollution Control Authority, 909 Sleater Kinney Road S.E. #1, Lacey, WA 98503, fax (360) 491-6308, by April 9, 2002.

Date of Intended Adoption: April 10, 2002.

February 14, 2002

Richard Stedman

Executive Director

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 02-06 issue of the Register.

WSR 02-05-052**PROPOSED RULES****BELLEVUE COMMUNITY COLLEGE**

[Filed February 15, 2002, 8:03 a.m.]

Original Notice.

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

Title of Rule: Meetings of the board of trustees.

Purpose: To amend the existing section so that it accurately reflects the regular schedule for board meetings.

Statutory Authority for Adoption: RCW 28B.50.140.

Statute Being Implemented: RCW 42.30.075.

Summary: Board meeting dates have changed to better fit the schedules of trustees. The amendment to the existing section describing the board meeting schedule corrects the section to conform to the current practice.

Reasons Supporting Proposal: This is a housekeeping change to ensure that the WAC reflects the current practice.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Elise Erickson, A201, (425) 564-2302.

Name of Proponent: Bellevue Community College, public.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This amendment corrects the existing WAC section so that it reflects the current schedule of meetings for the board of trustees.

Proposal Changes the Following Existing Rules: The proposal changes the language in the existing WAC section which states that board of trustee meetings are held monthly on Tuesdays, to reflect the current practice, which is that meetings are held every six weeks on Wednesdays.

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

RCW 34.05.328 does not apply to this rule adoption. The proposed rule is purely a housekeeping change and does not pertain to this RCW.

Hearing Location: Bellevue Community College, 3000 Landerholm Circle S.E., Room A201, Bellevue, WA 98007-6484, on March 26, 2002, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Susan Gjolmesli by March 22, 2002, TDD (425) 564-4110, or (425) 564-2498.

Submit Written Comments to: Elise Erickson, Bellevue Community College, Room A201, 3000 Landerholm Circle S.E., Bellevue, WA 98007-6484, fax (425) 564-2261, by March 25, 2002.

Date of Intended Adoption: April 24, 2002.

February 6, 2002

Elise J. Erickson

Rules Coordinator

AMENDATORY SECTION (Amending WSR 92-13-093, filed 6/17/92)

WAC 132H-106-030 Meetings of the board of trustees. Meetings may be held upon request by the chair or by a majority of the members of the board.

The board of trustees customarily holds a regular meeting (~~on the second Tuesday of each month~~) at such time and place as it may designate approximately every six weeks

from January through June and from September through December. Exact board meeting dates may be found in the Washington State Register or by contacting the president's office at (425) 564-2302.

(1) All regular and special meetings of the board of trustees shall be announced and held in accordance with chapter 42.30 RCW (the Open Public Meetings Act).

(2) No official business shall be conducted by the board of trustees except during a regular or special meeting.

(3) The board of trustees may convene in executive session whenever it is deemed necessary pursuant to RCW 42.30.110.

WSR 02-05-053

PROPOSED RULES

BELLEVUE COMMUNITY COLLEGE

[Filed February 15, 2002, 8:05 a.m.]

Original Notice.

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

Title of Rule: Implementation of State Environmental Policy Act.

Purpose: To create a rule for Community College District VIII complying with the state's environmental protection policy.

Statutory Authority for Adoption: RCW 28B.50.140.

Statute Being Implemented: RCW 43.21C.120.

Summary: Establishes as policy that Community College District VIII will comply with the provisions of chapter 43.21C RCW and names the president or designee as the individual responsible for administering and implementing the policy.

Reasons Supporting Proposal: It is required by statute.

Name of Agency Personnel Responsible for Drafting: Elise Erickson, A201, (425) 564-2302; Implementation and Enforcement: John Carroll, K100, (425) 564-2474.

Name of Proponent: Bellevue Community College, public.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This new rule places Community College District VIII in compliance with RCW 43.21C.120 requiring that each state agency establish a policy complying with the state environmental protection policy. The rules states that Bellevue Community College will comply with the provisions of the Environmental Protection Act and names the president or a college designee as the person who will be responsible for administering and implementing the policy.

Proposal does not change existing rules.

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

RCW 34.05.328 does not apply to this rule adoption. The proposed rule incorporates by reference without material change Washington state statutes.

Hearing Location: Bellevue Community College, 3000 Landerholm Circle S.E., Room A201, Bellevue, WA 98007-6484, on March 26, 2002, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Susan Gjolmesli by March 22, 2002, TDD (425) 564-4110, or (425) 564-2498.

Submit Written Comments to: Elise Erickson, Bellevue Community College, Room A201, 3000 Landerholm Circle S.E., Bellevue, WA 98007-6484, fax (425) 564-2261, by March 26, 2002.

Date of Intended Adoption: April 24, 2002.

February 5, 2002
Elise J. Erickson
Rules Coordinator

NEW SECTION

WAC 132H-450-010 Implementation of State Environmental Policy Act. (1) It shall be the policy of Bellevue Community College District VIII that all actions taken by the district shall comply with the provisions of chapter 43.21C RCW (the State Environmental Policy Act), chapters 197-11 and 132-24 WAC.

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

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

WSR 02-05-057

PROPOSED RULES

DEPARTMENT OF LICENSING

[Filed February 15, 2002, 2:34 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 00-24-114.

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

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, 46.16.070, 46.16.135.

Summary: Amending WAC 308-96A-201, 308-96A-207, and 308-96A-208.

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

Name of Agency Personnel Responsible for Drafting: Katherine Iyall Vasquez, 1125 Washington Street S.E., Olympia, (360) 902-3718; Implementation and Enforcement: Eric Andersen, 1125 Washington Street S.E., Olympia, (360) 902-4045.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The anticipated effects will be a clarification of the above-mentioned requirements.

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

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement is not required pursuant to RCW 19.85.030 (1)(a). The proposed rule making does not impose more than a minor cost on business 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 26, 2002, at 11:00 a.m.

Assistance for Persons with Disabilities: Contact Katherine Iyall Vasquez by March 25, 2002, TTY (360) 664-8885, or (360) 902-3718.

Submit Written Comments to: Katherine Iyall Vasquez, Rules Manager, Title and Registration Services, P.O. Box 2957, Olympia, WA 98507-2957, fax (360) 664-0831, by March 25, 2002.

Date of Intended Adoption: April 19, 2002.

February 12, 2002

D. McCurley, Administrator
Title and Registration Services

AMENDATORY SECTION (Amending WSR 99-01-133, filed 12/21/98, effective 1/21/99)

WAC 308-96A-201 Purchasing gross weight—Expiration dates. (1) **What would the gross weight expiration date be if I purchase twelve thousand pounds or less?**

The gross weight license expiration date must be the same as the registration expiration date. Gross weight fees must be paid for the same number of months as the registration.

(2) **What would the gross weight expiration date be if I purchase fourteen thousand pounds or more?**

You, the owner, have two options:

(a) If you choose to purchase twelve months gross weight, the expiration date of the gross weight is the same as the expiration date of the vehicle registration; or

(b) If you choose to purchase one to eleven consecutive months, the expiration date of the gross weight is the same day of the month as the expiration date of the vehicle registration. For example: If the vehicle registration expires March 9, monthly gross weight licenses will expire April 9, May 9, etc. Monthly gross weight may not be purchased beyond the vehicle registration expiration date.

(3) **When renewing the registration((s)) and purchasing monthly gross weight, what is the effective date of my gross weight license?**

The effective date of the gross weight license must be the first month the new registration is effective. Example: If the vehicle expiration is March 9, and the vehicle registration is purchased prior to April 9, the effective date is March ((9)) 10. If the registration is purchased June 15, the effective date is June ((9)) 10, etc. When there is a partial month between the requested effective date of the gross weight license and

the expiration date of the gross weight license, gross weight fees shall be charged for a full month.

(4) **If the vehicle registration expiration date is the thirty-first day of the month, what is the expiration date of the gross weight for those months having fewer than thirty-one days?**

If the vehicle registration date is the thirty-first, the monthly gross weight will expire on the last calendar day of those months having fewer than thirty-one days.

AMENDATORY SECTION (Amending WSR 99-01-133, filed 12/21/98, effective 1/21/99)

WAC 308-96A-207 Gross weight—Changing from a farm use class to a nonfarm use class. (1) **When would I need to change my vehicle registration from a farm use class to a nonfarm use class?**

You need to change your vehicle registration from a farm to nonfarm use class when the vehicle is no longer being used solely for farm purposes as defined in RCW 46.16.090.

(2) **What would the gross weight expiration date be when I change my vehicle registration from a farm use class to a nonfarm use class? The expiration date of the gross weight license would remain the same as the current gross weight license.**

~~((a) If the declared gross weight is twelve thousand pounds or less, the gross weight expiration date will be the same as your vehicle registration expiration date; or~~

~~(b) If the declared gross weight is fourteen thousand pounds or more, the gross weight expiration date will remain the same as is currently in effect. You may choose to purchase additional months of gross weight not to exceed the vehicle registration expiration date.))~~

(3) **What will be the start date of the gross weight license with the nonfarm use class?**

The new gross weight license start date is the first day of the current registration month, as described in WAC 308-96A-201 (2)(b), or any subsequent registration month of the current gross weight license period.

(4) **How many months gross weight must I purchase when I change my vehicle registration from farm to nonfarm?** You must purchase at least as many months as are remaining on the current gross weight license. Credit will be given as provided in subsection (5) of this section. You will also be charged for the permit fees as defined in RCW 46.16.135, and additional gross weight fees in addition to all other fees required to license the vehicle.

(5) **Will I receive credit for gross weight fees that I have already paid?**

You will receive dollar value credit for the number of months ~~((from the start date of the new gross weight license to the expiration of the current gross weight license and))~~ remaining on the current gross weight license. The credit will be given at the rate of the declared gross weight ~~((of the current gross weight license.))~~; however, you must surrender the current gross weight license in order to receive credit. If the gross weight license is lost, stolen or destroyed, you must sign an affidavit of loss and a statement that the gross weight

license has not been transferred to another vehicle. You will not receive credit for the monthly gross weight permit fees as defined in RCW 46.16.135.

~~((5) **How many months gross weight fees will I be charged when I change my vehicle registration from farm to nonfarm?**~~

~~You will be charged for the number of months from the start date of the new gross weight license to the expiration of the new gross weight license at the rate of new declared gross weight amount and use class. Credit will be given as provided in subsection (4) of this section. You will also be charged for the permit fees as defined in RCW 46.16.135, in addition to all other fees required to license the vehicle.))~~

AMENDATORY SECTION (Amending WSR 99-01-133, filed 12/21/98, effective 1/21/99)

WAC 308-96A-208 Gross weight—Changing from a nonfarm use class to a farm use class. (1) **When may I change my vehicle registration from a nonfarm use class to a farm use class?**

You may change your vehicle registration from a nonfarm to farm use class when the vehicle is being used solely for farm purposes as defined in RCW 46.16.090.

(2) **When is the best time to change my vehicle registration from a nonfarm use class to a farm use class?**

The best time to change your vehicle registration from a nonfarm to a farm use class is at the time you are purchasing gross weight ~~((, because))~~. Changing use class from nonfarm to farm results in a forfeiture of gross weight fees paid ~~((, unless))~~. You ((are increasing)) may increase your declared gross weight ~~((enough))~~ to make up the difference between the nonfarm and the farm gross weight fees if the increased gross weight does not exceed the maximum legal limit of the vehicle.

(3) **What would the gross weight expiration date be when I change my vehicle registration from a nonfarm use class to a farm use class? The expiration date of the gross weight license would remain the same as the current gross weight license.**

~~((a) If the declared gross weight is twelve thousand pounds or less, the gross weight expiration date will be the same as your vehicle registration expiration date; or~~

~~(b) If the declared gross weight is fourteen thousand pounds or more, the gross weight expiration date will remain the same as is currently in effect. You may choose to purchase additional months of gross weight not to exceed the vehicle registration expiration date.))~~

(4) **What will be the ~~((effective))~~ start date of the gross weight license ~~((with the))~~ be when I change my vehicle registration from nonfarm use class to a farm use class? The start date of the gross weight license would remain the same as the current gross weight license.**

~~((The effective date will depend upon the date of application. If the application for a change in use class is made on the first day of a gross weight license month, the owner has the option of making the effective date of the change the day of application, or the first day of any gross weight license~~

~~month already purchased. If the application for change in use class is made other than on the first day of the gross weight license month, the owner has the option of making the effective date the first day of any gross weight license month already purchased. The effective date may not be prior to the date of application.))~~

(5) How many months gross weight fees will I be charged when I change my vehicle registration from non-farm to farm?

You will need to purchase the number of months remaining on the current gross weight license. Credit will be given as provided in subsection (6) of this section. You will also be charged for the permit fees as defined in RCW 46.16.135, in addition to all other fees required to license the vehicle.

(6) Will I receive credit for gross weight fees that I have already paid?

You will receive dollar value credit for the number of months and at the rate of the declared gross weight previously purchased for the period between the effective date of the change in use class and the expiration date of the previously issued gross weight license. At the time of application for change of use class from ~~((commercial))~~ nonfarm to farm, any excess credit accrued as a result of such change may be applied toward the payment of gross weight license fees for the gross weight license months between the ~~((commercial))~~ nonfarm gross weight license expiration date and the registration expiration date. Credit may not be carried over to the next registration year and any credit still remaining after purchasing gross weight license to the registration expiration date shall be forfeited. You must surrender the current gross weight license in order to receive credit. If the gross weight license is lost, stolen or destroyed, you must sign an affidavit of loss and a statement that the gross weight license has not been transferred to another vehicle. You will not receive credit for the monthly gross weight permit fees as defined in RCW 46.16.135.

~~**((6) How many months gross weight fees will I be charged when I change my vehicle registration from non-farm to farm?**~~

~~You will be charged for the number of months from the start date of the new gross weight license to the expiration of the new gross weight license at the rate of new declared gross weight amount and use class. Credit will be given as provided in subsection (5) of this section. You will also be charged for the permit fees as defined in RCW 46.16.135, in addition to all other fees required to license the vehicle.))~~

**WSR 02-05-062
PROPOSED RULES**

DEPARTMENT OF TRANSPORTATION

[Filed February 15, 2002, 3:15 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 02-01-139.

Title of Rule: State ferries and toll bridges, WAC 468-300-010, 468-300-020, 468-300-040, and 468-300-220.

Purpose: The purpose of this rule is to raise the ferry tolls within the specified WACs. The revisions follow the annual review of Washington state ferries' (WSF) farebox revenue needs.

Statutory Authority for Adoption: RCW 47.56.030, 47.60.326.

Statute Being Implemented: RCW 47.56.030 and 47.60.326.

Summary: The four affected WACs are revised to incorporate increased ferry tolls for passengers, vehicles and vessel charters, to meet need for additional farebox revenue.

Reasons Supporting Proposal: WSF's need for additional farebox revenue.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Raymond G. Deardorf, Washington State Ferries, 2911 2nd Avenue, Seattle, WA 98121, (206) 515-3491.

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

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

Explanation of Rule, its Purpose, and Anticipated Effects: The purpose of this rule is to raise the ferry tolls within the specified WACs. The WAC revisions follow the annual review of WSF's farebox revenue needs.

No major effects are anticipated.

Proposal Changes the Following Existing Rules: The proposed rule revises the subject WACs by increasing the passenger tolls, vehicle tolls and vessel charter rates specified in the WACs.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The department has considered this rule and determined that it does not affect more than 10% of one industry or 20% of all industry.

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

Hearing Location: King County Courthouse, Snoqualmie Room (#402), 516 3rd Avenue, 4th Floor, Seattle, WA, on April 4, 2002, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Transportation Commission Office, TDD (360) 705-7070.

Submit Written Comments to: Raymond G. Deardorf, WSF Planning Director, fax (206) 515-3499, by April 4, 2002.

Date of Intended Adoption: April 4, 2002.

February 15, 2002

Chris R. Rose, Administrator
Transportation Commission

AMENDATORY SECTION (Amending WSR 01-11-010, filed 5/3/01, effective 6/3/01)

WAC 468-300-010 Ferry passenger tolls.

Effective 03:00 a.m. (~~June 3, 2004~~) May 12, 2002

PROPOSED

(ROUTES	Full Fare	Senior/ Disabled	Youth Fare 18 and under	Frequent User Coupon Book 20 Rides ¹	Monthly Pass ⁵	Quarterly Pass ⁵	Annual Pass ⁵	Bicycle Surcharge ^{2,6}
<i>Via Passenger-Only Ferry</i>								
Seattle to Bremerton								
Seattle to Vashon	5.50	2.70	4.20	31.50 ²	108.20	324.60	1,298.40	0.90
<i>Via Passenger-Only Ferry</i>								
Bremerton to Seattle								
Vashon to Seattle	1.00	0.50	1.00	N/A	108.20	324.60	1,298.40	N/C
<i>Via Auto Ferry</i>								
*Fauntleroy-Southworth	4.00	2.00	2.80	28.00	58.80	176.90	705.60	0.90
*Seattle-Bremerton								
*Seattle-Bainbridge Island								
*Edmonds-Kingston	4.50	2.20	3.20	31.50	66.20	198.50	793.80	0.90
Port Townsend-Keystone	2.00	1.00	1.40	28.00	N/A	N/A	N/A	0.45
*Fauntleroy-Vashon								
*Southworth-Vashon								
*Pt. Defiance-Tahlequah	2.90	1.40	2.10	20.50	42.70	127.90	511.60	0.90
*Mukilteo-Clinton	2.70	1.30	1.90	19.00	39.70	119.10	476.30	0.90
*Anacortes to Lopez, Shaw, Orcas or Friday Harbor	6.80	3.40	4.80	47.75	N/A	N/A	N/A	3.60
Between Lopez, Shaw, Orcas and Friday Harbor ⁴	N/C	N/C	N/C	N/C	N/A	N/A	N/A	N/C
<i>International Travel</i>								
Anacortes to Sidney and Sidney to all destinations	11.00	5.50	7.70	N/A	N/A	N/A	N/A	5.60
From Lopez, Shaw ¹ , Orcas and Friday Harbor to Sidney ⁶	4.25	2.00	3.00	N/A	N/A	N/A	N/A	2.00
Lopez, Shaw, Orcas and Friday Harbor to Sidney (round trip) ³	15.25	7.50	10.70	N/A	N/A	N/A	N/A	7.60))

ROUTES	Full Fare	Senior/ Disabled	Youth Fare 18 and under	Frequent User Coupon Book 20 Rides ¹	Monthly Pass ²	Quarterly Pass ²	Annual Pass ²	Bicycle Surcharge ^{2,6}
<i>Via Passenger-Only Ferry</i>								
*Seattle-Vashon	7.10	3.50	5.60	58.25	93.20	279.60	1,118.40	1.00
<i>Via Passenger-Only Ferry</i>								
Seattle to Bremerton	6.10	3.00	4.60	38.25 ²	93.20	279.60	1,118.40	1.00
<i>Via Passenger-Only Ferry</i>								
Bremerton to Seattle	1.00	0.50	1.00	N/A	93.20	279.60	1,118.40	N/C
<i>Via Auto Ferry</i>								
*Fauntleroy-Southworth	4.00	2.00	2.80	30.00	48.00	144.00	576.00	1.00
*Seattle-Bremerton								
*Seattle-Bainbridge Island								
*Edmonds-Kingston	5.10	2.50	3.60	38.25	61.20	183.60	734.40	1.00
Port Townsend-Keystone	2.00	1.00	1.40	30.00	48.00	144.00	576.00	0.50
*Fauntleroy-Vashon								
*Southworth-Vashon								
*Pt. Defiance-Tahlequah	3.30	1.60	2.40	24.75	39.60	118.80	475.20	1.00
*Mukilteo-Clinton	3.10	1.50	2.20	23.25	37.20	111.60	446.40	1.00
*Anacortes to Lopez, Shaw, Orcas or Friday Harbor - Mon- day-Wednesday	6.80	3.40	4.80	56.00	N/A	N/A	N/A	4.00
*Anacortes to Lopez, Shaw, Orcas or Friday Harbor - Thurs- day-Sunday	8.00	4.00	5.60	56.00	N/A	N/A	N/A	4.00
Between Lopez, Shaw, Orcas and Friday Harbor ⁴	N/C	N/C	N/C	N/C	N/A	N/A	N/A	N/C

PROPOSED

ROUTES	Full Fare	Senior/ Disabled	Youth Fare 18 and under	Frequent User	Monthly Pass ²	Quarterly Pass ²	Annual Pass ²	Bicycle Surcharge ^{2,6}
				Coupon Book 20 Rides ¹				
<i>International Travel</i>								
Anacortes to Sidney and Sidney to all destinations	12.40	6.20	8.70	N/A	N/A	N/A	N/A	6.00
From Lopez, Shaw+, Orcas and Friday Harbor to Sidney@	4.50	2.25	3.25	N/A	N/A	N/A	N/A	2.00
Lopez, Shaw, Orcas and Friday Harbor to Sidney (round trip) ³	16.90	8.45	11.95	N/A	N/A	N/A	N/A	8.00

@ These fares rounded to the next multiple of \$.25. All other fares rounded to the next multiple of \$0.10.

* These routes operate as a one-point toll collection system.

¹FREQUENT USER COUPONS - Shall be valid only for 90-days from date of purchase after which time the tickets shall not be accepted for passage. Unused coupons will not be eligible for refund or exchange.

~~((Frequent user coupon books purchased prior to June 3, 2001, with an expiration date after July 7, 2001, will be accepted for passage through July 7, 2001, and exchange for 90 days from date of purchase. Unused coupons can only be refunded on a pro-rata basis after July 7, 2001.))~~

²BICYCLE SURCHARGE - Is an addition to the appropriate passenger fare.

³ROUND TRIP - Round trip tickets for international travel available for trips beginning or ending on one of the Islands served.

⁴INTER-ISLAND FARES - Passenger fares included in Anacortes tolls.

⁵PASSES - Passenger passes are available for all routes except((=) Anacortes/San Juan Island/Sidney ((and Port Townsend/Key-stone)). It is valid for the period printed on the pass and will be presented to Washington state ferries staff whenever a passenger fare is collected. This pass is based on ((21)) 16 days of passenger travel with a ((30)) 25% discount. The quarterly pass is based on ((63)) 48 days of travel with a ((30)) 25% discount and the annual pass is based on ((252)) 192 days with a ((30)) 25% discount. A combination ferry-transit pass may be available for a particular route when determined by Washington state ferries and a local public transit agency to be a viable fare instrument. The WSF portion of the fare is based on 16 days of passenger travel per month at a 25% discount. Passes may be available in monthly, quarterly or annual denominations.

⁶BICYCLE PASS - A bicycle pass is available on all routes except: Anacortes/San Juan Island/Sidney for a \$20.00 annual fee subject to meeting WSF specified conditions. The pass is valid for one year. A cyclist with a valid pass shall have the bicycle surcharge waived.

⁷SEATTLE TO BREMERTON ((AND SEATTLE TO VASHON)) PASSENGER ONLY - Riders on Seattle to Bremerton ((and Seattle to Vashon)) passenger only need to supplement frequent user coupon with an additional surcharge fare of \$1.00 (\$0.50 for Senior/Disabled).

CHILDREN/YOUTH - Children under five years of age will be carried free when accompanied by parent or guardian. Children/youths five through eighteen years of age will be charged the youth fare, which will be 70% of full fare rounded to the next multiple of \$0.10.

SENIOR CITIZENS - Passengers age 65 and over, with proper identification establishing proof of age, may travel at half-fare passenger tolls on any route where passenger fares are collected.

PERSONS OF DISABILITY - Any individual who, by reason of illness, injury, congenital malfunction, or other incapacity or dis-

ability is unable without special facilities or special planning or design to utilize ferry system services, upon presentation of a WSF Disability Travel Permit, Regional Reduced Fare Permit, or other identification which establishes a disability may travel at half-fare passenger tolls on any route. In addition, those persons with disabilities who require attendant care while traveling on the ferries, and are so certified by their physician, may obtain an endorsement on their WSF Disability Travel Permit and such endorsement shall allow the attendant to travel free as a passenger.

BUS PASSENGERS - Passengers traveling on public transit buses pay the applicable fare. Passengers traveling in private or commercial buses will be charged the half-fare rate.

MEDICARE CARD HOLDERS - Any person holding a Medicare card duly issued to that person pursuant to Title II or Title XVIII of the Social Security Act may travel at half-fare passenger tolls on any route upon presentation of a WSF Disability Travel Permit or a Regional Reduced Fare Permit at time of travel.

~~((FERRY/TRANSIT PASS - A combination ferry-transit pass may be available for a particular route when determined by Washington state ferries and a local public transit agency to be a viable fare instrument. The WSF portion of the fare is based on 21 days of passenger travel per month at a 40% discount. Passes may be available in monthly, quarterly or annual denominations.))~~

PROMOTIONAL TOLLS - A promotional rate may be established at the discretion of the secretary of transportation for a specific discount (not to exceed 50 percent of full fare) and effective only at designated times on designated routes (not to exceed 100 days per year on any one route).

Special passenger fare rate(s) may be established for a pilot program in conjunction with the Central Puget Sound Regional Fare Integration project on ferry route(s) serving King, Pierce, Snohomish and Kitsap counties. The rate(s) may be established at the discretion of the secretary of transportation for a specific discount not to exceed fifty percent of full fare.

SCHOOL GROUPS - Passengers traveling in authorized school groups for institution-sponsored activities will be charged a flat rate of \$1 per walk-on group or per vehicle of students and/or advisors and staff. Starting September 1, 1999, all school groups require a letter of authorization. Vehicles and drivers will be charged the fare applicable to vehicle size. The special school rate is \$2 on routes where one-point toll systems are in effect. Due to space limitations, authorized school groups will not be permitted to use one of the passenger-only routes without prior WSF approval.

BUNDLED SINGLE FARE BOOKS - WSF may bundle single fare types into multiple trip books as a customer convenience. These books shall be valid only until the second Sunday of May following the date of purchase, after which time the coupons shall not be accepted for passage. Unused coupons are not refundable.

PEAK SEASON SURCHARGE - A 20% surcharge shall be applied to passengers from the second Sunday in May to the second Sunday in October, except those using frequent user tickets, on the Anacortes to Lopez, Shaw, Orcas and Friday Harbor routes.

AMENDATORY SECTION (Amending WSR 01-11-010, filed 5/3/01, effective 6/3/01)

WAC 468-300-020 Vehicle under 20', motorcycle, and stowage ferry tolls.

Effective 03:00 a.m. ((June 3, 2001)) May 12, 2002

(ROUTES	Vehicle Under 20' Incl. Driver One Way	Vehicle Under 20' w/Sr Citizen or Disabled Driver ⁴	Vehicle Under 20' Over Height Charge ¹	Frequent User Coupon book 20 Rides ²	Motorcycle ⁵ Incl. Driver Stowage ¹ One Way@	Motorcycle w/Sr Citizen or Disabled Driver Stowage ¹ One Way@	Motorcycle Oversize Charge ¹	Motorcycle Frequent User Ticket book 20 Rides ² @
Fauntleroy-Southworth Port Townsend/Keystone	7.00	6.00	7.00	112.00	3.00	2.00	1.00	48.00
Seattle-Bainbridge Island Seattle-Bremerton-Edmonds-Kingston	8.00	6.85	8.00	128.00	3.40	2.25	1.15	54.40
*Fauntleroy-Vashon *Southworth-Vashon *Pt. Defiance-Tahlequah	10.25	8.75	10.25	82.00	4.40	2.90	1.50	35.20
Mukilteo-Clinton	5.00	4.30	5.00	80.00	2.10	1.45	0.70	33.60
10 Rides - 5 Round Trips								
*Anacortes to Lopez	17.00	13.60	17.00	68.00	8.90	5.50	2.10	71.20
*Shaw, Orcas	20.00	16.60	20.00	80.00	9.50	6.10	2.70	76.00
*Friday Harbor	22.50	19.10	22.50	90.00	10.00	6.60	3.20	80.00
Between Lopez, Shaw, Orcas and Friday Harbor ³	9.00	9.00	9.00	36.00	2.75	2.75	2.75	N/A
<i>International Travel</i>								
Anacortes to Sidney and Sidney to all destinations	29.75	24.25	29.75	N/A	14.80	9.30	3.80	N/A
Travelers with advanced reservations (\$15 fee) Anacortes to Sidney and Sidney to all destinations ⁶	14.75	9.25	29.75	N/A	N/A	N/A	N/A	N/A
Lopez, Shaw, Orcas and Friday Harbor to Sidney	9.75	7.50	9.75	N/A	5.50	3.25	1.25	N/A
Travelers with advanced reservations (\$7 fee) from Lopez, Shaw, Orcas and Friday Harbor to Sidney ⁷	2.75	0.50	9.75	N/A	N/A	N/A	N/A	N/A
Lopez, Shaw, Orcas and Friday Harbor to Sidney (round trip) ⁵	39.50	31.75	39.50	N/A	20.30	12.55	5.05	N/A))

ROUTES	Vehicle Under 20' Incl. Driver One Way	Vehicle Under 20' w/Sr Citizen or Disabled Driver ⁴	Vehicle Under 20' Over Height Charge ¹	Frequent User Coupon book 20 Rides ²	Motorcycle ⁴ Incl. Driver Stowage ¹ One Way@	Motorcycle w/Sr Citizen or Disabled Driver Stowage ¹ One Way@	Motorcycle Oversize Charge ¹	Motorcycle Frequent User Ticket book 20 Rides ² @
Fauntleroy-Southworth Port Townsend/Keystone	7.00	6.00	7.00	112.00	3.00	2.00	1.00	48.00
Seattle-Bainbridge Island Seattle-Bremerton-Edmonds-Kingston	9.00	7.70	9.00	144.00	3.90	2.60	1.35	62.40
*Fauntleroy-Vashon *Southworth-Vashon *Pt. Defiance-Tahlequah	11.75	10.05	11.75	94.00	5.00	3.30	1.70	40.00
Mukilteo-Clinton	5.50	4.70	5.50	88.00	2.40	1.60	0.80	38.40
10 Rides - 5 Round Trips								
*Anacortes to Lopez - Monday-Wednesday	17.00	13.60	17.00	80.00	8.90	5.50	2.10	83.20

PROPOSED

PROPOSED

ROUTES	Vehicle	Vehicle	Vehicle	Frequent User Coupon book 20 Rides ²	Motorcycle ⁴	Motorcycle w/Sr	Motorcycle Oversize Charge ¹	Motorcycle
	Under 20' Incl. Driver One Way	Under 20' w/Sr Citizen or Disabled Driver ⁴	Under 20' Over Height Charge ¹		Incl. Driver Stowage ¹ One Way@	Citizen or Disabled Driver Stowage ¹ One Way@		Frequent User Ticket book 20 Rides ² @
<u>*Lopez - Thursday-Sunday</u>	20.00	16.00	20.00	80.00	10.40	6.40	2.40	83.20
<u>*Shaw, Orcas - Monday-Wednesday</u>	20.00	16.60	20.00	94.00	9.50	6.10	2.70	88.80
<u>*Shaw, Orcas - Thursday-Sunday</u>	23.50	19.50	23.50	94.00	11.10	7.10	3.10	88.80
<u>*Friday Harbor - Monday-Wednesday</u>	22.50	19.10	22.50	106.00	10.00	6.60	3.20	93.60
<u>*Friday Harbor - Thursday-Sunday</u>	26.50	22.50	26.50	106.00	11.70	7.70	3.70	93.60
<u>Between Lopez, Shaw, Orcas and Friday Harbor³</u>	10.25	10.25	10.25	41.00	3.25	3.25	3.25	N/A
<u>International Travel</u>								
<u>Anacortes to Sidney and Sid- ney to all destinations</u>	33.50	27.30	33.50	N/A	16.70	10.50	4.30	N/A
<u>Travelers with advanced reser- vations (\$15 fee)</u>								
<u>Anacortes to Sidney and Sid- ney to all destinations⁶</u>	18.50	12.30	33.50	N/A	N/A	N/A	N/A	N/A
<u>Lopez, Shaw, Orcas and Friday Harbor to Sidney</u>								
<u>Travelers with advanced reser- vations (\$7 fee) from Lopez, Shaw, Orcas and Friday Har- bor to Sidney²</u>	2.75	0.50	9.75	N/A	N/A	N/A	N/A	N/A
<u>Lopez, Shaw, Orcas and Friday Harbor to Sidney (round trip)²</u>	43.25	34.80	43.25	N/A	22.45	14.00	5.55	N/A

@ These fares rounded to the next multiple of \$0.10. All other fares rounded to the next multiple of \$.25.

* These routes operate as a one-point toll collection system.

¹SIZE - All vehicles up to 20' in length and under 7'6" shall pay the vehicle under 20' toll. Vehicles up to 20' but over 7'6" in height shall pay an overweight charge of 100% of the vehicle full fare. Motorcycles with trailers, sidecars, or three wheels will pay an oversize motorcycle charge of 100% of the motorcycle full fare. Upon presentation by either the driver or passenger of a WSF Disability Travel Permit, Regional Reduced Fare Permit, or other identification which establishes disability, the height charge will be waived for vehicles equipped with wheel chair lift or other mechanism designed to accommodate the person with disability.

²FREQUENT USER COUPONS - Shall be valid only for 90 days from date of purchase after which time the ticket shall not be accepted for passage. Unused coupons will not be eligible for refund.

((Frequent user coupon books purchased prior to June 3, 2001, with an expiration date after July 7, 2001, will be accepted for passage through July 7, 2001, and exchange for 90 days from date of purchase. Unused coupons can only be refunded on a pro rata basis after July 7, 2001.))

³INTER-ISLAND FARES - Tolls collected westbound only. Vehicles traveling between islands may request a single transfer ticket good for one transfer at an intermediate island. The transfer may only be obtained when purchasing the appropriate vehicle fare for inter-island travel (westbound at Lopez, Shaw, or Orcas) and is free of charge. Transfers shall be valid for 24 hours from time of purchase.

⁴SENIOR CITIZEN, DISABLED DRIVER OR DISABLED ATTENDANT DRIVER - Half fare discount applies to driver portion of the vehicle-driver fare and only when the driver is eligible. Those persons with disabilities who require attendant care while traveling on the ferries, and are so certified by their physician, may obtain an endorsement on their WSF Disability Travel Permit and such endorsement shall allow the attendant, when driving, to have the driver portion of the vehicle fare waived.

⁵ROUND TRIP - Round trip tickets for international travel available for trips beginning or ending on one of the islands served.

⁶RESERVATION FARES - These fares apply only to travelers that have made advanced reservations and paid the \$15 nonrefundable reservation fee. The reservation fee shall be a \$30 nonrefundable fee when the peak season surcharge is in effect.

⁷RESERVATION FARES - These fares apply only to travelers that have made advanced reservations and paid the \$7 nonrefundable reservation fee. The reservation fee shall be a \$15 nonrefundable fee when the peak season surcharge is in effect.

RIDE SHARE VEHICLES - A commuter ride share vehicle which carries five or more persons on a regular and expense-sharing basis for the purpose of travel to and from work or school and which is certified as such by a local organization approved by the Washington state ferry system, may purchase for a \$((+0)) 20 fee, a permit valid for one year valid only during the hours shown on the permit. The \$((+0-00)) 20.00 fee shall include the driver. Remaining passengers shall pay the applicable passenger fare. Except that the minimum total paid for all passengers in the van

shall not be less than four times the applicable passenger fare. Carpools of three or more registered in WSF's preferential loading program must also pay a \$20.00 yearly permit fee.

STOWAGE - Stowage carry-on items including kayaks, canoes and other items of comparable size which are typically stowed on the vehicle deck of the vessel shall be charged at the motorcycle rate. This rate includes the walk-on passenger carrying on the item to be stowed.

PEAK SEASON SURCHARGE - A 25% surcharge shall be applied to vehicles from the second Sunday in May to the second Sunday in October except those using frequent user ((tickets)) coupons. A ((38)) 22% surcharge shall be applied on vehicle fares for the Sidney B.C. route. A 35% surcharge shall be applied on vehicle

fares from Anacortes to Lopez, Shaw, Orcas and Friday Harbor, except those using frequent user coupons.

PENALTY CHARGES - Owner of vehicle without driver will be assessed a \$100.00 penalty charge.

PROMOTIONAL TOLLS - A promotional rate may be established at the discretion of the secretary of transportation for a specified discount (not to exceed 50 percent of full fare) and effective only at designated times on designated routes (not to exceed 100 days per year on any one route).

BUNDLED SINGLE FARE BOOKS - WSF may bundle single fare types into multiple trip books as a customer convenience. These books shall be valid only until the second Sunday of May following the date of purchase after which time the coupons shall not be accepted for passage. Unused coupons are not refundable.

AMENDATORY SECTION (Amending WSR 01-11-010, filed 5/3/01, effective 6/3/01)

WAC 468-300-040 Oversize vehicle ferry tolls.

Effective 03:00 a.m. ((June 3, 2001)) May 12, 2002

((ROUTES	((Oversize Vehicle Ferry Tolls ¹							Cost Per Ft. Over 80' @
	Overall Unit Length—Including Driver							
	20' To Under 30'	20' To Under 30'	30' To Under 40'	40' To Under 50'	50' To Under 60'	60' To Under 70'	70' To and include 80'	
Fauntleroy-Southworth Port Townsend/Keystone	10.50	21.00	28.00	35.00	42.00	49.00	56.00	0.70
Seattle-Bainbridge Island- Seattle/Bremerton Edmonds-Kingston	12.00	24.00	32.00	40.00	48.00	56.00	64.00	0.80
*Fauntleroy-Vashon *Southworth-Vashon *Pt. Defiance-Tahlequah	15.00	30.75	41.00	51.25	61.50	71.75	82.00	1.00
Mukilteo-Clinton	7.50	15.00	20.00	25.00	30.00	35.00	40.00	0.50
*Anacortes to Lopez ² *Shaw, Orcas *Friday Harbor	30.00	60.00	80.00	100.00	120.00	140.00	160.00	2.00
Between Lopez, Shaw, Orcas and Friday Harbor ³	13.50	27.00	36.00	45.00	54.00	63.00	72.00	N/A
<i>International Travel</i>								
Anacortes to Sidney- and Sidney to all destinations	44.75	89.25	119.00	148.75	178.50	208.25	238.00	3.00
Travelers with advanced reservations (\$15 fee) Anacortes to Sidney and Sidney to all destinations ⁵	29.75	74.25	104.00	133.75	163.50	193.25	223.00	3.00
Lopez, Shaw, Orcas and Friday Harbor to Sidney	14.75	29.25	39.00	48.75	58.50	68.25	78.00	1.00
Travelers with advanced reservations (\$7 fee) from Lopez, Shaw, Orcas and Friday Harbor to Sidney ⁶	7.75	22.25	32.00	41.75	51.50	61.25	71.00	1.00
Lopez, Shaw, Orcas and Friday Harbor to Sidney (round trip) ⁴	59.25	118.50	158.00	197.50	237.00	276.50	316.00	4.00))

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Oversize Vehicle Ferry Tolls¹
Overall Unit Length - Including Driver

ROUTES	20'	20'	30'	40'	50'	60'	70'	Cost Per Ft.
	To Under	To Under						
	30'	30'	40'	50'	60'	70'	70'	
	Under	Over	To Under	To Under	To Under	To Under	To and include	Over 80'
	7'6"	7'6"	40'	50'	60'	70'	80'	@
	High	High						
<u>Fauntleroy-Southworth</u>								
<u>Port Townsend/Keystone</u>	10.50	21.00	28.00	35.00	42.00	49.00	56.00	0.70
<u>Seattle-Bainbridge Island</u>								
<u>Seattle/Bremerton</u>								
<u>Edmonds-Kingston</u>	13.50	27.00	36.00	45.00	54.00	63.00	72.00	0.90
<u>*Fauntleroy-Vashon</u>								
<u>*Southworth-Vashon</u>								
<u>*Pt. Defiance-Tahlequah</u>	16.50	35.25	47.00	58.75	70.50	82.25	94.00	1.10
<u>Mukilteo-Clinton</u>	8.25	16.50	22.00	27.50	33.00	38.50	44.00	0.55
<u>*Anacortes to Lopez²</u>								
<u>*Shaw, Orcas</u>								
<u>*Friday Harbor - Monday-Wednesday</u>	30.00	60.00	80.00	100.00	120.00	140.00	160.00	2.00
<u>*Anacortes to Lopez²</u>								
<u>*Shaw, Orcas</u>								
<u>*Friday Harbor - Thursday-Sunday</u>	35.25	70.50	94.00	117.50	141.00	164.50	188.00	2.35
<u>Between Lopez, Shaw, Orcas and Friday Harbor²</u>	15.50	30.75	41.00	51.25	61.50	71.75	82.00	N/A
<u>International Travel</u>								
<u>Anacortes to Sidney and Sidney to all destinations</u>	50.25	100.50	134.00	167.50	201.00	234.50	268.00	3.35
<u>Travelers with advanced reservations (\$15 fee)</u>								
<u>Anacortes to Sidney and Sidney to all destinations²</u>	35.25	85.50	119.00	152.50	186.00	219.50	253.00	3.35
<u>Lopez, Shaw, Orcas and Friday Harbor to Sidney</u>	14.75	29.25	39.00	48.75	58.50	68.25	78.00	1.00
<u>Travelers with advanced reservations (\$7 fee) from Lopez, Shaw, Orcas and Friday Harbor to Sidney⁴</u>	7.75	22.25	32.00	41.75	51.50	61.25	71.00	1.00
<u>Lopez, Shaw, Orcas and Friday Harbor to Sidney (round trip)⁴</u>	65.00	129.75	173.00	216.25	259.50	302.75	346.00	4.35

@ These fares rounded to the next multiple of \$0.05. All other fares rounded to the next multiple of \$.25.

* These routes operate as a one-point toll collection system.

¹OVERSIZE VEHICLES - Includes all vehicles 20 feet in length and longer regardless of type: Commercial trucks, recreational vehicles, vehicles under 20' pulling trailers, etc. Length shall include vehicle and load to its furthest extension. Overheight charge is included in oversize vehicle toll. Vehicles 11 feet in width or wider pay double the fare applicable to their length. Private and commercial passenger buses or other passenger vehicles pay the applicable oversize vehicle tolls. Public transit buses and drivers shall travel free upon display of an annual permit which may be purchased for \$10.

²STOPOVERS - Tolls collected westbound only. Oversize vehicles traveling westbound from Anacortes may purchase a single intermediate stopover ticket for \$2.50 when first purchasing the appropriate vehicle fare. The stopover is valid for a 24-hour period.

³INTER-ISLAND - Tolls collected westbound only. Vehicles traveling between islands may request a single transfer ticket good for one transfer at an intermediate island. The transfer may only be

obtained when purchasing the appropriate vehicle fare for inter-island travel (westbound at Lopez, Shaw, or Orcas) and is free of charge. Transfers shall be valid for 24 hours from time of purchase.

⁴ROUND TRIP - Round trip tickets for international travel available for trips beginning or ending on one of the islands served.

⁵RESERVATION FARES - These fares apply only to travelers that have made advanced reservations and paid the \$15 nonrefundable reservation fee. The reservation fee shall be a \$30 nonrefundable fee when the peak season surcharge is in effect.

⁶RESERVATION FARES - These fares apply only to travelers that have made advanced reservations and paid the \$7 nonrefundable reservation fee. The reservation fee shall be a \$15 nonrefundable fee when the peak season surcharge is in effect.

PEAK SEASON SURCHARGE - A peak season surcharge of 25% shall apply to all oversize vehicles, except for Anacortes to Lopez, Shaw, Orcas, Friday Harbor and international travel. The senior citizen discount shall apply to the driver of an oversize vehicle. A ((65)) 22% surcharge shall be applied on fares for the Sidney B.C. route. A 35% surcharge will apply to oversized

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vehicles traveling from Anacortes to Lopez, Shaw, Orcas and Friday Harbor.

SENIOR CITIZEN DISCOUNTS - Discounts of 50% for the driver of the above vehicles shall apply. Senior citizen discount is determined by subtracting full-fare passenger rate and adding half-fare passenger rate.

PENALTY CHARGES - Owner of vehicle without driver will be assessed a \$100.00 penalty charge.

DISCOUNT FROM REGULAR TOLL

Oversize vehicles making 12 or more, one-way crossings per week (Sunday thru Saturday) will qualify for a ~~((20))~~ 15% discount from the regular ferry tolls.

EMERGENCY TRIPS DURING NONSERVICE HOURS - While at locations where crew is on duty charge shall be equal to the cost of fuel consumed to make emergency trip. Such trips shall only be offered as a result of official requests from an emergency services agency and only in the case of no reasonable alternative.

BULK NEWSPAPERS - Per 100 lbs. \$2.20

(Shipments exceeding 60,000 lbs. in any month shall be assessed \$1.10 per 100 lbs.)

Daily Newspapers, in bundles, and medical supplies, to be received and delivered without receipt and subject to owner's risk, will be transported between ferry terminals on regular scheduled sailings.

EXPRESS SHIPMENTS - A flat handling charge of \$25.00 per parcel is charged.

(Shipments exceeding 100 lbs. assessed \$8.30 for each 25 lbs. or fraction thereof.)

Express shipments will be handled on scheduled sailings when no other means of shipment is available to shipper. Shipments must be of a size and weight that can easily be handled by carrier's employees.

Carrier reserves the right to refuse shipment of any item. Carrier assumes no liability for loss or damage to any shipment. Minimum rate for any shipment shall be the rate for 100 pounds.

San Juan inter-island express shipments will be handled at \$5.00 per parcel.

MEDICAL SUPPLIES - A flat handling charge of \$5.00 per shipment is charged.

DISCLAIMER - Under no circumstances does Washington state ferries warrant the availability of ferry service at a given date or time; nor does it warrant the availability of space on board a vessel on a given sailing.

AMENDATORY SECTION (Amending WSR 01-11-010, filed 5/3/01, effective 6/3/01)

WAC 468-300-220 Calculation of charter rates for vessels owned by the Washington state ferry system. Pursuant to chapter 323, Laws of 1997, vessels owned by the Washington state ferry system may be made available for charter subject to operational availability. Execution of a charter agreement as set forth in the statute must precede a commitment to charter. The following actual hourly vessel operating costs have been calculated for establishing the rates to be charged for vessel charters from July 1, ~~((2000))~~ 2001, through June 30, ~~((2001))~~ 2002:

Vessel Class	Deck Crew On Overtime	Deck Crew On Straight Time
Jumbo Mark II	\$(1,100)) <u>1,165.37</u>	\$(906)) <u>967.22</u>
Jumbo	((1,036)) <u>1,124.43</u>	((857)) <u>940.48</u>
Super	((997)) <u>1,077.82</u>	((824)) <u>900.55</u>
Evergreen	((803)) <u>810.31</u>	((660)) <u>663.60</u>
Issaquah	((773)) <u>857.56</u>	((630)) <u>710.85</u>
Steel	((640)) <u>677.05</u>	((526)) <u>560.90</u>
Rhododendron	((611)) <u>639.05</u>	((497)) <u>522.90</u>
Hiyu	((429)) <u>448.04</u>	((367)) <u>383.79</u>
Passenger Only	((514)) <u>548.85</u>	((433)) <u>465.88</u>
Passenger Only Fast Ferry	((585)) <u>647.37</u>	((502)) <u>561.78</u>

The rate for an individual charter will be calculated by:

(1) Multiplying the actual operating cost set forth above for the vessel that is chartered by the number of hours, or fraction thereof, for which the vessel is chartered;

(2) Adding labor costs, mileage and per diem expenses to determine the total actual costs if the particular charter requires a crew callout; and

(3) Increasing the total actual costs calculated pursuant to subsections (1) and (2) of this section by fifty percent, and rounding to the nearest fifty dollars.

In the case of charters for the transport of hazardous materials, the transporter is required to pay for all legs necessary to complete the charter, even if the vessel is simultaneously engaged in an operational voyage on behalf of the Washington state ferry system.

WSR 02-05-068
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Economic Services Administration)
 [Filed February 15, 2002, 3:58 p.m.]

Supplemental Notice to WSR 01-19-019.

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

Title of Rule: Amending WAC 388-434-0010 If I get food assistance, how do I keep getting food assistance?; and new WAC 388-434-0015 How and when do I reapply for food assistance?; 388-434-0020 When does my new food

assistance certification period begin?, and 388-434-0025
When do I get my food assistance benefits after I reapply?

Purpose: The department is revising WAC 388-434-0010 and adding new rules to comply with the federal regulations at 7 C.F.R. 273.14.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, and 74.08.090.

Statute Being Implemented: 7 C.F.R. 273.14.

Summary: These rules provide guidelines for food assistance recipients and the department during the recertification process. They emphasize the recipients' responsibility to reapply and complete the process within certain deadlines. The rules also clearly set forth the department's deadlines for authorizing benefits when recipients meet their deadlines.

Reasons Supporting Proposal: The current recertification rules are out of compliance with 7 C.F.R. 273.14. The proposed revisions should increase the accuracy of eligibility redeterminations and the timeliness of benefit issuance.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Steve Pargman, 1009 College Street S.E., Lacey, WA, (360) 413-3073.

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

Rule is necessary because of federal law, 7 C.F.R. Chapter II, Part 273.

Explanation of Rule, its Purpose, and Anticipated Effects: The federal food stamp program requires finite certification periods for all recipients. A household may not participate in the program beyond the end of its certification period without reapplication and a new determination of eligibility. The proposed rules define the responsibilities of recipients and the department during the recertification process. The effect of the rule should be to encourage food assistance recipients to complete this process timely so that they may receive uninterrupted benefits. Conformity to the federal food stamp program rules ensures that the department will continue to receive funding for its food assistance program. The department anticipates that it will save staff time by reducing the frequency of interviews.

Proposal Changes the Following Existing Rules:

- The department now requires one **face-to-face** interview yearly, unless waived, and **some type** of interview at every recertification. Proposed WAC 388-434-0015 (1)(b) eliminates the interview requirement at interim certifications within a twelve month period, for households certified for twelve months or less. 7 C.F.R. 273.14 (b)(3) provides this option to the department.
- The current rule is inconsistent with WAC 388-406-0055 (3)(a) and 7 C.F.R. 273.10 (a)(2). Proposed WAC 388-434-0015(4) and 388-434-0025(2) provide that a household with a migrant or seasonal farm worker may reapply without penalty within one month after the end of the certification period.
- When a household causes a delay in processing a recertification application beyond the last day of its current certification period, the department must prorate benefits from the date of compliance for the initial month of the new certification period. The new rule clarifies this requirement.

- The department must inform a household of the impending end of its certification period. This is currently in the department's Eligibility A-Z Manual, but not in rule.
- An individual identified as needing "Necessary Supplemental Accommodation" has additional time to apply for recertification. The proposed rule refers to WAC 388-472-0040 and clarifies that the department does not prorate benefits if the recipient reapplies within twenty days of the end of the certification period.
- The department must authorize benefits within certain deadlines, depending on the previous certification period's length and the date the recipient completes the recertification process. Proposed WAC 388-434-0030 defines these deadlines, according to 7 C.F.R. 273.14(d).
- According to 7 C.F.R. 273.14 (e)(3), when a food assistance recipient reapplies after the end of the certification period through the fault of the department, the recipient's household is entitled to receive benefits without a break in eligibility. Current WAC 388-434-0010(7) does not differentiate between late applications due to the fault of the department and the fault of the recipient.
- According to 7 C.F.R. 273.14 (e)(2), the department must choose one of three options for denying applications and implement the chosen option consistently throughout the state. New WAC 388-434-0020 (5) and (6) explains that denials must occur **at the time** of the applicant's failure to take a required action.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Nothing in these rules will impose any costs on businesses in any industry.

RCW 34.05.328 does not apply to this rule adoption. The rule does not meet the definition of a significant legislative rule, per RCW 34.05.328 (5)(b)(vii).

Hearing Location: Blake Office Park (behind Goodyear Courtesy Tire), 4500 10th Avenue S.E., Rose Room, Lacey, WA 98503, on March 26, 2002, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Andy Fernando, DSHS Rules Coordinator, by March 22, 2002, phone (360) 664-6094, TTY (360) 664-6178, e-mail fernaax@dshs.wa.gov.

Submit Written Comments to: Identify WAC Numbers, DSHS Rules Coordinator, Rules and Policies Assistance Unit, P.O. Box 45850, Olympia, WA 98504-5850, fax (360) 664-6185, e-mail fernaax@dshs.wa.gov, by 5 p.m., March 26, 3002 [2002].

Date of Intended Adoption: No earlier than March 27, 2002.

February 14, 2002

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 01-15-011, filed 7/6/01, effective 8/1/01)

WAC 388-434-0010 ((How do) If I get ((recertified for)) food assistance ((benefits?)), how do I keep getting food assistance? (1) ((To complete the recertification process you must:

(a) Submit an application; and

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(b) Complete an interview; and
 (c) Submit needed proof of your circumstances if we (the department) ask for it.

(2) You have thirty days after your certification period ends to complete the recertification process. However, if you reapply timely and complete the recertification process before your certification period ends, your benefits continue to be deposited into your EBT (electronic benefit transfer) account on the same day of the month. To reapply timely, we must get your application no later than:

(a) The fifteenth day of the last month of your certification period; or

(b) The fifteenth day after you get a notice of eligibility when your certification period is two months or less.

(3) If you reapply timely and complete the recertification process you get a notice of approval or denial:

(a) By the end of your current certification period; or

(b) By the thirtieth day after you got your last benefit amount in [if] you were certified for one month.

(4) If you reapply before your certification period ends, but fail to take a required action such as completing an interview or providing proof of your eligibility, we may deny your benefits:

(a) At that time; or

(b) At the end of the certification period; or

(c) At the end of thirty days.

(5) If you take the required action before your certification period ends, we start your food assistance from the first of the month of your new certification period.

(6) If you take the required action within thirty days after your certification period ends, we start your food assistance from:

(a) The first of the month of your new certification period if we caused the delay; or

(b) The first of the month of your new certification period if we rescheduled a second interview per your request and you attended the rescheduled interview; or

(c) The date you take the required action.

(7) If you reapply after your certification period ends, your request is treated like an initial application and will be approved or denied under WAC 388-406-0035.

(8) See chapter 388-458 WAC for adequate notice and translation requirements)) You may receive food assistance for a specific time, called the certification period. At the end of this time, your food assistance stops.

(2) We (the department) tell you when your certification period will end at the beginning and near the end of the period.

(3) To keep getting food assistance you must reapply.

NEW SECTION

WAC 388-434-0015 How and when do I reapply for food assistance? (1) To reapply, you or your authorized representative must:

(a) Fill out and return a department-approved application with at least your name, address and signature.

(b) Complete an interview, if required. You must have an interview at least once every twelve months if we approved your benefits for twelve months or less. You must

contact us to reschedule any interviews you are unable to attend.

(c) Give us the proof we need about your situation. For example, pay stubs and rent receipts. For the complete list, see WAC 388-490-0005. You must contact us when you need more time to give us this proof.

(2) You must return your application within the following deadlines.

(a) If we approved your benefits for one month, or for two months in the second month of your certification period, you have fifteen days from the date of the approval notice.

(b) If we approved your benefits for three or more months, you have until the fifteenth day of the last month of your certification period.

(3) You must finish the steps in subsection (1)(b) and (c) within thirty days after the end of your certification period.

(4) If you have a migrant or seasonal farm worker in your home, you have:

(a) One month after the end of your certification period to return your application; and

(b) Thirty more days to finish the steps in subsection (1)(b) and (c).

NEW SECTION

WAC 388-434-0020 When does my new food assistance certification period begin? (1) The date your new certification period begins depends on:

(a) When you finish your recertification, under WAC 388-434-0015(1).

(b) When you reapply.

(c) Whether anyone in your household is a migrant or seasonal farm worker.

(d) Whether you need "necessary supplemental accommodation" under WAC 388-472-0040.

(e) Whether we allow more time for you to give us the proof about your situation. See WAC 388-406-0030 for the rules on allowing more time.

(f) Whether you are at fault for any delay in finishing your recertification.

(2) If you reapply by the end of your certification period, attend any required interview and submit any required verification timely, then we re-certify your household. We provide benefits for the full month.

(3) If you reapply within thirty days after the end of your certification period, we prorate your benefits from the date of your application. If the delay was our fault, we restore your benefits back to the date your new certification period should have begun had we not erred and you been able to apply timely.

(4) If you reapply by the end of your certification period and we extended the time for providing proof of your situation beyond the end of your certification period, we provide benefits for the full month.

(5) We may deny your application immediately after a missed interview if you reapply by the end of your certification period, but:

(a) Do not attend a required interview, and

(b) Do not request that we reschedule it and then attend the rescheduled interview.

(6) We may deny your application immediately after the deadline for providing required proof of your situation if you fail to provide the proof and do not request more time.

(7) If, after a denial, you finish all the missing requirements:

(a) Before the end of your certification period, we reopen your case and provide benefits for the full month.

(b) After the end of your certification period, we must determine whether the delay was your fault or our fault.

(i) If the delay was your fault, we prorate your benefits from the date you finish all the missing requirements.

(ii) If the delay was our fault, we provide benefits for the full month.

(8) Except as noted in subsections (9) and (10), if you return an application within thirty days after the end of the current certification period, your new certification period begins on the date we receive your application. However, if this delay is our fault, we provide benefits for the full month.

(9) If you need supplemental accommodation under WAC 388-472-0040 and you reapply within twenty days from the end of your certification period, we provide benefits for the full month.

(10) If you have a migrant or seasonal farm worker in your home, and you return your application within one month after your last certification period ends, we provide benefits for the full month.

NEW SECTION

WAC 388-434-0025 When do I get my food assistance benefits after I reapply? (1) The day you get your new benefits depends on how long you got them before. If you turn in an application by the deadline in WAC 388-434-0015(2) and finish the steps in WAC 388-434-0015(1) by the end of your current certification period, you get food assistance benefits:

(a) Within thirty days after you got them before, if you got benefits for less than three months.

(b) By your usual date, if you got benefits for three months or more.

(2) If we decide that you are eligible after your current certification period ends because we gave you more time to finish the steps in WAC 388-434-0015(1), then we issue benefits within five working days after you finish those steps.

Example: You turn in an application for food assistance on March 14. Your certification period ends on March 31. You complete an interview on March 24, and provide proof of your income and expenses on April 3. You get food assistance benefits by April 10 (five working days from April 3).

WSR 02-05-069
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)

[Filed February 15, 2002, 4:00 p.m.]

Original Notice.

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

Title of Rule: WAC 388-400-0030 How do I qualify for refugee cash assistance? WAC 388-400-0030 is a summary of eligibility requirements for refugee cash assistance and located in the program summaries chapter.

Purpose: The Division of Employment and Assistance Programs, Office of Refugee and Immigration Assistance (ORIA), is proposing rules to comply with federal law in order to continue to meet federal refugee funding requirements and to make WAC 388-400-0030 consistent with adopted earlier WAC 388-466-0120 and 388-466-0140.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057.

Statute Being Implemented: RCW 74.04.050, 74.04.055, 74.04.057, C.F.R. Title 45 § 400.65, § 400.66, § 400.67, § 400.68, § 400.69.

Summary: ORIA believes that the rule will be consistent with adopted earlier rules, will be easier to understand and will result in better customer service.

Reasons Supporting Proposal: Efficiency, customer service.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Olga Walker, ORIA Program Manager, P.O. Box 45420, Olympia, WA 98504-5420, (360) 413-4285.

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

Rule is necessary because of federal law, C.F.R. Title 45 § 400.65, § 400.66, § 400.67, § 400.68, § 400.69.

Explanation of Rule, its Purpose, and Anticipated Effects: The rule change has been proposed in order to make WAC 388-400-0030 consistent with proposed earlier rules and change in federal law. ORIA believes that new rules will be more efficient and easier to understand and will result in better customer service.

Proposal does not change existing rules.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This change does not meet the requirements for a small business economic impact statement.

RCW 34.05.328 does not apply to this rule adoption. This filing is exempt under RCW 34.05.328 (5)(b)(vii).

Hearing Location: Blake Office Park (behind Goodyear Courtesy Tire), 4500 10th Avenue S.E., Rose Room, Lacey, WA 98503, on March 26, 2002, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Andy Fernando, DSHS Rules Coordinator, by March 22, 2002, phone (360) 664-6094, TTY (360) 664-6178, e-mail fernaax@dshs.wa.gov.

Submit Written Comments to: Identify WAC Number, DSHS Rules Coordinator, Rules and Policies Assistance Unit, P.O. Box 45850, Olympia, WA 98504-5850, fax (360) 664-6185, e-mail fernaax@dshs.wa.gov, by 5:00 p.m., March 26, 2002.

Date of Intended Adoption: No earlier than March 27, 2002.

February 14, 2002

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 01-06-031, filed 3/2/01, effective 4/1/01)

WAC 388-400-0030 ((How do I qualify for)) Refugee cash assistance((?))—Summary of eligibility requirements. (1) To be eligible for refugee cash assistance (RCA), you must:

(a) Provide the name of the voluntary agency (VOLAG) which resettled you; ((and))

(b) Meet the((:

((i)) immigration status requirements of WAC 388-466-0005;

((ii) Work)) (c) Meet employment and training requirements of WAC ((388-466-0015)) 388-466-0150;

((iii)) and

(d) Meet income and resource requirements ((under chapters 388-450 and 388-470 WAC with exceptions as provided under WAC 388-466-0010)) of WAC 388-466-0140.

(2) You are not eligible to receive RCA if you:

(a) Are eligible for temporary assistance for needy families (TANF) or Supplemental Security Income;

(b) Have been denied TANF or have been terminated from TANF due to intentional noncompliance with TANF eligibility requirements; or

(c) Are a full-time student in an institution of higher education.

(3) ((If you are a refugee family and have children who are United States citizens, we treat you as a single assistance unit under chapter 388-408 WAC.

((4)) We determine your eligibility and benefit level for RCA using the TANF payment standards under WAC 388-478-0020.

((5)) (4) If you are eligible for RCA ((and are pregnant or have a dependent child)) you may also be eligible for additional requirements for emergent needs under WAC 388-436-0002.

((6)) (5) If you meet the requirements of this section you are eligible for refugee cash assistance only during the eight-month period beginning((:

(a) ~~The date asylum is granted if you are an asylee; or~~

(b) in the first month you entered the United States ((if you are not an asylee)) (WAC 388-466-0120).

Title of Rule: Medical aid rules: Updates for WAC 296-20-135, 296-23-220, and 296-23-230.

Purpose: Medical aid updates regarding rate setting for most professional health care services for injured workers. These updates also impact rates for health care services provided to crime victims.

Statutory Authority for Adoption: RCW 51.04.020(1) and 51.04.030.

Statute Being Implemented: RCW 51.36.080.

Summary: (1) Change conversion factor used to calculate payment levels for services payable through the resource based relative value scale (RBRVS) fee schedule; (2) change conversion factor used to calculate payment for anesthesia services; and (3) increase the maximum daily payment for physical and occupational therapy.

Reasons Supporting Proposal: Update provider payment rates.

Name of Agency Personnel Responsible for Drafting: Tom Davis, Tumwater, Washington, (360) 902-6687; Implementation and Enforcement: Doug Connell, Assistant Director, Tumwater, Washington, (360) 902-4209.

Name of Proponent: Department of Labor and Industries, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The purpose of the rule is to update the department's payment rates for health care services by:

(1) Increasing the conversion factors used to calculate maximum payment for services paid with the resource based relative value scale (RBRVS) fee schedule.

(2) Increasing the conversion factor used to calculate maximum payment for anesthesia services.

(3) Increasing the maximum daily payment for physical and occupational therapy services.

The conversion factor updates are made in accordance with WAC 296-20-132 Determination of conversion factor adjustments. The anticipated effect of this rule change is to have access to health care services.

Proposal Changes the Following Existing Rules: In WAC 296-20-135(2), increase the RBRVS conversion factor from \$49.60 to \$50.51.

In WAC 296-20-135(3), increase the anesthesia conversion factor from \$2.70 to \$2.78.

In WAC 296-23-220 and 296-23-230, increase the maximum daily rate for physical and occupational therapy services from \$99.00 to \$102.65.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This rule adoption is exempt under RCW 34.05.328 (5)(b)(vi) and 19.85.025(3).

RCW 34.05.328 does not apply to this rule adoption. RCW 34.05.328 does not apply because the content of this rule is explicitly dictated by statute and fits within the exceptions listed in RCW 34.05.328 (5)(b)(vi).

Hearing Location: Department of Labor and Industries, 7273 Linderson Way S.W., Tumwater, WA, on March 27, 2002, at 1:00 p.m.

Assistance for Persons with Disabilities: Contact Tom Davis by March 20, 2002, TDD 1-800-833-6388.

**WSR 02-05-076
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES**

[Filed February 20, 2002, 9:18 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 02-01-137.

PROPOSED

Submit Written Comments to: Tom Davis, fax (360) 902-4249, by April 5, 2002.

Date of Intended Adoption: April 23, 2002.

February 20, 2002

Gary L. Moore

Director

AMENDATORY SECTION (Amending WSR 01-10-026, filed 4/24/01, effective 7/1/01)

WAC 296-20-135 Conversion factors. (1) Conversion factors are used to calculate payment levels for services reimbursed under the Washington resource based relative value scale (RBRVS), and for anesthesia services payable with base and time units.

(2) **Washington RBRVS** services have a conversion factor of (~~(\$49.60)~~) \$50.51. The fee schedules list the reimbursement levels for these services.

(3) **Anesthesia services** that are paid with base and time units have a conversion factor of (~~(\$2.70)~~) \$2.78 per minute, which is equivalent to (~~(\$40.50)~~) \$41.70 per 15 minutes. The base units and payment policies can be found in the fee schedules.

AMENDATORY SECTION (Amending WSR 01-10-026, filed 4/24/01, effective 7/1/01)

WAC 296-23-220 Physical therapy rules. Practitioners should refer to WAC 296-20-010 through 296-20-125 for general information and rules pertaining to the care of workers.

Refer to WAC 296-20-132 and 296-20-135 regarding the use of conversion factors.

All supplies and materials must be billed using HCPCS Level II codes. Refer to chapter 296-21 WAC for additional information. HCPCS codes are listed in the fee schedules.

Refer to chapter 296-20 WAC (WAC 296-20-125) and to the department's billing instructions for additional information.

Physical therapy treatment will be reimbursed only when ordered by the worker's attending doctor and rendered by a licensed physical therapist or a physical therapist assistant serving under the direction of a licensed physical therapist. Doctors rendering physical therapy should refer to WAC 296-21-290.

The department or self-insurer will review the quality and medical necessity of physical therapy services provided to workers. Practitioners should refer to WAC 296-20-01002 for the department's rules regarding medical necessity and to WAC 296-20-024 for the department's rules regarding utilization review and quality assurance.

The department or self-insurer will pay for a maximum of one physical therapy visit per day. When multiple treatments (different billing codes) are performed on one day, the department or self-insurer will pay either the sum of the individual fee maximums, the provider's usual and customary charge, or (~~(\$99.00)~~) \$102.65 whichever is less. These limits will not apply to physical therapy that is rendered as part of a physical capacities evaluation, work hardening program, or

pain management program, provided a qualified representative of the department or self-insurer has authorized the service.

The department will publish specific billing instructions, utilization review guidelines, and reporting requirements for physical therapists who render care to workers.

Use of diapulse or similar machines on workers is not authorized. See WAC 296-20-03002 for further information.

A physical therapy progress report must be submitted to the attending doctor and the department or the self-insurer following twelve treatment visits or one month, whichever occurs first. Physical therapy treatment beyond initial twelve treatments will be authorized only upon substantiation of improvement in the worker's condition. An outline of the proposed treatment program, the expected restoration goals, and the expected length of treatment will be required.

Physical therapy services rendered in the home and/or places other than the practitioner's usual and customary office, clinic, or business facilities will be allowed only upon prior authorization by the department or self-insurer.

No inpatient physical therapy treatment will be allowed when such treatment constitutes the only or major treatment received by the worker. See WAC 296-20-030 for further information.

The department may discount maximum fees for treatment performed on a group basis in cases where the treatment provided consists of a nonindividualized course of therapy (e.g., pool therapy; group aerobics; and back classes).

Biofeedback treatment may be rendered on doctor's orders only. The extent of biofeedback treatment is limited to those procedures allowed within the scope of practice of a licensed physical therapist. See chapter 296-21 WAC for rules pertaining to conditions authorized and report requirements.

Billing codes and reimbursement levels are listed in the fee schedules.

AMENDATORY SECTION (Amending WSR 01-10-026, filed 4/24/01, effective 7/1/01)

WAC 296-23-230 Occupational therapy rules. Practitioners should refer to WAC 296-20-010 through 296-20-125 for general information and rules pertaining to the care of workers.

Refer to WAC 296-20-132 and 296-20-135 for information regarding the conversion factors.

All supplies and materials must be billed using HCPCS Level II codes, refer to the department's billing instructions for additional information.

Occupational therapy treatment will be reimbursed only when ordered by the worker's attending doctor and rendered by a licensed occupational therapist or an occupational therapist assistant serving under the direction of a licensed occupational therapist. Vocational counselors assigned to injured workers by the department or self-insurer may request an occupational therapy evaluation. However, occupational therapy treatment must be ordered by the worker's attending doctor.

An occupational therapy progress report must be submitted to the attending doctor and the department or self-insurer

following twelve treatment visits or one month, whichever occurs first. Occupational therapy treatment beyond the initial twelve treatments will be authorized only upon substantiation of improvement in the worker's condition. An outline of the proposed treatment program, the expected restoration goals, and the expected length of treatment will be required.

The department or self-insurer will review the quality and medical necessity of occupational therapy services. Practitioners should refer to WAC 296-20-01002 for the department's definition of medically necessary and to WAC 296-20-024 for the department's rules regarding utilization review and quality assurance.

The department will pay for a maximum of one occupational therapy visit per day. When multiple treatments (different billing codes) are performed on one day, the department or self-insurer will pay either the sum of the individual fee maximums, the provider's usual and customary charge, or ((~~\$99.00~~)) \$102.65 whichever is less. These limits will not apply to occupational therapy which is rendered as part of a physical capacities evaluation, work hardening program, or pain management program, provided a qualified representative of the department or self-insurer has authorized the service.

The department will publish specific billing instructions, utilization review guidelines, and reporting requirements for occupational therapists who render care to workers.

Occupational therapy services rendered in the worker's home and/or places other than the practitioner's usual and customary office, clinic, or business facility will be allowed only upon prior authorization by the department or self-insurer.

No inpatient occupational therapy treatment will be allowed when such treatment constitutes the only or major treatment received by the worker. See WAC 296-20-030 for further information.

The department may discount maximum fees for treatment performed on a group basis in cases where the treatment provided consists of a nonindividualized course of therapy (e.g., pool therapy; group aerobics; and back classes).

Billing codes, reimbursement levels, and supporting policies for occupational therapy services are listed in the fee schedules.

WSR 02-05-078

PROPOSED RULES

HEALTH CARE AUTHORITY

[Order 01-09—Filed February 20, 2002, 9:25 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 02-02-086.

Title of Rule: New section WAC 182-12-230 Employer groups.

Purpose: To define a process for collection of premium due and termination of coverage procedures for employer groups with delinquent accounts.

Statutory Authority for Adoption: RCW 41.05.160, 41.05.021 (1)(h).

Statute Being Implemented: RCW 41.05.050. Additional statutes being implemented RCW 41.05.021 (1)(e) and (g) and 41.05.022(2).

Summary: Add new WAC 182-12-230 to define a process for collection and termination of coverage procedures for employer groups with delinquent accounts.

Reasons Supporting Proposal: The rule is being proposed to define termination of coverage procedures by the Health Care Authority when terminating coverage for those employer groups with delinquent accounts.

Name of Agency Personnel Responsible for Drafting: Renee Bourbeau, Health Care Authority, (360) 923-2813; Implementation: Barbara Scott, Health Care Authority, (360) 923-2642; and Enforcement: MaryAnne Lindeblad, Health Care Authority, (360) 923-2640.

Name of Proponent: Health Care Authority, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: New section WAC 182-12-230 is proposed. This section will define the rights and obligations of the employer groups for participation in the Public Employees Benefits Board (PEBB) program. This new section will provide the Health Care Authority with improved administrative policies, including a defined process for disenrollment of employer groups due to nonpayment of premiums, dispute resolution provisions and termination of coverage procedures for employer groups with delinquent accounts.

In the preproposal statement we identified WAC 182-08-193 as the new section for employer groups. After further review and drafting of language it was determined that the new rule fits best in chapter 182-12 WAC, the section for eligibility.

Proposal does not change existing rules. This is a new rule.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not required. The Joint Administrative Rules Review Committee has not requested the filing of a small business economic impact statement, and there will be no costs to small businesses.

RCW 34.05.328 does not apply to this rule adoption.

Hearing Location: Health Care Authority, Executive Conference Room, 4th Floor, 600 Woodland Square Loop, Lacey, WA, on March 26, 2002, at 1:00 p.m.

Assistance for Persons with Disabilities: Contact Nikki Johnson by March 19, 2002, TDD (888) 923-5622, or (360) 923-2805.

Submit Written Comments to: Barbara Scott, Health Care Authority, 676 Woodland Square Loop S.E., Olympia, WA 98504-2684, (360) 923-2602, fax (360) 923-2602 by close of business on March 26, 2002.

Date of Intended Adoption: March 28, 2002.

February 20, 2002

Melodie Bankers

Rules Coordinator

NEW SECTION

WAC 182-12-230 Employer groups. This section applies to all employer groups participating in PEBB insurance programs.

(1) For purposes of this section, "employer group" means those K-12 school districts, educational service districts, county, municipality, and political subdivisions that meet the participation requirements of WAC 182-12-111 (3) and (4) and that participate in PEBB insurance programs.

(2)(a) Each employer group shall determine an employee's eligibility for PEBB insurance coverage in accordance with the applicable sections of this chapter, (chapter 182-12 WAC).

(b) Each employer group applying for participation in PEBB insurance programs shall submit required documentation and meet all participation requirements set forth in the then-current "*PEBB Coverage K-12 and Political Subdivisions*" booklet.

(3)(a) Each employer group applying for participation in PEBB insurance programs shall sign an interlocal agreement with the health care authority.

(b) Each employer group already participating in PEBB insurance programs as of the effective date of this section shall sign an interlocal agreement with the health care authority no later than June 30, 2002. Failure to sign such an agreement by that date will result in termination of the employer group's participation in PEBB insurance programs effective as of the end of the month of the last full premium payment, and disenrollment of all employees of the employer group. Termination and disenrollment are subject to subsections (8) and (9) of this section.

(c) Each interlocal agreement shall be renewed no less frequently than once in every two-year period.

(4) At least twenty days prior to the premium due date, the health care authority shall cause each employer group to be sent a monthly billing statement. The statement of premium due will be based upon the enrollment information provided by the employer group.

(a) Changes in enrollment status shall be submitted to the health care authority prior to the twentieth day of the month during which the change occurs. Changes submitted after the twentieth day of each month may not be reflected on the billing statement until the following month.

(b) Changes submitted more than one month late shall be accompanied by a full explanation of the circumstances of the late notification.

(5) Beginning with the July 2002 premium (billed to employer groups no later than June 26, 2002, and due not later than July 20, 2002), an employer group shall remit the monthly premium as billed or as reconciled by it.

(a) If an employer group determines that the invoiced amount requires one or more changes, the employer group may adjust its remittance only if an insurance eligibility adjustment form detailing the adjustment accompanies the remittance. The proper form for reporting adjustments will be attached to the interlocal agreement of Exhibit A.

(b) Each employer group is solely responsible for the accuracy of the amount remitted and the completeness and accuracy of the insurance eligibility adjustment form.

(6) Each employer group shall remit the entire monthly premium due including the employee share, if any. The employer group is solely responsible for the collection of any employee share of the premium. The employer shall not withhold portions of the monthly premium due because it has failed to collect the entire employee share.

(7) Nonpayment of the full premium when due will subject the employer group to disenrollment and termination of each employee of the group.

(a) Prior to termination for nonpayment of premium, the health care authority shall cause a notice of overdue premium to be sent to the employer group, which notice will provide a one-month grace period for payment of all overdue premium.

(b) An employer group that does not remit the entirety of its overdue premium no later than the last day of the grace period will be disenrolled effective the last day of the last month for which premium has been paid in full.

(c) Upon disenrollment, notification will be sent to both the employer group and each affected employee.

(d) Employer groups disenrolled due to nonpayment of premium shall have the right to a dispute resolution hearing in accordance with the terms of the interlocal agreement.

(e) Employees terminated due to the nonpayment of premium by the employer group are not eligible for continuation of group health plan coverage according to the terms of the Consolidated Omnibus Budget Reconciliation Act (COBRA). Terminated employees shall have conversion rights to an individual insurance policy as provided for by the employer group.

(f) Claims incurred by terminated employees of a disenrolled group after the effective date of disenrollment will not be covered.

(g) The employer group is solely responsible for refunding any employee share paid by the employee to the employer group and not remitted to the health care authority.

(8) A disenrolled employer group may apply for reinstatement in PEBB insurance programs under the following conditions:

(a) Reinstatement must be requested and all delinquent premium paid in full no later than ninety days after the date the premium was first due, as well as a reinstatement fee of one thousand dollars.

(b) Reinstatement requested more than ninety days after the effective date of disenrollment will be denied.

(c) Employer groups may be reinstated only once in any two-year period and will be subject to immediate disenrollment if, after the effective date of any such reinstatement, subsequent premiums become more than thirty days delinquent.

(9) Upon written petition by the employer group, disenrollment of an employer group or denial of reinstatement may be waived by the administrator upon a showing of good cause.

WSR 02-05-080
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES
 [Filed February 20, 2002, 10:22 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 01-05-115.

Title of Rule: Safety standards for telecommunications, chapter 296-32 WAC; Safety standards for electrical workers, chapter 296-45 WAC; and Safety standards for construction workers, chapter 296-155 WAC.

Purpose: **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 02-06 issue of the Register.

Statutory Authority for Adoption: RCW 49.17.010, [49.17].040, and [49.17].050.

Statute Being Implemented: Chapter 49.17 RCW.

Summary: See Purpose above.

Reasons Supporting Proposal: See Purpose above.

Name of Agency Personnel Responsible for Drafting: Tracy Spencer, Tumwater, (360) 902-5530; Implementation and Enforcement: Michael A. Silverstein, Tumwater, (360) 902-5495.

Name of Proponent: Department of Labor and Industries, governmental.

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

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

Proposal Changes the Following Existing Rules: See Purpose above.

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

Small Business Economic Impact Statement

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 02-06 issue of the Register.

A copy of the statement may be obtained by writing to Greg Nothstein, Economic Analyst, Department of Labor and Industries, P.O. Box 44001, Olympia, WA 98504-4001, phone (360) 902-6805, fax (360) 902-4202.

RCW 34.05.328 applies to this rule adoption. The department has determined that the proposed rules are "significant legislative rules."

Hearing Location: Department of Labor and Industries Building, Auditorium, 7273 Linderson Way S.W., Tumwater, WA, on April 22, 2002, at 1:30 p.m.

Assistance for Persons with Disabilities: Contact Sally Elliott by March 19, 2002, (360) 902-5484.

Submit Written Comments to: Tracy Spencer, Standards Manager, WISHA Services Division, P.O. Box 44620, Olympia, WA 98507-4620, fax (360) 902-5529, or electronically to Tracy Spencer, Standards Manager, WISHA Services Division, spet235@lni.wa.gov, by 5:00 p.m. on May 3, 2002. Comments submitted by fax must be ten pages or less.

Date of Intended Adoption: May 15, 2002.

February 20, 2002

Gary Moore

Director

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 02-06 issue of the Register.

WSR 02-05-087
PROPOSED RULES
FOREST PRACTICES BOARD
 [Filed February 20, 2002, 10:45 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 01-24-111.

Title of Rule: SEPA guidance for wildlife conservation agreements.

Purpose: This rule would offer clarification for SEPA guidance for forest practices consistent with a wildlife conservation agreement.

Statutory Authority for Adoption: RCW 76.09.040, 43.21C.060, and 43.21C.120.

Statute Being Implemented: Chapter 76.09 RCW.

Summary: The proposed negotiated rule language offers clarification that State Environmental Policy Act (SEPA) policies in chapter 222-10 WAC for species covered by an agreement that has received environmental review with an opportunity for public comment under the National Environmental Policy Act (NEPA), the State Environmental Policy Act (SEPA), or the Endangered Species Act (ESA) for threatened and endangered species do not apply to forest practices that are consistent with a wildlife conservation agreement listed in WAC 222-16-080(6).

Reasons Supporting Proposal: The proposed changes would make this chapter consistent with existing rules concerning wildlife conservation agreements. The changes would make clear that the existing SEPA guidelines for threatened and endangered species do not apply to forest practices, which are consistent with one of these agreements.

Name of Agency Personnel Responsible for Drafting: Ashley Demoss, 1111 Washington Street S.E., Olympia, (360) 902-1388; Implementation and Enforcement: Lenny Young, 1111 Washington Street S.E., Olympia, (360) 902-1744.

Name of Proponent: Forest Practices Board, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: The proposed language is the result of stakeholder negotiations.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The proposed changes to chapter 222-10 WAC would make clear that existing SEPA guidelines for threatened and endangered species do not apply to forest practice activities consistent with a wildlife conservation agreement

PROPOSED

listed in WAC 222-16-080(6) for species covered by those agreements that have received environmental review with an opportunity for public comment under SEPA [NEPA], SEPA, or ESA.

Proposal Changes the Following Existing Rules: WAC 222-10-040, amended to clearly describe that SEPA policies do not apply to forest practices covered by some types of wildlife conservation agreements.

WAC 222-10-041, amended to remove outdated information.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement is unnecessary because the proposed rule changes are likely to result in only minor costs.

RCW 34.05.328 applies to this rule adoption. A statement will be prepared according to the requirements set forth in RCW 34.05.328 that takes into account both the qualitative and quantitative benefits and costs of the specific directives of the statute being implemented.

Hearing Location: Natural Resources Building, 1111 Washington Street S.E., First Floor, Room 172, Olympia, WA 98504, on March 26, 2002, at 3 p.m.

Assistance for Persons with Disabilities: Contact Patricia Anderson by March 15, 2002, TDD (360) 902-1125, or (360) 902-1413.

Submit Written Comments to: Patricia Anderson, Rules Coordinator, Forest Practices Board, P.O. Box 47012, Olympia, WA 98504-4701, e-mail forest.practicesboard@wadnr.gov, fax (360) 902-1428, by March 28, 2002, 5 p.m.

Date of Intended Adoption: May 8, 2002.

February 19, 2002

Pat McElroy

Chair

AMENDATORY SECTION (Amending WSR 97-24-091, filed 12/3/97, effective 1/3/98)

WAC 222-10-040 Class IV-Special threatened and endangered species SEPA policies. In addition to the SEPA policies established elsewhere in this chapter, the following policies shall apply to Class IV-Special forest practices involving threatened or endangered species.

(1) The department shall consult with the department of fish and wildlife, other agencies with expertise, affected landowners, affected Indian tribes, and others with expertise when evaluating the impacts of forest practices. If the department does not follow the recommendations of the department of fish and wildlife, the department shall set forth in writing a concise explanation of the reasons for its action.

(2) In order to determine whether forest practices are likely to have a probable significant adverse impact, and therefore require an environmental impact statement, the department shall evaluate whether the forest practices reasonably would be expected, directly or indirectly, to reduce appreciably the likelihood of the survival or recovery of a listed species in the wild by reducing the reproduction, numbers, or distribution of that species.

(3) Specific mitigation measures or conditions shall be designed to reduce any probable significant adverse impacts identified in subsection (2) of this section.

(4) The department shall consider the species-specific policies in WAC 222-10-041 and 222-10-042 when reviewing and evaluating SEPA documents and the impacts of forest practices.

(5) The SEPA policies in this section and the specific SEPA policies for threatened and endangered species do not apply to forest practices that are consistent with a wildlife conservation agreement listed in WAC 222-16-080(6) that has received environmental review with an opportunity for public comment under the National Environmental Policy Act, 42 U.S.C. section 4321 et seq., the Endangered Species Act, 16 U.S.C. section 1531 et seq., or the State Environmental Policy Act, chapter 43.21C RCW.

AMENDATORY SECTION (Amending WSR 01-12-042, filed 5/30/01, effective 7/1/01)

WAC 222-10-041 Northern spotted owls. (~~The effective date of this section is July 1, 1996.~~) The following policies shall apply to forest practices subject to SEPA if the forest practices may cause adverse impacts to northern spotted owls.

(1) **In SOSEAs or areas of SOSEAs where the goal is demographic support,** suitable spotted owl habitat should be maintained either to protect the viability of the owl(s) associated with each northern spotted owl site center or to provide demographic support for that particular SOSEA as described in the SOSEA goals.

(2) **In SOSEAs or areas of SOSEAs where the goal is dispersal support,** either suitable spotted owl habitat should be maintained to protect the viability of the owl(s) associated with each northern spotted owl site center or dispersal habitat should be managed, over time, to provide the dispersal support for that particular SOSEA as described in the SOSEA goals. Dispersal support is provided by a landscape which includes dispersal habitat at the stand level interspersed with areas of higher quality habitat. Stands of dispersal habitat should be managed to reduce gaps between stands and to maintain a sufficient level of dispersal habitat to meet the SOSEA goals over time.

(3) **In SOSEAs or areas of SOSEAs where the goal is a combination of dispersal support and demographic support,** either suitable spotted owl habitat should be maintained to protect the viability of the owl(s) associated with each northern spotted owl site center or a variety of habitat conditions should be provided which in total are more than dispersal support and less than demographic support. This can be accomplished by providing:

(a) Dispersal support as described in subsection (2) of this section;

(b) Areas of suitable spotted owl habitat that contain some opportunities for nesting as well as roosting and foraging habitat; and

(c) Connectivity between areas of SOSEAs designated for demographic support or adjacent federal lands which are

designated as late successional reserves, congressionally reserved areas, or administratively withdrawn areas.

(4) **Within SOSEAs**, the following amounts of suitable habitat are generally assumed to be necessary to maintain the viability of the owl(s) associated with each northern spotted owl site center, in the absence of more specific data or a mitigation plan, as provided for in subsections (6) and (7) of this section respectively:

(a) All suitable spotted owl habitat within 0.7 mile of each northern spotted owl site center;

(b) Including the suitable spotted owl habitat identified in (a) of this subsection:

(i) For the Hoh-Clearwater/Coastal Link SOSEA - A total of 5,863 acres of suitable spotted owl habitat within the median home range circle (2.7 mile radius).

(ii) For all other SOSEAs - A total of 2,605 acres of suitable spotted owl habitat within the median home range circle (1.8 mile radius).

The department shall first identify the highest quality suitable spotted owl habitat for this purpose. Consideration shall be given to habitat quality, proximity to the activity center and contiguity in selecting the most suitable habitat. Suitable spotted owl habitat identified outside 0.7 mile of a northern spotted owl site center may support more than one median home range circle.

Suitable spotted owl habitat harvested by a landowner shall continue to be counted as part of the total acres necessary under (b) of this subsection for other landowners within the median home range circle if the harvest is conducted pursuant to agreements or plans approved under subsection (6) of this section or WAC 222-16-080 (1)(h)(iv), (6)(a)(iv), or (f).

(5) **Outside SOSEAs**, during the nesting season (between March 1 and August 31), seventy acres of the highest quality suitable spotted owl habitat surrounding a northern spotted owl site center should be maintained. The seventy acres for one site center shall not be utilized for meeting suitable habitat needs of any other site center.

(6) The assumptions set forth in subsection (4) of this section are based on regional data. Applicants or others may submit information that is more current, accurate, or specific to a northern spotted owl site center, proposal, or SOSEA circumstances or goals. The department shall use such information in making its determinations under this section where the department finds, in consultation with the department of fish and wildlife, that the information is more likely to be valid for the particular circumstances than the assumptions established under subsection (4) of this section. If the department does not use the information, it shall explain its reasons in writing to the applicant.

(7) The department shall consider measures to mitigate identified adverse impacts of an applicant's proposal. Mitigation measures must contribute to the achievement of SOSEA goals or to supporting the viability of impacted northern spotted owl site centers.

PROPOSED



WSR 02-05-042
EXPEDITED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Medical Assistance Administration)
[Filed February 13, 2002, 9:32 a.m.]

Title of Rule: WAC 388-531-0050 Physician-related services definitions.

Purpose: To make editorial corrections to incorrect cross-references in the definitions of "acute care" and "experimental." The cross-reference to WAC 248-27-015 is to a repealed WAC, and should be changed to the current WAC 246-327-0101. The cross-reference to WAC 388-531-0500 is incorrect, and should be WAC 388-531-0550.

Statutory Authority for Adoption: RCW 74.08.090.

Statute Being Implemented: RCW 74.08.090.

Summary: The definition of "acute care" contains an obsolete cross-reference. It currently refers to repealed WAC 246-27-015, and should refer to WAC 246-327-010. The definition of "experimental" in WAC 388-531-0050 contains an erroneous cross-reference. It currently refers to WAC 388-531-0500, but the correct reference is WAC 388-531-0550. This action will correct these errors.

Reasons Supporting Proposal: To correct an erroneous cross-reference so the reader may be referred to the correct site.

Name of Agency Personnel Responsible for Drafting: Ann Myers, 925 Plum Street S.E., Olympia, WA 98501, (360) 725-1345; and Implementation: Gene Profant MD, 623 8th Avenue S.E., Olympia, WA 98501.

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: This action is intended to correct erroneous cross-references. The anticipated effect is to direct the reader to the correct site.

Proposal Changes the Following Existing Rules: It makes the following editorial corrections in WAC 388-531-0050:

- a. The cross-reference in the definition of "acute care" is changed from WAC 246-27-015 to 246-327-010; and
- b. The cross-reference in the definition of "experimental" is changed from WAC 388-531-0500 to 388-531-0550.

These change do not alter the substance or intent of WAC 388-531-0050.

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 Rules Coordinator, Rules

and Policies Assistance Unit, Department of Social and Health Services, P.O. Box 45850, Olympia, WA 98504-5850, fax (360) 664-6185, or by e-mail to fernaax@dshs.wa.gov, AND RECEIVED BY 5:00 p.m., April 22, 2002.

February 6, 2002

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 01-01-012, filed 12/6/00, effective 1/6/01)

WAC 388-531-0050 Physician-related services definitions. The following definitions and abbreviations and those found in WAC 388-500-0005, apply to this chapter. Defined words and phrases are bolded the first time they are used in the text.

"**Acquisition cost**" means the cost of an item excluding shipping, handling, and any applicable taxes.

"**Acute care**" means care provided for clients who are not medically stable. These clients require frequent monitoring by a health care professional in order to maintain their health status (WAC ((248-27-015)) 246-327-010).

"**Acute physical medicine and rehabilitation (PM&R)**" means a comprehensive inpatient and rehabilitative program coordinated by a multidisciplinary team at an MAA-approved rehabilitation facility. The program provides twenty-four hour specialized nursing services and an intense level of specialized therapy (speech, physical, and occupational) for a diagnostic category for which the client shows significant potential for functional improvement (see WAC 388-550-2501).

"**Add-on procedure(s)**" means secondary procedure(s) that are performed in addition to another procedure.

"**Admitting diagnosis**" means the medical condition responsible for a hospital admission, as defined by ICD-9-M diagnostic code.

"**Advanced registered nurse practitioner (ARNP)**" means a registered nurse prepared in a formal educational program to assume an expanded health services provider role in accordance with WAC 246-840-300 and 246-840-305.

"**Aging and adult services administration (AASA)**" means the administration that administers directly or contracts for long-term care services, including but not limited to nursing facility care and home and community services. See WAC 388-15-202.

"**Allowed charges**" means the maximum amount reimbursed for any procedure that is allowed by MAA.

"**Anesthesia technical advisory group (ATAG)**" means an advisory group representing anesthesiologists who are affected by the implementation of the anesthesiology fee schedule.

"**Base anesthesia units (BAU)**" means a number of anesthesia units assigned to a surgical procedure that includes the usual pre-operative, intra-operative, and post-operative visits. This includes the administration of fluids and/or blood incident to the anesthesia care, and interpretation of noninvasive monitoring by the anesthesiologist.

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"Bundled services" means services integral to the major procedure that are included in the fee for the major procedure. Bundled services are not reimbursed separately.

"Bundled supplies" means supplies which are considered to be included in the practice expense RVU of the medical or surgical service of which they are an integral part.

"By report (BR)" means a method of reimbursement in which MAA determines the amount it will pay for a service that is not included in MAA's published fee schedules. MAA may request the provider to submit a "report" describing the nature, extent, time, effort, and/or equipment necessary to deliver the service.

"Call" means a face-to-face encounter between the client and the provider resulting in the provision of services to the client.

"Cast material maximum allowable fee" means a reimbursement amount based on the average cost among suppliers for one roll of cast material.

"Certified registered nurse anesthetist (CRNA)" means an advanced registered nurse practitioner (ARNP) with formal training in anesthesia who meets all state and national criteria for certification. The American Association of Nurse Anesthetists specifies the National Certification and scope of practice.

"Children's health insurance plan (CHIP)," see chapter 388-542 WAC.

"Clinical Laboratory Improvement Amendment (CLIA)" means regulations from the U.S. Department of Health and Human Services that require all laboratory testing sites to have either a CLIA registration or a CLIA certificate of waiver in order to legally perform testing anywhere in the U.S.

"Conversion factors" means dollar amounts MAA uses to calculate the maximum allowable fee for physician-related services.

"Covered service" means a service that is within the scope of the eligible client's medical care program, subject to the limitations in this chapter and other published WAC.

"CPT," see "current procedural terminology."

"Critical care services" means physician services for the care of critically ill or injured clients. A critical illness or injury acutely impairs one or more vital organ systems such that the client's survival is jeopardized. Critical care is given in a critical care area, such as the coronary care unit, intensive care unit, respiratory care unit, or the emergency care facility.

"Current procedural terminology (CPT)" means a systematic listing of descriptive terms and identifying codes for reporting medical services, procedures, and interventions performed by physicians and other practitioners who provide physician-related services. CPT is copyrighted and published annually by the American Medical Association (AMA).

"Diagnosis code" means a set of numeric or alphanumeric characters assigned by the ICD-9-CM, or successor document, as a shorthand symbol to represent the nature of a disease.

"Emergency medical condition(s)" means a medical condition(s) that manifests itself by acute symptoms of sufficient severity so that the absence of immediate medical atten-

tion could reasonably be expected to result in placing the patient's health in serious jeopardy, serious impairment to bodily functions, or serious dysfunction of any bodily organ or part.

"Emergency services" means medical services required by and provided to a patient experiencing an emergency medical condition.

"Estimated acquisition cost (EAC)" means the department's best estimate of the price providers generally and currently pay for drugs and supplies.

"Evaluation and management (E&M) codes" means procedure codes which categorize physician services by type of service, place of service, and patient status.

"Expedited prior authorization" means the process of obtaining authorization that must be used for selected services, in which providers use a set of numeric codes to indicate to MAA which acceptable indications, conditions, diagnoses, and/or criteria are applicable to a particular request for services.

"Experimental" means a term to describe a procedure, or course of treatment, which lacks sufficient scientific evidence of safety and effectiveness. See WAC ((388-531-0500)) 388-531-0550. A service is not "experimental" if the service:

(1) Is generally accepted by the medical profession as effective and appropriate; and

(2) Has been approved by the FDA or other requisite government body, if such approval is required.

"Fee-for-service" means the general payment method MAA uses to reimburse providers for covered medical services provided to medical assistance clients when those services are not covered under MAA's healthy options program or children's health insurance program (CHIP) programs.

"Flat fee" means the maximum allowable fee established by MAA for a service or item that does not have a relative value unit (RVU) or has an RVU that is not appropriate.

"Geographic practice cost index (GPCI)" as defined by Medicare, means a Medicare adjustment factor that includes local geographic area estimates of how hard the provider has to work (work effort), what the practice expenses are, and what malpractice costs are. The GPCI reflects one-fourth the difference between the area average and the national average.

"Global surgery reimbursement," see WAC 388-531-1700.

"HCPCS Level II" means a coding system established by the HCFA to define services and procedures not included in CPT.

"Health Care Financing Administration (HCFA)" means the agency within the federal Department of Health and Human Services (DHHS) with oversight responsibility for the Medicare and Medicaid programs.

"Health Care Financing Administration Common Procedure Coding System (HCPCS)" means the name used for the Health Care Financing Administration codes made up of CPT and HCPCS level II codes.

"Health care team" means a group of health care providers involved in the care of a client.

"Hospice" means a medically directed, interdisciplinary program of palliative services which is provided under arrangement with a Title XVIII Washington licensed and certified Washington state hospice for terminally ill clients and the clients' families.

"ICD-9-CM," see "International Classification of Diseases, 9th Revision, Clinical Modification."

"Informed consent" means that an individual consents to a procedure after the provider who obtained a properly completed consent form has done all of the following:

- (1) Disclosed and discussed the client's diagnosis; and
- (2) Offered the client an opportunity to ask questions about the procedure and to request information in writing; and
- (3) Given the client a copy of the consent form; and
- (4) Communicated effectively using any language interpretation or special communication device necessary per 42 C.F.R. Chapter IV 441.257; and
- (5) Given the client oral information about all of the following:
 - (a) The client's right to not obtain the procedure, including potential risks, benefits, and the consequences of not obtaining the procedure; and
 - (b) Alternatives to the procedure including potential risks, benefits, and consequences; and
 - (c) The procedure itself, including potential risks, benefits, and consequences.

"Inpatient hospital admission" means an acute hospital stay for longer than twenty-four hours when the medical care record shows the need for inpatient care beyond twenty-four hours. All admissions are considered inpatient hospital admissions, and are paid as such, regardless of the length of stay, in the following circumstances:

- (1) The death of a client;
- (2) Obstetrical delivery;
- (3) Initial care of a newborn; or
- (4) Transfer to another acute care facility.

"International Classification of Diseases, 9th Revision, Clinical Modification (ICD-9-CM)" means the systematic listing that transforms verbal descriptions of diseases, injuries, conditions, and procedures into numerical or alphanumeric designations (coding).

"Investigational" means a term to describe a procedure, or course of treatment, which lacks sufficient scientific evidence of benefit for a particular condition. A service is not "investigational" if the service:

- (1) Is generally accepted by the medical professional as effective and appropriate for the condition in question; or
- (2) Is supported by an overall balance of objective scientific evidence, in which the potential risks and potential benefits are examined, demonstrating the proposed service to be of greater overall benefit to the client in the particular circumstance than another, generally available service.

"Life support" means mechanical systems, such as ventilators or heart-lung respirators, which are used to supplement or take the place of the normal autonomic functions of a living person.

"Limitation extension" means a process for requesting and approving reimbursement for covered services whose

proposed quantity, frequency, or intensity exceeds that which MAA routinely reimburses. Limitation extensions require prior authorization.

"Maximum allowable fee" means the maximum dollar amount that MAA will reimburse a provider for specific services, supplies, and equipment.

"Medically necessary," see WAC 388-500-0005.

"Medicare Physician Fee Schedule Data Base (MPFSDB)" means the official HCFA publication of the Medicare policies and RVUs for the RBRVS reimbursement program.

"Medicare Program Fee Schedule for Physician Services (MPFSPS)" means the official HCFA publication of the Medicare fees for physician services.

"Medicare Clinical Diagnostic Laboratory Fee Schedule" means the fee schedule used by Medicare to reimburse for clinical diagnostic laboratory procedures in the state of Washington.

"Mentally incompetent" means a client who has been declared mentally incompetent by a federal, state, or local court.

"Modifier" means a two-digit alphabetic and/or numeric identifier that is added to the procedure code to indicate the type of service performed. The modifier provides the means by which the reporting physician can describe or indicate that a performed service or procedure has been altered by some specific circumstance but not changed in its definition or code. The modifier can affect payment or be used for information only. Modifiers are listed in fee schedules.

"Outpatient" means a client who is receiving medical services in other than an inpatient hospital setting.

"Peer-reviewed medical literature" means medical literature published in professional journals that submit articles for review by experts who are not part of the editorial staff. It does not include publications or supplements to publications primarily intended as marketing material for pharmaceutical, medical supplies, medical devices, health service providers, or insurance carriers.

"Physician care plan" means a written plan of medically necessary treatment that is established by and periodically reviewed and signed by a physician. The plan describes the medically necessary services to be provided by a home health agency, a hospice agency, or a nursing facility.

"Physician standby" means physician attendance without direct face-to-face client contact and which does not involve provision of care or services.

"Physician's current procedural terminology," see "CPT, current procedural terminology."

"PM&R," see acute physical medicine and rehabilitation.

"Podiatric service" means the diagnosis and medical, surgical, mechanical, manipulative, and electrical treatments of ailments of the foot and ankle.

"Pound indicator (#)" means a symbol (#) indicating a CPT procedure code listed in MAA fee schedules that is not routinely covered.

"Preventive" means medical practices that include counseling, anticipatory guidance, risk factor reduction inter-

ventions, and the ordering of appropriate laboratory and diagnostic procedures intended to help a client avoid or reduce the risk or incidence of illness or injury.

"Prior authorization" means a process by which clients or providers must request and receive MAA approval for certain medical services, equipment, or supplies, based on medical necessity, before the services are provided to clients, as a precondition for provider reimbursement. Expedited prior authorization and limitation extension are forms of prior authorization.

"Professional component" means the part of a procedure or service that relies on the provider's professional skill or training, or the part of that reimbursement that recognizes the provider's cognitive skill.

"Prognosis" means the probable outcome of a client's illness, including the likelihood of improvement or deterioration in the severity of the illness, the likelihood for recurrence, and the client's probable life span as a result of the illness.

"Prolonged services" means face-to-face client services furnished by a provider, either in the inpatient or outpatient setting, which involve time beyond what is usual for such services. The time counted toward payment for prolonged E&M services includes only face-to-face contact between the provider and the client, even if the service was not continuous.

"Provider," see WAC 388-500-0005.

"Radioallergosorbent test" or "RAST" means a blood test for specific allergies.

"RBRVS," see resource based relative value scale.

"RVU," see relative value unit.

"Reimbursement" means payment to a provider or other MAA-approved entity who bills according to the provisions in WAC 388-502-0100.

"Reimbursement steering committee (RSC)" means an interagency work group that establishes and maintains RBRVS physician fee schedules and other payment and purchasing systems utilized by the health care authority, MAA, and department of labor and industries.

"Relative value guide (RVG)" means a system used by the American Society of Anesthesiologists for determining base anesthesia units (BAUs).

"Relative value unit (RVU)" means a unit which is based on the resources required to perform an individual service or intervention.

"Resource based relative value scale (RBRVS)" means a scale that measures the relative value of a medical service or intervention, based on the amount of physician resources involved.

"RBRVS RVU" means a measure of the resources required to perform an individual service or intervention. It is set by Medicare based on three components - physician work, practice cost, and malpractice expense. Practice cost varies depending on the place of service.

"RSC RVU" means a unit established by the RSC for a procedure that does not have an established RBRVS RVU or has an RBRVS RVU deemed by the RSC as not appropriate for the service.

"Stat laboratory charges" means charges by a laboratory for performing tests immediately. "Stat" is an abbreviation for the Latin word "statim," meaning immediately.

"State unique procedure codes" means procedure codes established by the RSC to define services or procedures not contained in CPT or HCPCS level II.

"Sterile tray" means a tray containing instruments and supplies needed for certain surgical procedures normally done in an office setting. For reimbursement purposes, tray components are considered by HCFA to be nonroutine and reimbursed separately.

"Technical advisory group (TAG)" means an advisory group with representatives from professional organizations whose members are affected by implementation of RBRVS physician fee schedules and other payment and purchasing systems utilized by the health care authority, MAA, and department of labor and industries.

"Technical component" means the part of a procedure or service that relates to the equipment set-up and technician's time, or the part of the procedure and service reimbursement that recognizes the equipment cost and technician time.

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

WSR 02-05-077

EXPEDITED RULES

DEPARTMENT OF

LABOR AND INDUSTRIES

[Filed February 20, 2002, 9:24 a.m.]

Title of Rule: Miscellaneous minor and technical amendments; chapter 296-24 WAC, General safety and health standards; chapter 296-32 WAC, Safety standards for telecommunications; chapter 296-62 WAC, General occupational health standards; chapter 296-79 WAC, Safety standards for pulp, paper, and paperboard mills and converters; chapter 296-155 WAC, Safety standards for construction; chapter 296-305 WAC, Safety standards for firefighting; and chapter 296-307 WAC, Safety standards for agriculture.

Purpose: Miscellaneous Minor and Technical Changes - In 1996, OSHA completed a line-by-line review of its standards in C.F.R. 29. As a result, OSHA made housekeeping corrections, deleted redundant information, and clarified and reorganized various other provisions. These changes made it necessary for the state to review affected sections in its safety and health rules. Chapter 296-24 WAC, General safety and health standards; chapter 296-32 WAC, Safety standards for telecommunications; chapter 296-62 WAC, General occupational health standards; chapter 296-79 WAC, Safety standards for pulp, paper, and paperboard mills and converters; chapter 296-155 WAC, Safety standards for construction; chapter 296-305 WAC, Safety standards for firefighters; and chapter 296-307 WAC, Safety standards for agriculture are being amended to make them at-least-as-effective-as OSHA requirements.

Chapter 296-24 WAC, General safety and health standards:

WAC 296-24-012 (20)(l), Definitions applicable to all sections of this chapter.

- Corrected a typo.

WAC 296-24-14001(2), Color code—Marking physical hazards—Scope.

- Deleted an obsolete date.

WAC 296-24-23003(1), Handling and storage—Cranes, derricks, etc.—General requirements.

- Added OSHA mandated national consensus standard.

WAC 296-24-51009 (7)(f), Storage and handling of anhydrous ammonia—Basic rules.

- Added OSHA mandated national consensus standard.

WAC 296-24-51011(1), Systems utilizing stationary, pier-mounted or skid-mounted aboveground or underground, non-refrigerated storage.

- Corrected a reference.

WAC 296-24-51015 (1)(a), Storage and handling of anhydrous ammonia—Systems utilizing portable DOT containers.

- Updated national consensus standard to the latest revision.

WAC 296-24-60205 (3)(c) and (4), Fire suppression equipment—Equipment.

- Deleted obsolete dates.

WAC 296-24-63499 Fire suppression equipment—Appendix D—Availability of publications incorporated by references in WAC 296-24-58505—Fire brigades.

- Updated a phone number.

Chapter 296-24 WAC, PART H-2—Safe practices of abrasive blasting operations, ventilation.

- Reworded the title of PART H-2.

WAC 296-24-67513(1), Abrasive blasting operations—Construction and maintenance of the exhaust ventilation systems.

- Corrected a typo on the identification of a national consensus standard.

WAC 296-24-67515(3), Note—Personal protective equipment.

- Deleted the note.

Chapter 296-32 WAC, Safety standards for telecommunications:

WAC 296-32-250(2), Tools and personal protective equipment—General.

- Updated a national consensus standard reference.

WAC 296-32-280(3), Ladders.

- Deleted an obsolete date.

Chapter 296-62 WAC, General occupational health standards:

WAC 296-62-07302(2), List of carcinogens.

- Corrected a reference.

WAC 296-62-07304(4), Carcinogens—Definitions.

- Changed the definition of a "closed system" to be at least-as-effective-as OSHA's requirements.

WAC 296-62-07312, Carcinogens—Reports.

- Deleted obsolete dates and changed an address.

WAC 296-62-07314 (3)(b), Medical surveillance—Records.

- Eliminated a redundancy.

WAC 296-62-07421(7), Housekeeping.

- Corrected a reference.

WAC 296-62-07501 (3)(c), Airborne contaminants.

- Corrected a reference.

WAC 296-62-07527(3), Appendix B substance technical guidelines—Benzene.

- Corrected a typo.

WAC 296-62-07540 (7)(b)(i), Formaldehyde—Respirator program.

- Corrected a reference.

WAC 296-62-14105, Definitions—"Entry permit (permit)."

- Corrected a reference.

WAC 296-62-14110 (7)(d), General requirements.

- Corrected a reference.

WAC 296-62-14155(1), Employee participation.

- Corrected a reference.

WAC 296-62-14171, Appendix A—Permit-required confined space decision flow chart.

- Corrected several references.

Chapter 296-79 WAC, Safety standards for pulp, paper, and paperboard mills and converters:

WAC 296-79-140 (6)(a), Installation, inspection, and maintenance of pipes, piping systems, and hoses.

- Made the referenced national consensus standard a requirement rather than a recommendation, as mandated by OSHA.

Chapter 296-155 WAC, Safety standards for construction:

WAC 296-155-24525, Appendix B to Part C-1—Fall restraint and fall arrest (employer information only).

- Deleted a reference.

WAC 296-155-441(2), Applicability.

- Corrected a reference.

WAC 296-155-525 (6)(a) and (10)(l), Cranes and derricks.

- Corrected a typo and a reference.

WAC 296-155-530(4), Cranes, derricks, hoists, elevators, and conveyors—Material hoists, personnel hoists, and elevators.

- Changed the wording in this section to match the wording in WAC 296-79-080(1).

WAC 296-155-66405, Appendix C—Timber shoring for trenches.

- Corrected a typo.

WAC 296-155-66411, Appendix F—Selection of protective systems.

- Corrected a reference.

WAC 296-155-960 [(1)](d), Rollover protective structures and overhead protection—Protective frame (ROPS) test procedures and performance requirements for wheel-type agricultural and industrial tractors used in construction.

- Changed incorrect subdivision "(ii)" to "(d)."

Chapter 296-305 WAC, Safety standards for firefighters:

WAC 296-305-04001 (7)(b) and (e) and (8), Respiratory equipment protection.

- Corrected a reference.

WAC 296-305-05003(2), Confined space rescue operations.

- Corrected a reference.

Chapter 296-307 WAC, Safety standards for agriculture:

WAC 296-307-039, First-aid rule summary.

- Corrected a typo.

WAC 296-307-08009, Rollover protective structures (ROPS) for tractors—What requirements apply to the testing and performance of ROPS used on agricultural tractors?

- Corrected a reference to OSHA.

Statutory Authority for Adoption: RCW 49.17.010, [49.17].040, [49.17].050.

Statute Being Implemented: Chapter 49.17 RCW.

Summary: See Purpose above.

Reasons Supporting Proposal: See Purpose above.

Name of Agency Personnel Responsible for Drafting: Tracy Spencer, Tumwater, (360) 902-5530; Implementation and Enforcement: Michael A. Silverstein, Tumwater, (360) 902-5495.

Name of Proponent: Department of Labor and Industries, governmental.

Rule is necessary because of federal law, 29 C.F.R. Parts 1910, 1926, and 1928. Miscellaneous Minor and Technical Amendments. Federal Register, Vol. 61, Number 46, March 7, 1996.

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

Proposal Changes the Following Existing Rules: National consensus standards have been added or updated to make the state safety and health rules identical to the Occupational Safety and Health Administration (OSHA) rules, and housekeeping changes were made as well.

NOTICE

THIS RULE IS BEING PROPOSED UNDER 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 THE USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Christine Swanson, Department of Labor and Industries, P.O. Box 44001, Olympia, WA 98504-4001, fax (360) 902-4202 (ten pages or less), AND RECEIVED BY 5:00 p.m., April 22, 2002.

February 20, 2002

Gary Moore

Director

AMENDATORY SECTION (Amending Order 94-07, filed 7/20/94, effective 9/20/94)

WAC 296-24-012 Definitions applicable to all sections of this chapter.

Note: Meaning of words. Unless the context indicates otherwise, words used in this chapter shall have the meaning given in this section.

(1) "Approved" means approved by the director of the department of labor and industries or his/her authorized representative: Provided, however, That should a provision of this chapter state that approval by an agency or organization other than the department of labor and industries is required, such as Underwriters' Laboratories or the Mine Safety and Health Administration (MSHA) and the National Institute for Occupational Safety and Health (NIOSH), the provisions of WAC 296-24-006 shall apply.

(2) "Authorized person" means a person approved or assigned by the employer to perform a specific type of duty or duties or to be at a specific location or locations at the job site.

(3) "Competent person" means one who is capable of identifying existing and predictable hazards in the surroundings or working conditions which are unsanitary, hazardous, or dangerous to employees, and who has authorization to take prompt corrective action to eliminate them.

(4) "Department" means the department of labor and industries.

(5) "Director" means the director of the department of labor and industries, or his/her designated representative.

(6) "Employer" means any person, firm, corporation, partnership, business trust, legal representative, or other business entity which engages in any business, industry, profession, or activity in this state and employs one or more employees or who contracts with one or more persons, the

essence of which is the personal labor of such person or persons and includes the state, counties, cities, and all municipal corporations, public corporations, political subdivisions of the state, and charitable organizations: Provided, That any person, partnership, or business entity not having employees, and who is covered by the industrial insurance act shall be considered both an employer and an employee.

(7) "First-aid" means, for purposes of this section, the extent of treatment that could be expected to be given by a person trained in basic first-aid, using supplies from a first-aid kit. Tests, such as x-rays, shall not be confused with treatment.

(8) "Hazard" means that condition, potential or inherent, which can cause injury, death, or occupational disease.

(9) "Hospitalization" means to be sent to; to go to; or be admitted to a hospital or an equivalent medical facility and receive medical treatment beyond that which would be considered as first-aid treatment, regardless of the length of stay in the hospital or medical facility.

(10) "Qualified" means one who, by possession of a recognized degree, certificate, or professional standing, or who by extensive knowledge, training, and experience, has successfully demonstrated the ability to solve or resolve problems relating to the subject matter, the work, or the project.

(11) "Safety factor" means the ratio of the ultimate breaking strength of a member or piece of material or equipment to the actual working stress or safe load when in use.

(12) "Safety and health standard" means a standard which requires the adoption or use of one or more practices, means, methods, operations, or processes reasonably necessary or appropriate to provide safe or healthful employment and places of employment.

(13) "Shall" means mandatory.

(14) "Should" means recommended.

(15) "Standard safeguard" means a device designed and constructed with the object of removing the hazard of accident incidental to the machine, appliance, tool, building, or equipment to which it is attached.

Standard safeguards shall be constructed of either metal or wood or other suitable material or a combination of these. The final determination of the sufficiency of any safeguard rests with the director of the department of labor and industries.

(16) "Suitable" means that which fits, or has the qualities or qualifications to meet a given purpose, occasion, condition, function, or circumstance.

(17) "Working day" means a calendar day, except Saturdays, Sundays, and legal holidays as set forth in RCW 1.16.050, as now or hereafter amended, and for the purposes of the computation of time within which an act is to be done under the provisions of this chapter, shall be computed by excluding the first working day and including the last working day.

(18) "Worker," "personnel," "person," "employee," and other terms of like meaning, unless the context of the provision containing such term indicates otherwise, mean an employee of an employer who is employed in the business of his/her employer whether by way of manual labor or otherwise and every person in this state who is engaged in the employment of or who is working under an independent con-

tract the essence of which is his/her personal labor for an employer whether by manual labor or otherwise.

(19) "Work place" means any plant, yard, premises, room, or other place where an employee or employees are employed for the performance of labor or service over which the employer has the right of access or control, and includes, but is not limited to, all work places covered by industrial insurance under Title 51 RCW, as now or hereafter amended.

(20) Abbreviations used in this chapter:

(a) "ANSI" means American National Standards Institute.

(b) "API" means American Petroleum Institute.

(c) "ASA" means American Standards Association.

(d) "ASAE" means American Society of Agricultural Engineers.

(e) "ASHRE" means American Society of Heating and Refrigeration Engineers.

(f) "ASME" means American Society for Mechanical Engineers.

(g) "ASTM" means American Society for Testing and Materials.

(h) "AWS" means American Welding Society.

(i) "BTU" means British thermal unit.

(j) "BTUH" means British thermal unit per hour.

(k) "CFM" means cubic feet per minute.

(l) "CFR" means Code of Federal (~~Register~~) Regulations.

(m) "CGA" means Compressed Gas Association.

(n) "CIE" means Commission Internationale de l'Eclairage.

(o) "DOT" means department of transportation.

(p) "FRP" means fiberglass reinforced plastic.

(q) "GPM" means gallons per minute.

(r) "ICC" means Interstate Commerce Commission.

(s) "ID" means inside diameter.

(t) "LPG" means liquefied petroleum gas.

(u) "MCA" means Manufacturing Chemist Association. (New name: Chemical Manufacturers Association.)

(v) "NBFU" means National Board of Fire Underwriters.

(w) "NEMA" means National Electrical Manufacturing Association.

(x) "NFPA" means National Fire Protection Association.

(y) "NTP" means normal temperature and pressure.

(z) "OD" means outside diameter.

(aa) "PSI" means pounds per square inch.

(bb) "PSIA" means pounds per square inch atmospheric.

(cc) "PSIG" means pounds per square inch gauge.

(dd) "RMA" means Rubber Manufacturers Association.

(ee) "SAE" means Society of Automotive Engineers.

(ff) "TFI" means The Fertilizer Institute.

(gg) "TSC" means Trailer Standard Code.

(hh) "UL" means Underwriters' Laboratories, Inc.

(ii) "USASI" means United States of America Standards Institute.

(jj) "USC" means United States Code.

(kk) "USCG" means United States Coast Guard.

(ll) "WAC" means Washington Administrative Code.

(mm) "WISHA" means Washington Industrial Safety and Health Act of 1973.

AMENDATORY SECTION (Amending Order 76-6, filed 3/1/76)

WAC 296-24-14001 Scope. (1) These specifications apply to the design, application, and use of signs or symbols (as included in WAC 296-24-14005 through 296-24-14009) intended to indicate and, insofar as possible, to define specific hazards of a nature such that failure to designate them may lead to accidental injury to workers. These specifications are intended to cover all safety signs except those designed for streets, highways, railroads, and marine regulations. These specifications do not apply to plant bulletin boards or to safety posters.

(2) All new ~~((signs))~~ and replacement~~((s of old))~~ signs ~~((after August 27, 1971 shall be in accordance with))~~ must meet the criteria contained in these specifications.

AMENDATORY SECTION (Amending WSR 00-01-176, filed 12/21/99, effective 3/1/00)

WAC 296-24-23003 General requirements. These requirements ~~((are applicable))~~ apply to all sections of this chapter containing ~~((the))~~ WAC 296-24-230 in the section number.

(1) This section contains safety requirements relating to fire protection design, maintenance, and use of:

- Fork trucks,
- Forklifts,
- Tractors,
- Platform lift trucks,
- Motorized hand trucks, and
- Other specialized industrial trucks, powered by electric motors or internal combustion engines.

This section does not apply to:

- Compressed air or nonflammable compressed gas-operated industrial trucks,
- Farm vehicles, and
- Vehicles intended primarily for earth moving or over-the-road hauling.

(2) All powered industrial trucks in use by an employer must meet the ~~((applicable))~~ specified requirements of design, construction and stability as defined by the "American National Standards Institute B56.1-1969, Safety Standards for Powered Industrial Trucks," or ASME B56.6-1992, "Safety Standard for Rough Terrain Forklift Trucks" (with Addenda), except for vehicles intended primarily for earth moving or over-the-road hauling. All new powered industrial trucks acquired and used by an employer on or after March 1, 2000, must meet the ~~((applicable))~~ specified requirements of design, construction and stability as defined in ASME B56.1-1993 or B56.6. The employer must ~~((ensure))~~ make sure that all powered industrial trucks are inspected, maintained and operated in accordance with this section and the manufacturer's ~~((recommendations and specifics))~~ specifications.

(3) Approved trucks must bear a label or some other identifying mark indicating approval by the testing laboratory as meeting the specifications and requirements of ANSI B56.1-1969.

(4) Modifications and additions which affect capacity and safe operation must not be performed without manufac-

turer's prior written approval. When the manufacturer has granted modification, the capacity, operation and maintenance instruction plates, tags or decals must be changed accordingly.

(5) If the truck is equipped with front-end attachment(s), including fork extensions, the employer must ensure the truck is marked to identify the attachment(s), show the approximate weight of the truck and attachment combination, and show the maximum capacity of the truck with attachment(s) at the maximum elevation with load laterally centered.

(6) The employer must see that all nameplates and markings are in place and are maintained in a legible condition.

AMENDATORY SECTION (Amending WSR 99-10-071, filed 5/4/99, effective 9/1/99)

WAC 296-24-51009 Basic rules. This section applies to all sections of this chapter which include WAC 296-24-510 in the section number unless otherwise noted.

(1) Approval of equipment and systems. Each appurtenance shall be approved in accordance with (a), (b), (c), and (d) of this subsection.

(a) It was installed before February 8, 1973 and was approved and tested, and installed in accordance with either the provisions of the American National Standard for the Storage and Handling of Anhydrous Ammonia, K61.1, or the Fertilizer Institute Standards for the Storage and Handling of Agricultural Anhydrous Ammonia, M-1, in effect at the time of installation; or

(b) It is accepted, or certified, or listed, or labeled, or otherwise determined to be safe by a nationally recognized testing laboratory; or

(c) It is a type which no nationally recognized testing laboratory does, or will undertake to accept, certify, list, label, or determine to be safe; and such equipment is inspected or tested by any federal, state, municipal, or other local authority responsible for enforcing occupational safety provisions of a federal, state, municipal or other local law, code, or regulation pertaining to the storage, handling, transport, and use of anhydrous ammonia, and found to be in compliance with either the provisions of the American National Standard for the Storage and Handling of Anhydrous Ammonia, K61.1, or the Fertilizer Institute Standards for the Storage and Handling of Agricultural Anhydrous Ammonia, M-1, in effect at the time of installation; or

(d) It is a custom-designed and custom-built unit, which no nationally recognized testing laboratory, or federal, state, municipal or local authority responsible for the enforcement of a federal, state, municipal, or local law, code or regulation pertaining to the storage, transportation and use of anhydrous ammonia is willing to undertake to accept, certify, list, label or determine to be safe, and the employer has on file a document attesting to its safe condition following the conduct of appropriate tests. The document shall be signed by a registered professional engineer or other person having special training or experience sufficient to permit him/her to form an opinion as to safety of the unit involved. The document shall set forth the test bases, test data and results, and also the qualifications of the certifying person.

(e) For the purposes of this section the word "listed" means that equipment is of a kind mentioned in a list which is published by a nationally recognized laboratory which makes periodic inspection of the production of such equipment, and states such equipment meets nationally recognized standards or has been tested and found safe for use in a specified manner. "Labeled" means there is attached to it a label, symbol, or other identifying mark of a nationally recognized testing laboratory which makes periodic inspections of the production of such equipment, and whose labeling indicates compliance with nationally recognized standards or tests to determine safe use in a specified manner. "Certified" means it has been tested and found by a nationally recognized testing laboratory to meet nationally recognized standards or to be safe for use in a specified manner, or is of a kind whose production is periodically inspected by a nationally recognized testing laboratory, and it bears a label, tag, or other record of certification.

(f) For purposes of this section, refer to federal regulation 29 CFR 1910.7 for definition of nationally recognized testing laboratory.

(2) Requirements for construction, original test and requalification of not-refrigerated containers.

(a) Containers used with systems covered in WAC 296-24-51011 and 296-24-51017 through 296-24-51021 shall be constructed and tested in accordance with the code except that construction under Table UW - 12 at a basic joint efficiency of under eighty percent is not authorized.

Containers built according to the code do not have to comply with paragraphs UG-125 to UG-128, inclusive, and paragraphs UG-132 and UG-133 of the code.

(b) Containers exceeding thirty-six inches in diameter or two hundred fifty gallons water capacity shall be constructed to comply with one or more of the following:

(i) Containers shall be stress relieved after fabrication in accordance with the code, or

(ii) Cold-formed heads, when used, shall be stress relieved, or

(iii) Hot-formed heads shall be used.

(c) Welding to the shell, head, or any other part of the container subject to internal pressure shall be done in compliance with WAC 296-24-51005(5). Other welding is permitted only on saddle plates, lugs, or brackets attached to the container by the container manufacturer.

(d) Containers used with systems covered by subsection (3)(b)(iv) of this section shall be constructed and tested in accordance with the DOT specifications.

(e) The provisions of (a) of this subsection shall not be construed as prohibiting the continued use or reinstallation of containers constructed and maintained in accordance with the 1949, 1950, 1952, 1956, 1959, 1962, 1965 and 1968 editions of the Unfired Pressure Vessel Code of the ASME or any revisions thereof in effect at the time of fabrication.

(3) Markings on nonrefrigerated containers and systems other than DOT containers.

(a) System nameplates, when required, shall be permanently attached to the system so as to be readily accessible for inspection and shall include markings as prescribed in (b) of this subsection.

(b) Each container or system covered in WAC 296-24-51011, 296-24-51017, 296-24-51019 and 296-24-51021 shall be marked as specified in the following:

(i) With a marking identifying compliance with the rules of the code under which the container is constructed.

(ii) With a notation on the container and system nameplate when the system is designed for underground installation.

(iii) With the name and address of the supplier of the container or the trade name of the container and with the date of fabrication.

(iv) With the water capacity of the container in pounds at 60°F or gallons, United States standard.

(v) With the design pressure in pounds per square inch gage.

(vi) With the wall thickness of the shell and heads.

(vii) With marking indicating the maximum level to which the container may be filled with liquid anhydrous ammonia at temperatures between 20°F and 100°F except on containers provided with fixed maximum level indicators, such as fixed length dip tubes, or containers that are filled by weight. Markings shall be in increments of not more than 20°F.

(viii) With the outside surface area in square feet.

(ix) With minimum temperature in Fahrenheit for which the container is designed.

(x) Marking specified on container shall be on the container itself or on a nameplate permanently affixed thereto.

(c) All main operating valves on permanently installed containers having a capacity of over three thousand water gallons shall be identified to show whether the valve is in liquid or vapor service. The recommended method of identification may be legend or color code as specified in (c)(i) and (ii) of this subsection:

(i) Legend: The legend **liquid** (or **liquid valve**), **vapor** (or **vapor valve**), as appropriate, shall be placed on or within twelve inches of the valve by means of a stencil tag, or decal.

(ii) Color code: Liquid valves shall be painted orange and vapor valves shall be painted yellow. The legend **orange-liquid**, **yellow-vapor** shall be displayed in one or more conspicuous places at each permanent storage location. The legend shall have letters at least two inches high and shall be placed against a contrasting background. This is in accordance with American National Standard A13.1 "Schemes for Identification of Piping Systems"—1956, Page 5.

(4) Marking refrigerated containers. (See WAC 296-24-51013(3). Marking refrigerated containers.)

(5) Location of containers.

(a) Consideration shall be given to the physiological effects of ammonia as well as to adjacent fire hazards in selecting the location for a storage container. Containers shall be located outside of buildings or in buildings or sections thereof especially approved for this purpose.

(b) Containers shall be located at least fifty feet from a dug well or other sources of potable water supply, unless the container is a part of a water treatment installation.

(c) The location of permanent storage containers shall be outside densely populated areas.

(d) Container locations shall comply with the following table:

Nominal Capacity of Container		Minimum Distances (feet) from Container to:		
		Line of Adjoining Property Which may be Built upon, Highways & Mainline of Railroad	Place of Public Assembly	Institution Occupancy
Over 500 to 2,000		25	150	250
Over 2,000 to 30,000		50	300	500
Over 30,000 to 100,000		50	450	750
	Over 100,000	50	600	1,000

(e) Storage areas shall be kept free of readily ignitable materials such as waste, weeds and long dry grass.

(6) Container appurtenances.

(a) All appurtenances shall be designed for not less than the maximum working pressure of that portion of the system on which they are installed. All appurtenances shall be fabricated from materials proved suitable for anhydrous ammonia service.

(b) All connections to containers except safety relief devices, gaging devices, or those fitted with a No. 54 drill size orifice shall have shutoff valves located as close to the container as practicable.

(c) Excess flow valves where required by these standards shall close automatically at the rated flows of vapor or liquid as specified by the manufacturer. The connections and line including valves and fittings being protected by an excess flow valve shall have a greater capacity than the rated flow of the excess flow valve.

(d) Liquid level gaging devices that require bleeding of the product to the atmosphere and which are so constructed that outward flow will not exceed that passed by a No. 54 drill size opening need not be equipped with excess flow valves.

(e) Openings from container or through fittings attached directly on container to which pressure gage connections are made need not be equipped with excess flow valves if such openings are not larger than No. 54 drill size.

(f) Excess flow and back pressure check valves where required by these standards shall be located inside of the container or at a point outside as close as practicable to where the line enters the container. In the latter case, installation shall be made in such manner that any undue stress beyond the excess flow or back pressure check valve will not cause breakage between the container and the valve.

(g) Excess flow valves shall be designed with a bypass, not to exceed a No. 60 drill size opening to allow equalization of pressures.

(h) Shutoff valves provided with an excess flow valve shall be designed for proper installation in a container connection so that the excess flow valve will close should the shutoff valve break.

(i) All excess flow valves shall be plainly and permanently marked with the name or trademark of the manufacturer, the catalog number, and the rated capacity.

(7) Piping, tubing and fittings.

(a) All piping, tubing and fittings shall be made of material suitable for anhydrous ammonia service.

(b) All piping, tubing and fittings shall be designed for a pressure not less than the maximum pressure to which they may be subjected in service.

(c) All piping shall be well supported and provision shall be made for expansion and contraction. All refrigeration system piping shall conform to the Refrigeration Piping Code (ANSI B31.5 1966 addenda B31.1a-1968), a section of the American Standard Code for Pressure Piping, as it applies to ammonia.

(d) Piping used on nonrefrigerated systems shall be at least ASTM A-53-1969 Grade B Electric Resistance Welded and Electric Flash Welded Pipe or equal. Such pipe shall be at least Schedule 40 when joints are welded, or welded and flanged. Such pipe shall be at least Schedule 80 when joints are threaded. Brass, copper, or galvanized steel pipe or tubing shall not be used.

(e) All metal flexible connections for permanent installations shall have a minimum working pressure of 250 p.s.i.g. (safety factor of 4). For temporary installations, hose meeting the requirement of subsection (8) of this section may be used.

(f) ~~Cast iron fittings ((shall not be used but this shall not prohibit the use of fittings made specially for ammonia service of malleable or nodular iron such as Specification ASTM A47 or ASTM A395)) must not be used, but this does not prohibit the use of fittings made specifically for ammonia service, made of malleable, nodular, or high-strength gray iron, meeting American Society for Testing and Materials (ASTM) A47-68, ASTM 395-68, or ASTM A126-66 Class B or C.~~

(g) Provisions shall be made for expansion, contraction, jarring, vibration, and for settling.

(h) Adequate provisions shall be made to protect all exposed piping from physical damage that might result from moving machinery, the presence of automobiles or trucks, or any other undue strain that may be placed upon the piping.

(i) Joint compounds shall be resistant to ammonia.

(j) After assembly, all piping and tubing shall be tested and proved to be free from leaks at a pressure not less than the normal operating pressure of the system.

(8) Hose specification.

(a) Hose used in ammonia service and subject to container pressure shall conform to the joint Rubber Manufacturers Association and the Fertilizer Institute "Hose Specifications for Anhydrous Ammonia" (see Appendix B).

(b) Hose subject to container pressure shall be designed for a minimum working pressure of 350 p.s.i.g. and a minimum burst pressure of 1750 p.s.i.g. Hose assemblies, when made up, shall be capable of withstanding a test pressure of 500 p.s.i.g.

(c) Hose and hose connections located on the low pressure side of flow control or pressure reducing valves on devices discharging to atmospheric pressure shall be designed for the maximum low side working pressure. All connections shall be designed, constructed, and installed so that there will be no leakage when connected.

(d) Where liquid transfer hose is not drained of liquid upon completion of transfer operations, such hose shall be equipped with an approved shutoff valve at the discharge

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end. Provision shall be made to prevent excessive hydrostatic pressure in the hose. (See subsection (9)(j) of this section.)

(e) On all hose one-half inch O.D. and larger, used for the transfer of anhydrous ammonia liquid or vapor, there shall be etched, cast, or impressed at five-foot intervals the following information:

"Anhydrous Ammonia"
xxx p.s.i.g. (Maximum working pressure)
Manufacturer's Name or Trademark
Year of Manufacture

(9) Safety relief devices.

(a) Every container used in systems covered by WAC 296-24-51011, 296-24-51017, 296-24-51019 and 296-24-51021 shall be provided with one or more safety relief valves of the spring-loaded or equivalent type. The discharge from safety relief valves shall be vented away from the container, upward and unobstructed to the atmosphere. All safety relief valve discharge openings shall have suitable raincaps that will allow free discharge of the vapor and prevent the entrance of water. Provision shall be made for draining condensate which may accumulate. The rate of the discharge shall be in accordance with the provisions of Appendix A.

(b) Container safety relief valves shall be set to start-to-discharge as follows, with relations to the design pressure of the container.

Containers	Minimum	Maximum*
ASME U-68, U-69	110%	125%
ASME U-200, U-201	95%	100%
ASME 1952, 1956, 1959, 1962, 1965, 1968 or 1971	95%	100%
API-ASME	95%	100%
U.S. Coast Guard (As required by USCG regulations)		
DOT (As required by DOT regulations)		

*Note: A relief valve manufacturer's tolerance of plus ten percent is permitted.

(c) Safety relief devices used in systems covered by WAC 296-24-51011, 296-24-51017, 296-24-51019 and 296-24-51021 shall be constructed to discharge at not less than the rates required in (a) of this subsection before the pressure is in excess of one hundred twenty percent (not including the ten percent tolerance referred to in (b) of this subsection) of the maximum permitted start-to-discharge pressure setting of the device.

(d) Safety relief valves shall be so arranged that the possibility of tampering will be minimized. If the pressure setting adjustment is external, the relief valves shall be provided with means for sealing the adjustment.

(e) Shutoff valves shall not be installed between the safety relief valves and the containers or systems described in WAC 296-24-51011, 296-24-51017, 296-24-51019 and 296-24-51021, except that a shutoff valve may be used where the arrangement of this valve is such as always to afford required capacity flow through the relief valves.

Note: The above exception is made to cover such cases as a three-way valve installed under two safety relief valves, each of which has the required rate of discharge and is so installed as to allow either of the safety relief valves to be closed off, but does not allow both safety valves to be closed off at the same time. Another exception to this may be where two separate relief valves are installed with individual shutoff valves. In this case, the two shutoff valve stems shall be mechanically interconnected in a manner which will allow full required flow of one safety relief valve at all times. Still another exception is a safety relief valve manifold which allows one valve of two, three, four or more to be closed off and the remaining valve or valves will provide not less than the rate of discharge shown on the manifold nameplate.

(f) Safety relief valves shall have direct communication with the vapor space of the container.

(g) Each safety relief valve used with systems described in WAC 296-24-51011, 296-24-51017, 296-24-51019 and 296-24-51021 shall be plainly and permanently marked as follows:

- (i) With the letters "AA" or the symbol "NH3."
- (ii) The pressure in pounds per square inch gage (p.s.i.g.) at which the valve is set to start-to-discharge.
- (iii) The rate of discharge of the valve in cubic feet per minute of air at 60°F and atmospheric pressure (14.7 p.s.i.a.).
- (iv) The manufacturer's name and catalog number.

For example, a safety relief valve marked AA-250-4200 (air) would mean that this valve is suitable for use on an anhydrous ammonia container; that it is set to start-to-discharge at 250 p.s.i.g.; and that its rate of discharge (see subsection (8)(a) through (c) of this section) is four thousand two hundred cubic feet per minute of air.

(h) The flow capacity of the safety relief valve shall not be restricted by any connection to it on either the upstream or downstream side.

(i) The manufacturer or supplier of a safety relief valve manifold shall publish complete data showing the flow rating through the combined assembly of the manifold with safety relief valves installed. The manifold flow rating shall be determined by testing the manifold with all but one valve discharging. If one or more openings have restrictions not present in the remaining openings, the restricted opening or openings or those having the lowest flow shall be used to establish the flow rate marked on the manifold nameplate. The marking shall be similar to that required in (g) of this subsection for individual valves.

(j) A hydrostatic relief valve shall be installed between each pair of valves in the liquid ammonia piping or hose where liquid may be trapped so as to relieve into the atmosphere at a safe location.

(k) Discharge from safety relief devices shall not terminate in or beneath any building.

(10) Safety. See CGA Pamphlet G-2, TFI Operational Safety Manual M-2 and MCA Safety Data Sheet SD-8 (see Appendix C for availability).

(a) Personnel required to handle ammonia shall be trained in safe operating practices and the proper action to take in the event of emergencies. Personnel shall be instructed to use the equipment listed in (c) of this subsection in the event of an emergency. (Rev. 1-22-76)

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(b) If a leak occurs in an ammonia system, the personnel trained for and designated to act in such emergencies shall:

(i) See that persons not required to deal with an emergency are evacuated from the contaminated area.

(ii) Put on a suitable gas mask.

(iii) Wear gauntlet type plastic or rubber gloves and wear plastic or rubber suits in heavily contaminated atmospheres.

(iv) Shut off the appropriate valves.

(c) All stationary storage installations shall have at least:

(i) Two suitable gas masks in readily accessible locations. Full face masks with ammonia canisters as certified by NIOSH under 42 CFR Part 84, are suitable for emergency action for most leaks, particularly those that occur outdoors. For protection in concentrated ammonia atmospheres self-contained breathing apparatus is required.

(ii) One pair of protective gloves made of rubber or other material impervious to ammonia.

(iii) One pair of protective boots made of rubber or other material impervious to ammonia.

(iv) One protective slicker and/or protective pants and jacket made of rubber or other material impervious to ammonia.

(v) Easily accessible shower and/or at least fifty gallons of clean water in an open top container.

(vi) Tight fitting vented goggles or one full face shield.

(d) Where several persons are usually present, additional safety equipment may be desirable.

(e) Each tank motor vehicle transporting anhydrous ammonia, except farm applicator vehicles, shall carry a container of at least five gallons of water and shall be equipped with a full face gas mask, a pair of tight-fitting goggles or one full face shield. The driver shall be instructed in their use and the proper action to take to provide for his/her safety.

(f) If a leak occurs in transportation equipment and it is not practical to stop the leak, the driver should move the vehicle to an isolated location away from populated communities or heavily traveled highways.

(g) If liquid ammonia contacts the skin or eyes, the affected area should be promptly and thoroughly flushed with water. Do not use neutralizing solutions or ointments on affected areas. A physician shall treat all cases of eye exposure to liquid ammonia.

(11) Filling densities. (See WAC 296-24-51005(9).)

(a) The filling densities for nonrefrigerated containers shall not exceed the following:

	Aboveground	Underground
(i) Uninsulated	56%*	58%
(ii) Insulated	57%	
(iii) DOT containers shall be filled in accordance with DOT regulations.		

* This corresponds to 82% by volume at -28°F, 85% by volume at 5°F, 87.5% by volume at 30°F, and 90.6% by volume at 60°F.

(b) The filling density for refrigerated storage tanks temperature corresponding to the vapor pressure at the start-to-discharge pressure setting of the safety relief valve.

(c) If containers are to be filled according to liquid level by any gaging method other than a fixed length dip tube gage, each container should have a thermometer well so that the

internal liquid temperature can be easily determined and the amount of liquid and vapor in the container corrected to a 60°F basis.

(12) Transfer of liquids.

(a) Anhydrous ammonia shall always be at a temperature suitable for the material of construction and design of the receiving containers. Ordinary steels are not suitable for refrigerated ammonia. See Appendix R of API Standard 620 "Recommended Rules for Design and Construction of Large Welded Low-Pressure Storage Tanks" for materials for low temperature service.

(b) At least one attendant shall supervise the transfer of liquids from the time the connections are first made until they are finally disconnected.

(c) Flammable gases or gases which will react with ammonia (such as air) shall not be used to unload tank cars or transport trucks.

(d) Containers shall be charged or used only upon authorization of the owner.

(e) Containers shall be gaged and charged only in the open atmosphere or in buildings approved for that purpose.

(f) Pumps used for transferring ammonia shall be recommended and labeled for ammonia service by the manufacturer.

(i) Pumps shall be designed for at least 250 p.s.i.g. working pressure.

(ii) Positive displacement pumps shall have installed, off the discharge port, a constant differential relief valve discharging into the suction port of the pump through a line of sufficient size to carry the full capacity of the pump at relief valve setting, which setting and installation shall be according to pump manufacturer's recommendations.

(iii) On the discharge side of the pump, before the relief valve line, there shall be installed a pressure gage graduated from 0 to 400 p.s.i.g.

(iv) Plant piping shall contain shutoff valves located as close as practical to pump connections.

(g) Compressors used for transferring or refrigerating ammonia shall be recommended and labeled for ammonia service by the manufacturer.

(i) Compressors, except those used for refrigeration, shall be designed for at least 250 p.s.i.g. working pressure. Crank cases of compressors not designed to withstand system pressure shall be protected with a suitable safety relief valve.

(ii) Plant piping shall contain shutoff valves located as close as practical to compressor connections.

(iii) A safety relief valve large enough to discharge the full capacity of the compressor shall be connected to the discharge before any shutoff valve.

(iv) Compressors shall have pressure gages at suction and discharge graduated to at least one and one-half times the maximum pressure that can be developed.

(v) Adequate means, such as drainable liquid trap, may be provided on the compressor suction to minimize the entry of liquid into the compressor.

(vi) Where necessary to prevent contamination, an oil separator shall be provided on the discharge side of the compressor.

EXPEDITED

(h) Loading and unloading systems shall be protected by suitable devices to prevent emptying of the storage container or the container being loaded or unloaded in the event of severance of the hose. Backflow check valves or properly sized excess flow valves shall be installed where necessary to provide such protection. In the event that such valves are not practical, remotely operated shutoff valves may be installed.

(i) Meters used for the measurement of liquid anhydrous ammonia shall be recommended and labeled for ammonia service by the manufacturer.

(i) Liquid meters shall be designed for a minimum working pressure of 250 p.s.i.g.

(ii) The metering system shall incorporate devices that will prevent the inadvertent measurement of vapor.

(13) Tank car unloading points and operations.

(a) Provisions for unloading tank cars shall conform to the regulations of the department of transportation.

(b) Unloading operations shall be performed by reliable persons properly instructed and made responsible for careful compliance with all applicable procedures.

(c) Caution signs shall be so placed on the track or car as to give necessary warning to persons approaching car from open end or ends of siding and shall be left up until after car is unloaded and disconnected from discharge connections. Signs shall be of metal or other suitable material, at least twelve by fifteen inches in size and bear the words "STOP—Tank car connected" or "STOP—Men at work" the word "STOP," being in letters at least four inches high and the other words in letters at least two inches high. The letters shall be white on a blue background.

(d) The track of a tank car siding shall be substantially level.

(e) Brakes shall be set and wheels blocked on all cars being unloaded.

(f) Tank cars of anhydrous ammonia shall be unloaded only at approved locations meeting the requirements of subsections (9)(c) and (12)(h) of this section.

(14) Liquid level gaging device.

(a) Each container except those filled by weight shall be equipped with an approved liquid level gaging device.

(b) All gaging devices shall be arranged so that the maximum liquid level to which the container is filled is readily determined. (See subsection (4)(b)(vii) of this section.)

(c) Gaging devices that require bleeding of the product to the atmosphere such as the rotary tube, fixed tube, and slip tube devices, shall be designed so that the maximum opening of the bleed valve is not larger than No. 54 drill size unless provided with an excess flow valve. (This requirement does not apply to farm vehicles used for the application of ammonia as covered in WAC 296-24-51021.)

(d) Gaging devices shall have a design pressure equal to or greater than the design pressure of the container on which they are installed.

(e) Fixed liquid level gages shall be so designed that the maximum volume of the container filled by liquid shall not exceed eighty-five percent of its water capacity. The coupling into which the fixed liquid level gage is threaded must be placed at the eighty-five percent level of the container. If located elsewhere, the dip tube of this gage must be installed in such a manner that it cannot be readily removed.

Note: This does not apply to refrigerated storage.

(f) Gage glasses of the columnar type shall be restricted to stationary storage installation. They shall be equipped with shutoff valves having metallic handwheels, with excess-flow valves, and with extra heavy glass adequately protected with a metal housing applied by the gage manufacturer. They shall be shielded against the direct rays of the sun.

(15) Painting of containers. Aboveground uninsulated containers should have a reflective surface maintained in good condition. White is recommended for painted surfaces, but other light reflecting colors are acceptable.

(16) Electrical equipment and wiring.

(a) Electrical equipment and wiring for use in ammonia installations shall be general purpose or weather resistant as appropriate.

(b) Where concentrations of ammonia in air in excess of sixteen percent by volume are likely to be encountered, electrical equipment and wiring shall be of a type specified by and be installed according to chapter 296-24 WAC Part L, for Class I, Group D locations.

AMENDATORY SECTION (Amending Order 76-6, filed 3/1/76)

WAC 296-24-51011 Systems utilizing stationary, pier-mounted or skid-mounted aboveground or underground, nonrefrigerated storage. This section applies to stationary, pier-mounted, skid-mounted, aboveground or underground, nonrefrigerated storage installations utilizing containers other than those constructed in accordance with department of transportation specifications. All basic rules of WAC 296-24-51009 apply to this section unless otherwise noted.

(1) Design pressure and construction of containers. The minimum design pressure for nonrefrigerated aboveground containers ~~((shall))~~ must be 250 psig. (See WAC 296-24-51009 (2)(a)((~~+~~)).)

Note: U-68 and U-69 ASME Code containers with a design pressure of 200 psig are acceptable if recertified to 250 psig and equipped with safety relief valves set at 250 psig as permitted in WAC 296-24-51009 (9)(b).

(2) Container valves and accessories, filling and discharging connections.

(a) Each filling connection shall be provided with combination back-pressure check valve and excess flow valve; one double or two single back-pressure check valves; or a positive shutoff valve in conjunction with either an internal back-pressure check valve or an internal excess flow valve.

(b) All vapor and liquid connections, except safety relief valves and those specifically exempt in WAC 296-24-51009 (6)(d) and (e) shall be equipped with approved excess flow valves; or in lieu thereof, may be fitted with approved quick-closing internal valves which, except during operating periods, shall remain closed.

(c) Each storage container shall be provided with a pressure gage graduated from 0 to 400 psig. Gages shall be designed for use in ammonia service.

(d) All containers shall be equipped with an approved vapor return valve.

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(e) All containers shall be equipped with a fixed maximum liquid level gage.

(3) Safety relief devices.

(a) Every container shall be provided with one or more safety relief valves of spring-loaded or equivalent type and shall comply with the following:

(i) The discharge from safety relief valves shall be directed away from the container upward and unobstructed to the open air. Vent pipes shall not be restrictive or smaller in size than the safety relief outlet connection. All safety relief valve discharges shall have suitable rain caps that will allow free discharge of the vapor and prevent the entrance of water. Suitable provision shall be made for draining condensate which may accumulate.

(ii) If desired, vent pipes from two or more safety relief devices located on the same unit, or similar lines from two or more different units, may be run into a common header, provided the cross-sectional area of such header is at least equal to the sum of the cross-sectional areas of the individual vent pipes.

(b) The rate of discharge of spring-loaded safety relief valves installed on underground containers may be reduced to a minimum of 30 percent of the rate of discharge specified in Appendix A. Containers so protected shall not be uncovered after installation until the liquid ammonia has been removed. Containers which may contain liquid ammonia before being installed underground and before being completely covered with earth are to be considered aboveground containers when determining the rate of discharge requirements of the safety relief valves.

(c) On underground installations where there is a probability of the manhole or housing becoming flooded, the discharge from vent lines shall be located above the high water level. All manholes or housings shall be provided with ventilated louvres or their equivalent, the area of such openings equaling or exceeding combined discharge areas of safety relief valves and vent lines which discharge their content into the manhole housing.

(4) Installation of storage containers.

(a) Containers installed aboveground shall be provided with substantial reinforced concrete footings and foundations or structural steel supports mounted on reinforced concrete foundations. In either case, the reinforced concrete foundations or footings shall extend below the established frost line and shall be of sufficient width and thickness to support the total weight of the containers and contents adequately. The foundation shall maintain the lowest point of the tank at not less than 18 inches above the ground. Floating type foundations shall also be acceptable providing the foundations are designed to adequately support the tank, contents and pumping equipment. (See WAC 296-24-51009(7).)

(b) Horizontal aboveground containers shall be mounted on foundations in such a manner as to permit expansion and contraction. Every container shall be supported so as to prevent the concentration of excessive loads on the supporting portion of the shell. The bearing afforded by the saddles shall extend over at least one third of the circumference of the shell. Suitable means for preventing corrosion shall be provided on that portion of the container in contact with the foundations or saddles.

(c) Containers buried underground shall be placed so that the top of the container is at least one foot below the surface of the ground. Should ground conditions make compliance with these requirements impracticable, precautions shall be taken to prevent physical damage to the container. It is not necessary to cover the portion of the container to which a manhole and other connections are affixed when necessary to prevent floating, containers shall be securely anchored or weighted.

(d) Underground containers shall be set on firm foundations (firm earth may be used) and surrounded with soft earth or sand well tamped in place. As a further means of resisting corrosion, the container, prior to being placed underground, shall be given a protective coating satisfactory to the authority having jurisdiction. Such protective coating shall be equivalent to hot dip galvanizing, or to two preliminary coatings of red lead followed by a heavy coating of coal tar or asphalt. The container thus coated shall be lowered into place in such a manner as to prevent abrasion or other damage to the coating.

(e) Distance between aboveground and underground containers of over 1,200 gallons capacity shall be at least five feet.

(f) Secure anchorage or adequate pier height shall be provided against container flotation wherever sufficiently high flood water might occur.

(5) Reinstallation of containers.

(a) Containers once installed underground shall not later be reinstalled aboveground or underground, unless they successfully withstand hydrostatic pressure retests at the pressure specified for the original hydrostatic test as required by the code under which the tank was constructed and show no evidence of serious corrosion.

(b) Where containers are reinstalled underground, the corrosion resistant coating shall be put in good condition; see WAC 296-24-51011 (4)(d). Where containers are reinstalled aboveground, safety relief devices or gaging devices shall comply with WAC 296-24-51009(9) and 296-24-51011(3) respectively for aboveground containers.

(6) Marking of containers. Each container or group of containers shall be marked on at least two sides with the words "anhydrous ammonia" or "caution—ammonia" in sharply contrasting colors with letters not less than four inches high.

(7) Protection of container appurtenances.

(a) Valves and other appurtenances shall be protected against physical damage. Main container shut-off valves shall be kept closed and locked when the installation is unattended. If the facility is protected against tampering by fencing or other suitable means, valve locks are not required.

(b) All connections to underground containers should be located within a substantial dome, housing or manhole fitted with a substantial removable cover. Appurtenances shall also be protected during the transit of containers intended for installation underground.

(c) Storage containers need not be grounded.

(8) Identification. A sign shall be displayed in a conspicuous place stating the name, address, and phone number of the nearest representative, agent, or owner of the storage system.

AMENDATORY SECTION (Amending Order 73-5, filed 5/9/73 and Order 73-4, filed 5/7/73)

WAC 296-24-51015 Systems utilizing portable DOT containers. This section applies specifically to systems utilizing cylinders, portable tanks (DOT-51), or "ton containers" (DOT-106A, DOT-110A), constructed in accordance with department of transportation specifications. All basic rules of WAC 296-24-51009 apply to this section, unless otherwise noted.

(1) Containers.

(a) Containers shall comply with department of transportation specifications and shall be maintained, filled, packaged, marked, labeled and shipped to comply with current DOT regulations and American National Standard Method of Marking Portable Compressed Gas Containers to Identify the Material Contained, Z48.1-1954 (R1970). (See Appendix C for availability.)

(b) Containers shall be stored in an area free from ignitable debris and in such manner as to prevent external corrosion. (Storage may be indoors or outdoors.)

(c) Containers shall not be buried below ground.

(d) Containers shall be set upon firm foundations or otherwise firmly secured. The possible effect of settling on the outlet piping shall be guarded against by a flexible connection or special fitting.

(e) Containers shall be protected from heat sources such as radiant flame and steam pipes. Do not apply heat directly to containers to raise the pressure.

(f) Containers shall be stored in such manner as to protect them from moving vehicles or external damage.

(g) Any container which is designed to have a valve protection cap shall have the cap securely in place when the container is not in service.

(2) Container valves and regulating equipment.

(a) Container valves and pressure regulating equipment shall be protected against tampering when installed for use.

(b) Container valves shall be protected while in transit, in storage, and while being moved into final utilizations, as follows:

(i) By setting them into a recess of the container, or

(ii) By ventilated cap or collar, fastened to the container, capable of withstanding a blow from any direction equivalent to that of a 30-lb. weight dropped four feet. Construction must be such that a blow will not be transmitted to the valves or other connections.

(c) When containers are not connected for service, the outlet valves shall be kept tightly closed even though containers are considered empty.

(3) Safety relief devices. Containers shall be provided with safety relief devices as required by department of transportation regulations.

AMENDATORY SECTION (Amending Order 81-32, filed 12/24/81)

WAC 296-24-60205 Equipment. (1) Reels and cabinets. Where reels or cabinets are provided to contain fire hose, the employer shall assure that they are designed to facilitate prompt use of the hose valves, the hose, and other

equipment at the time of a fire or other emergency. The employer shall assure that the reels and cabinets are conspicuously identified and used only for fire equipment.

(2) Hose outlets and connections.

(a) The employer shall assure that hose outlets and connections are located high enough above the floor to avoid being obstructed and to be accessible to employees.

(b) The employer shall standardize screw threads or provide appropriate adapters throughout the system and assure that the hose connections are compatible with those used on the supporting fire equipment.

(3) Hose.

(a) The employer shall assure that every one and one-half inch (3.8 cm) or smaller hose outlet used to meet this standard is equipped with hose connected and ready for use. In extremely cold climates where such installation may result in damaged equipment, the hose may be stored in another location provided it is readily available and can be connected when needed.

(b) Standpipe systems installed after July 1, 1982, for use by employees, shall be equipped with lined hose. Unlined hose may remain in use on existing systems. However, after the effective date of this standard, unlined hose which becomes unserviceable shall be replaced with lined hose.

(c) ~~((Beginning July 1, 1982, the employer shall provide hose of such length that friction loss resulting from water flowing through the hose will not decrease the pressure at the nozzle below 30 psi (210 kPa). The dynamic pressure at the nozzle shall be within the range of 30 psi (210 kPa) to 125 psi (860 kPa).))~~ Employers must provide hose of sufficient length so that friction, resulting from water flowing through the hose, does not decrease the pressure at the nozzle below 30 psi (210 kPa). The dynamic pressure at the nozzle must be within the range of 30 psi (210 kPa) to 125 psi (860 kPa).

(4) Nozzles. ~~((Beginning July 1, 1982, the employer shall assure))~~ Employers must make sure that standpipe hoses ~~((is))~~ are equipped with shut-off type nozzles.

AMENDATORY SECTION (Amending Order 94-07, filed 7/20/94, effective 9/20/94)

WAC 296-24-63499 Appendix D—Availability of publications incorporated by references in WAC 296-24-58505—Fire brigades. The final standard for fire brigades, WAC 296-24-585, contains provisions which incorporate certain publications by reference. The publications provide criteria and test methods for protective clothing worn by those fire brigade members who are expected to perform interior structural fire fighting. The standard references the publications as the chief sources of information for determining if the protective clothing affords the required level of protection.

It is appropriate to note that the final standard does not require employers to purchase a copy of the referenced publications. Instead, employers can specify (in purchase orders to the manufacturers) that the protective clothing meet the criteria and test methods contained in the referenced publications and can rely on the manufacturers assurances of compli-

ance. Employers, however, may desire to obtain a copy of the referenced publications for their own information.

The section designation of the standard where the referenced publications appear, the title of the publications, and the availability of the publications are as follows:

Section Designation	Referenced Publication	Available From
WAC 296-24-58513 (3)(b)	"Protective Clothing for Structural Fire Fighting." NFPA	National Fire Protection Association, Batterymarch Park, Quincy, MA 02269-9101.
WAC 296-24-58513 (4)(a)	"Development of Criteria for Fire Fighter's Gloves; Vol. II, Part II: Test Methods"(1976)	U.S. Government Printing Office, Washington, D.C. 20401. Stock No. for Vol. II is: 071-033-021-1.
WAC 296-24-58513 (5)(a)	"Model Performance Criteria for Structural Fire fighter's Helmets" (1977)	U.S. Fire Administration, National Fire Safety and Research Office, 16825 South Seton Avenue, Emmitsburg, Maryland 21727.

The referenced publications (or a microfiche of the publications) are available for review at many universities and public libraries throughout the country. These publications may also be examined at the OSHA Technical Data Center, Room N2439-Rear, United States Department of Labor, 200 Constitution Avenue Northwest, Washington, D.C. 20210 ((202-523-9700)) (202-219-7500), or at any OSHA Regional Office (see telephone directories under United States Government-Labor Department).

PART H-2

SAFE PRACTICES ((OF ABRASIVE BLASTING OPERATIONS, VENTILATION)) AND VENTILATION OF ABRASIVE BLASTING OPERATIONS

Abrasive Blasting Operations

AMENDATORY SECTION (Amending WSR 98-02-006, filed 12/26/97, effective 3/1/98)

WAC 296-24-67513 Construction and maintenance of the exhaust ventilation systems. (1) The construction, installation, inspection, and maintenance of exhaust systems must conform to the principles and requirements set forth in American National Standard Fundamentals Governing the Design and Operation of Local Exhaust Systems, ((29-2-1960)) Z9.2-1960 and ANSI Z33.1-1961.

Note: See the latest versions of ANSI Z9.2 and ANSI Z33.1 for current information on the installation, inspection and maintenance of exhaust systems.

- (2) When dust leaks are noted, repairs must be made.
- (3) The static pressure drop at the exhaust ducts leading from the equipment must be checked when the installation is completed and periodically thereafter to assure continued satisfactory operation.

(4) Whenever an appreciable change in the pressure drop indicates a partial blockage, the system must be cleaned and returned to normal operating conditions.

(5) In installations where the abrasive is recirculated, an abrasive separator must be provided to remove fines from the spent abrasives.

(6) The air exhausted from blast cleaning equipment must be discharged through dust collecting equipment.

(7) Dust collectors must be set up so that the accumulated dust can be emptied and removed without contaminating other working areas.

Note: Disposal of waste. The fine dust from dry collectors should be emptied into and transported in enclosed containers to prevent dispersal of the fines, or discharged into a sluice with some method to assure wetting of the dust.

AMENDATORY SECTION (Amending WSR 01-11-038, filed 5/9/01, effective 9/1/01)

WAC 296-24-67515 Personal protective equipment.

(1) Employers must use only respirators certified by NIOSH under 42 CFR part 84 for protecting employees from dusts produced during abrasive-blasting operations.

(2) Abrasive-blasting respirators. Abrasive-blasting respirators must be worn by all abrasive-blasting operators in the following situations: (a) When working inside of blast cleaning rooms, or (b) when using silica sand in manual blasting operations except where the nozzle and blast are physically separated from the operator in an exhaust ventilated enclosure, or (c) where concentrations of toxic dusts dispersed by the abrasive blasting may exceed the limits set in chapter 296-62 WAC, Part E except where the nozzle and blast are physically separated from the operator in an exhaust-ventilated enclosure.

(3) Particulate-filter respirators.

(a) Properly fitted particulate-filter respirators, commonly referred to as dust-filter respirators, may be used for short, intermittent, or occasional dust exposures such as clean-up, dumping of dust collectors, or unloading shipments of sand at a receiving point when it is not feasible to control the dust by enclosure, exhaust ventilation, or other means.

(b) Dust-filter respirators may also be used to protect the operator of outside (outdoor) abrasive-blasting operations where nonsilica abrasives are used on materials having low toxicity.

((Note: ~~The selection of a dust filter respirator depends on the amount of dust in the breathing zone of the user. See WAC 296-62-07113 Table S.~~))

(c) Dust-filter respirators used must be certified by NIOSH under 42 CFR part 84 for protection against the specific type of dust encountered.

(d) Dust-filter respirators must be properly fitted as required in chapter 296-62 WAC, Part E.

(e) Dust-filter respirators must not be used for continuous protection where silica sand is used as the blasting abrasive, or when toxic materials are blasted.

(4) A respiratory protection program as required in chapter 296-62 WAC, Part E must be established wherever it is necessary to use respirators.

(5) Personal protective clothing.

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(a) Operators must be equipped with heavy canvas or leather gloves and aprons or equivalent protection to protect them from the impact of abrasives.

(b) Safety shoes must be worn where there is a hazard of foot injury.

(c) Equipment for protection of the eyes and face must be supplied to the operator and to other personnel working near abrasive blasting operations when the respirator design does not provide such protection.

(6) Personal protective clothing, equipment and their use must comply with WAC 296-800-160.

AMENDATORY SECTION (Amending WSR 01-23-060, filed 11/20/01, effective 12/1/01)

WAC 296-32-250 Tools and personal protective equipment—General. (1) Personal protective equipment, protective devices and special tools needed for the work of employees shall be provided and the employer shall ensure that they are used by employees.

(a) Before each day's use the employer shall ensure that these personal protective devices, tools, and equipment are carefully inspected by a competent person to ascertain that they are in good condition.

(b) Tools found to be defective shall be taken out of service.

(2) Head protection. (~~Class B protective helmets shall be provided whenever there is exposure to overhead hazards and/or possible high voltage electrical contact.~~

~~(a) Employees working in areas where there is a possible danger of head injury from impact, falling or flying objects, shall be protected by protective helmets.~~

~~(b) Criteria for protective helmets:~~

~~(i) Protective helmets purchased after February 20, 1995, shall comply with ANSI Z89.1 1986, "American National Standard for Personnel Protection—Protective Headwear for Industrial Workers—Requirements," which is incorporated by reference, or shall be demonstrated to be equally effective.~~

~~(ii) Protective helmets purchased before February 20, 1995, shall comply with the ANSI standard "American National Standard Safety Requirements for Industrial Head Protection," ANSI Z89.1 1969, or shall be demonstrated by the employer to be equally effective.)~~ Head protection meeting the requirements of ANSI Z89.2-1971, "Safety Requirements for Industrial Protective Helmets for Electrical Workers, Class B", must be provided whenever there is possible exposure to high voltage electrical contact. Employers must make sure that employees use the head protection.

(3) Eye protection. Protective eye and face equipment shall be required where there is a possibility of injury that can be prevented by such equipment. In such cases, employers shall make conveniently available a type of protector suitable for the work to be performed, and employees shall use such protectors.

Note: See WAC 296-800-160 for additional personal protective equipment requirements.

(4) Tent heaters, torches and open flame. Open flames shall not be used within ground tents or on platforms within aerial tents unless:

(a) The tent covers are constructed of fire resistant materials, and

(b) Ventilation is provided to maintain safe oxygen levels and avoid harmful buildup of combustion products and combustible gases.

(5) Portable power equipment.

(a) All portable power equipment used in the telecommunications industry shall be grounded.

(b) Nominal 120V, or less, portable generators used for providing power at work locations do not require grounding if the output circuit is completely isolated from the frame of the unit.

(c) Grounding shall be omitted when using soldering irons, guns or wire-wrap tools on telecommunication circuits.

(6) Vehicle-mounted utility generators. Vehicle-mounted utility generators used for providing nominal 240V AC or less for powering portable tools and equipment need not be grounded to earth if all of the following conditions are met:

(a) One side of the voltage source is solidly strapped to the metallic structure of the vehicle;

(b) Grounding-type outlets are used, with a "grounding" conductor between the outlet grounding terminal and the side of the voltage source that is strapped to the vehicle;

(c) All metallic encased tools and equipment that are powered from this system are equipped with three-wire cords and grounding-type attachment plugs, except as designated in subsection (7) of this section.

(7) Portable lights, tools and appliances. When operated from commercial power such metal parts of these devices shall be grounded, unless these tools or appliances are protected by a system of double insulation, or its equivalent. Where such a system is employed, the equipment shall be distinctively marked to indicate double insulation.

(8) Lead work. When operated from commercial power the metal housing of electric solder pots shall be grounded. Electric solder pots may be used with the power equipment described in this subsection, without a grounding conductor.

The employer shall ensure that wiping gloves or cloths and eye protection are used in lead wiping operations. A drip pan to catch hot lead drippings shall also be provided and used.

(9) Fire extinguishers.

(a) Fire extinguishers shall be provided for the protection of both the building structure and the occupancy hazards contained therein.

(b) Employees shall be familiar with the location and operation of fire extinguishers.

(c) Any fire extinguishers showing defects shall be removed from service.

(d) Fire extinguishers shall be thoroughly examined and/or recharged or repaired to insure operability and safety once every year.

(e) Each fire extinguisher shall have a durable tag securely attached to show the maintenance or recharge date and the initials or signature of the person performing this service.

Note: For additional requirements relating to portable fire extinguishers see WAC 296-800-300.

AMENDATORY SECTION (Amending Order 94-07, filed 7/20/94, effective 9/20/94)

WAC 296-32-280 Ladders. (1) The employer shall ensure that no employee nor any material or equipment shall be supported or permitted to be supported on any portion of a ladder unless it is first determined, by inspections and checks conducted by a competent person that such ladder is free of defects, in good condition and secured in place.

(2) The spacing between steps or rungs permanently installed on poles and towers shall be no more than 18 inches (36 inches on any one side). This requirement also applies to fixed ladders on towers, when towers are so equipped. Spacing between steps shall be uniform above the initial unstepped section, except where working, standing, or access steps are required. Fixed ladder rungs and step rungs for poles and towers shall have a minimum diameter of 5/8 inch. Fixed ladder rungs shall have a minimum clear width of 12 inches. Steps for poles and towers shall have a minimum clear width of 4-1/2 inches. The spacing between detachable steps may not exceed 30 inches on any one side, and these steps shall be secured when in use.

(3) (~~(After October 31, 1975,)~~) Portable wood ladders intended for general use (~~(shall)~~) must not be painted, but may be coated with a translucent nonconductive coating. Portable wood ladders (~~(shall)~~) must not be longitudinally reinforced with metal.

(4) Portable wood ladders that are not being carried on vehicles and are not in active use shall be stored where they will not be exposed to the elements and where there is good ventilation.

(5) Rolling ladders.

(a) Rolling ladders used in telecommunication centers shall have a width between the side rails, inside to inside, of at least 12 inches.

(b) Except in working spaces that are not a means of egress, the ladders shall have a minimum inside width, between the side rails, of at least eight inches.

(6) Climbing ladders or stairways on scaffolds used for access and egress shall be affixed or built into the scaffold by proper design and engineering, and shall be so located that their use will not disturb the stability of the scaffold. The rungs of the climbing device shall be equally spaced, but may not be less than 12 inches nominal nor more than 16 inches nominal apart. Horizontal end rungs used for platform support may also be utilized as a climbing device if such rungs meet the spacing requirement of this subsection, and if clearance between the rung and the edge of the platform is sufficient to afford a secure handhold. If a portable ladder is affixed to the scaffold, it shall be securely attached and shall have rungs meeting the spacing requirements of this subsection. Clearance shall be provided in the back of the ladder of not less than 6 inches from center of rung to the nearest scaffold structural member.

(7) When a ladder is supported by an aerial strand, and ladder hooks or other supports are not being used, the ladder shall be extended at least 2 feet above the strand and shall be secured to it (e.g. lashed or held by a safety strap around the strand and ladder side rail). When a ladder is supported by a pole, it shall be securely lashed to the pole unless the ladder

is specifically designed to prevent movement when used in this application.

(8) Portable wood straight ladders, when in use, shall be equipped with safety shoes.

(9) Ladders shall be inspected by a competent person prior to each use. Ladders which have developed defects shall be withdrawn from service for repair or destruction and tagged or marked as "dangerous do not use."

AMENDATORY SECTION (Amending Order 94-07, filed 7/20/94, effective 9/20/94)

WAC 296-62-07302 List of carcinogens. (1) The following substances are deemed to be carcinogens for the purposes of WAC 296-62-073 through 296-62-07316.

(2) Any reference to carcinogens in WAC 296-62-07304 through 296-62-07316 shall mean only those carcinogens listed in WAC 296-62-07302.

(a) 4-Nitrobiphenyl - Chemical Abstracts Service Registry Number 92-93-3.

(b) Alpha-Naphthylamine - Chemical Abstracts Service Registry Number 134-32-7.

(c) 4,4' Methylene bis (2 - chloroaniline) - Chemical Abstracts Service Registry Number 101-14-4.

(d) Methyl chloromethyl ether - Chemical Abstracts Service Registry Number 107-30-2.

(e) 3,3'-Dichlorobenzidine (and its salts) - Chemical Abstracts Service Registry Number 91-94-1.

(f) Bis-Chloromethyl ether - Chemical Abstracts Service Registry Number 542-88-1.

(g) Beta-Naphthylamine - Chemical Abstracts Service Registry Number 91-59-8.

(h) Benzidine - Chemical Abstracts Service Registry Number 92-87-5.

(i) 4-Aminodiphenyl - Chemical Abstracts Service Registry Number 92-67-1.

(j) Ethyleneimine - Chemical Abstracts Service Registry Number 151-56-4.

(k) Beta-Propiolactone - Chemical Abstracts Service Registry Number 57-57-8.

(l) 2-Acetylaminofluorene - Chemical Abstracts Service Registry Number 53-96-3.

(m) 4-Dimethylaminoazobenzene - Chemical Abstracts Service Registry Number 60-11-7.

(n) N-Nitrosodimethylamine - Chemical Abstracts Service Registry Number 62-75-9.

AMENDATORY SECTION (Amending Order 87-24, filed 11/30/87)

WAC 296-62-07304 Definitions. The definitions set forth in this section apply throughout WAC 296-62-073 through 296-62-07316.

(1) Absolute filter - is one capable of retaining 99.97 percent of a mono disperse aerosol of 0.3 micron size particles.

(2) Authorized employee - an employee whose duties require him to be in the regulated area and who has been specifically assigned to those duties by the employer.

(3) Clean change room - a room where employees put on clean clothing and/or protective equipment in an environ-

ment free of carcinogens listed in WAC 296-62-07302. The clean change room shall be contiguous to and have an entry from a shower room, when the shower room facilities are otherwise required in this section.

(4) Closed system - an operation involving carcinogens listed in WAC 296-62-07302 where containment prevents the release of carcinogens (~~into regulated areas, or the external environment~~).

(5) Decontamination - the inactivation of a carcinogen listed in WAC 296-62-07302 or its safe disposal.

(6) Disposal - the safe removal of a carcinogen listed in WAC 296-62-07302 from the work environment.

(7) Emergency - an unforeseen circumstance or set of circumstances resulting in the release of a carcinogen which may result in exposure to or contact with any carcinogen listed in WAC 296-62-07302.

(8) External environment - any environment external to regulated and nonregulated areas.

(9) Isolated system - a fully enclosed structure other than the vessel of containment of a listed carcinogen which is impervious to the passage of listed carcinogens and which would prevent the entry of carcinogens into regulated areas, nonregulated areas, or the external environment, should leakage or spillage from the vessel of containment occur.

(10) Laboratory-type hood - a device enclosed on three sides and the top and bottom, designed and maintained so as to draw air inward at an average linear face velocity of 150 feet per minute with a minimum of 125 feet per minute, designed, constructed and maintained such that an operation involving a listed carcinogen within the hood does not require the insertion of any portion of any employees' body other than his hands and arms.

(11) Nonregulated area - any area under the control of the employer where entry and exit is neither restricted nor controlled.

(12) Open-vessel system - an operation involving listed carcinogens in an open vessel, which is not in an isolated system, a laboratory-type hood, nor in any other system affording equivalent protection against the entry of carcinogens into regulated areas, nonregulated areas, or the external environment.

(13) Protective clothing - clothing designed to protect an employee against contact with or exposure to listed carcinogens.

(14) Regulated area - an area where entry and exit is restricted and controlled.

AMENDATORY SECTION (Amending Order 81-4, filed 3/17/81)

WAC 296-62-07312 Reports. (1) Operations. Not later than October 30, 1974, the information required in WAC 296-62-07312 (1)(a), (b), (c) and (d) of this section (~~shall~~) must be reported in writing to the (~~industrial hygiene section, division of industrial safety and health. Any changes in such information shall be similarly~~) Department of Labor and Industries, WISHA Services Division, Policy and Technical Services, P.O. Box 44610, Olympia, WA 98504-4610. Any changes in the information must also be reported in writing within 15 calendar days of ((such)) the change.

(a) A brief description and in plant location of the area(s) regulated and the address of each regulated area;

(b) The name(s) and other identifying information as to the presence of listed carcinogens in each regulated area;

(c) The number of employees in each regulated area, during normal operations including maintenance activities; and

(d) The manner in which a carcinogen is present in each regulated area; e.g., whether it is manufactured, processed, used, repackaged, released, stored, or otherwise handled.

(2) Incidents. Incidents which result in the release of a listed carcinogen into any area where employees may be potentially exposed shall be reported in accordance with this subsection.

~~(a) ((A report of the occurrence of the incident and the facts obtainable at that time including a report on any medical treatment of affected employees shall be made within 24 hours to the industrial hygiene section, division of industrial safety and health.~~

~~(b) A written report shall be filed with the industrial hygiene section, division of industrial safety and health, within 15 calendar days thereafter and shall include:)) The occurrence of the incident, including any facts obtainable at that time, as well as a report on any medical treatment of affected employees, must be reported within 24 hours to the Department of Labor and Industries, WISHA Services Division, Policy and Technical Services, P.O. Box 44610, Olympia, WA 98504-4610.~~

(b) A written report must be filed with the Department of Labor and Industries, WISHA Services Division, Policy and Technical Services, P.O. Box 44610, Olympia, WA 98504-4610, within 15 calendar days after the incident occurs, and must include:

(i) A specification of the amount of material released, the amount of time involved, and an explanation of the procedure used in determining this figure;

(ii) A description of the area involved, and the extent of known and possible employee exposure and area contamination;

(iii) A report of any medical treatment of affected employees, and any medical surveillance program implemented; and

(iv) An analysis of the circumstances of the incident, and measures taken or to be taken, with specific completion dates, to avoid further similar releases.

CARCINOGEN STANDARD REPORT

Company: Prepared By:
Plant Address: Title:
Date:

Compound and Other Identifying Information	Description of Inplant Location of Regulated Area*	Number of Employees in Each Regulated Area* Normally Maintenance	Manner** In Which Compound is Present in Each Regulated Area*

EXPEDITED

- * See WAC 296-62-07308 for definition of "regulated area."
- ** Indicated whether manufactured, processed, used, repackaged, released, stored, or if otherwise handled (describe).

AMENDATORY SECTION (Amending Order 93-01, filed 3/13/93, effective 4/27/93)

WAC 296-62-07421 Housekeeping. (1) All surfaces shall be maintained as free as practicable of accumulations of cadmium.

(2) All spills and sudden releases of material containing cadmium shall be cleaned up as soon as possible.

(3) Surfaces contaminated with cadmium shall, wherever possible, be cleaned by vacuuming or other methods that minimize the likelihood of cadmium becoming airborne.

(4) HEPA-filtered vacuuming equipment or equally effective filtration methods shall be used for vacuuming. The equipment shall be used and emptied in a manner that minimizes the reentry of cadmium into the workplace.

(5) Shoveling, dry or wet sweeping, and brushing may be used only where vacuuming or other methods that minimize the likelihood of cadmium becoming airborne have been tried and found not to be effective.

(6) Compressed air shall not be used to remove cadmium from any surface unless the compressed air is used in conjunction with a ventilation system designed to capture the dust cloud created by the compressed air.

(7) Waste, scrap, debris, bags, containers, personal protective equipment, and clothing contaminated with cadmium and consigned for disposal (~~shall~~) must be collected and disposed of in sealed impermeable bags or other closed, impermeable containers. These bags and containers (~~shall~~) must be labeled in accordance with WAC 296-62-07425 ((2)) (3).

AMENDATORY SECTION (Amending WSR 97-19-014, filed 9/5/97, effective 11/5/97)

WAC 296-62-07501 Airborne contaminants. (1) Permissible exposure limits (PELs) refer to airborne concentrations of substances without regard to the use of respiratory protection and represent conditions under which it is believed that nearly all workers may be repeatedly exposed day after day without adverse effect. Because of wide variation in individual susceptibility, however, a small percentage of workers may experience discomfort from some substances at concentrations at or below the permissible limit, a smaller percentage may be affected more seriously by aggravation of a pre-existing condition or by development of an occupational illness.

(2) Permissible exposure limits refer to time-weighted concentrations for an 8-hour workday within a 40-hour workweek which shall not be exceeded.

(a) The cumulative time-weighted average exposure for an 8-hour work shift shall be computed as follows:

$$E = \frac{C_a T_a + C_b T_b + \dots + C_n T_n}{8}$$

where:

E is the equivalent exposure for the working shift.

C is the concentration during any period of time T where the concentration remains constant.

T is the duration in hours of the exposure at the concentration C.

The value of E shall not exceed the eight-hour time-weighted average (TWA) limit in Table 1 (see WAC 296-62-07515), for the material involved.

(b) To illustrate the formula, assume that substance A has an 8-hour time-weighted average limit of 100 ppm as noted in Table 1 of WAC 296-62-07515. Assume that an employee is subject to the following exposure:

Two hours exposure at 150 ppm

Two hours exposure at 75 ppm

Four hours exposure at 50 ppm

Substituting this information in the formula, we have $(2 \times 150 + 2 \times 75 + 4 \times 50) \div 8 = 81.25$ ppm

Since 81.25 ppm is less than 100 ppm, the 8-hour time-weighted average limit, the exposure is acceptable.

(3) Methods of compliance:

(a) To achieve compliance with these standards, the employer shall determine and implement feasible administrative or engineering controls.

(b) When administrative or engineering controls are not feasible to achieve full compliance, they shall nonetheless be used to reduce exposures to the lowest levels achievable by these controls.

(c) Any control equipment or technical measure utilized for the purpose of complying with WAC 296-62-07501(3) must be approved for each particular use by a competent industrial hygienist or other technically qualified person. Whenever respirators are used their use shall comply with ((WAC 296-62-071 through 296-62-07121)) chapter 296-62 WAC, Part E.

(d) Upon request, the employer shall prepare and submit a written compliance plan to the director. This plan must include a description of the manner in which compliance will be achieved with respect to cited violations of WAC 296-62-07501(3), and shall include proposed abatement methods, anticipated completion dates, and provision for progress reports to be sent to the department.

(4) An employee's exposure to any substance in Table 1 (see WAC 296-62-07515) which does not have a ceiling or a specified short-term exposure limit (STEL) shall not exceed the generic STEL which is computed by multiplying the applicable eight-hour time-weighted average (TWA) for the substance by the appropriate multiplier listed below.

Eight-hour TWA	Multiplier
PEL > 0-1	(ppm or mg/M ³) x 3
PEL > 1-10	(ppm or mg/M ³) x 2
PEL > 10-100	(ppm or mg/M ³) x 1.5
PEL > 100-1000	(ppm or mg/M ³) x 1.25
PEL > 1000	(ppm or mg/M ³) x 1

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(5) Permissible limits are based on the best available information from industrial experience, from experimental human and animal studies, and, when possible, from a combination of the three. The basis on which the values are established may differ from substance to substance; protection against impairment of health may be a guiding factor for some, whereas reasonable freedom from irritation, narcosis, nuisance or other forms of stress may form the basis for others.

(6) The limits based on physical irritation shall be considered no less binding than those based on physical impairment. There is increasing evidence that physical irritation may initiate, promote or accelerate physical impairment through interaction with other chemical or biologic agents.

(7) In spite of the fact that serious injury is not believed likely as a result of exposure to the permissible limit concentrations, the best practice is to maintain concentrations of all atmospheric contaminants as low as is practical.

(8) These limits are intended for use in the practice of industrial hygiene and should be interpreted and applied only by a technically qualified person.

AMENDATORY SECTION (Amending Order 88-23, filed 10/6/88, effective 11/7/88)

WAC 296-62-07527 Appendix B substance technical guidelines—Benzene. (1) Physical and chemical data.

(a) Substance identification.

(i) Synonyms: Benzol, benzole, coal naphtha, cyclohexatriene, phene, phenyl hydride, pyrobenzol. (Benzin, petroleum benzin and Benzine do not contain benzene.)

(ii) Formula: C₆H₆ (CAS Registry Number: 71-43-2).

(b) Physical data.

(i) Boiling point (760 mm Hg): 80.1 C (176 F).

(ii) Specific gravity (water=1): 0.879.

(iii) Vapor density (air=1): 2.7.

(iv) Melting point: 5.5 C (42 F).

(v) Vapor pressure at 20 C (68 F): 75 mm Hg.

(vi) Solubility in water: .06%.

(vii) Evaporation rate (ether=1): 2.8.

(viii) Appearance and odor: Clear, colorless liquid with a distinctive sweet odor.

(2) Fire, explosion, and reactivity hazard data.

(a) Fire.

(i) Flash point (closed cup): -11 C (12 F).

(ii) Autoignition temperature: 580 C (1076 F).

(iii) Flammable limits in Air. % by volume: Lower: 1.3%, Upper: 7.5%.

(iv) Extinguishing media: Carbon dioxide, dry chemical, or foam.

(v) Special fire-fighting procedures: Do not use solid stream of water, since stream will scatter and spread fire. Fine water spray can be used to keep fire-exposed containers cool.

(vi) Unusual fire and explosion hazards: Benzene is a flammable liquid. Its vapors can form explosive mixtures. All ignition sources must be controlled when benzene is used, handled, or stored. Where liquid or vapor may be released, such areas shall be considered as hazardous locations. Benzene vapors are heavier than air; thus the vapors may travel

along the ground and be ignited by open flames or sparks at locations remote from the site at which benzene is handled.

(vii) Benzene is classified as a 1 B flammable liquid for the purpose of conforming to the requirements of WAC 296-24-330. A concentration exceeding 3,250 ppm is considered a potential fire explosion hazard. Locations where benzene may be present in quantities sufficient to produce explosive or ignitable mixtures are considered Class I Group D for the purposes of conforming to the requirements of WAC 296-24-95613.

(b) Reactivity.

(i) Conditions contributing to instability: Heat.

(ii) Incompatibility: Heat and oxidizing materials.

(iii) Hazardous decomposition products: Toxic gases and vapors (such as carbon monoxide).

(3) Spill and leak procedures.

(a) Steps to be taken if the material is released or spilled. As much benzene as possible should be absorbed with suitable materials, such as dry sand or earth; (~~benzine~~) benzene remaining must be flushed with large amounts of water. Do not flush benzene into a confined space, such as a sewer, because of explosion danger. Remove all ignition sources. Ventilate enclosed places.

(b) Waste disposal method. Disposal methods must conform to other jurisdictional regulations. If allowed, benzene may be disposed of:

(i) By absorbing it in dry sand or earth and disposing in a sanitary landfill;

(ii) If small quantities, by removing it to a safe location from buildings or other combustible sources, pouring it in dry sand or earth and cautiously igniting it; and

(iii) If large quantities, by atomizing it in a suitable combustion chamber.

(4) Miscellaneous precautions.

(a) High exposure to benzene can occur when transferring the liquid from one container to another. Such operations should be well ventilated and good work practices must be established to avoid spills.

(b) Use nonsparking tools to open benzene containers which are effectively grounded and bonded prior to opening and pouring.

(c) Employers must advise employees of all plant areas and operations where exposure to benzene could occur. Common operations in which high exposures to benzene may be encountered are: The primary production and utilization of benzene, and transfer of benzene.

AMENDATORY SECTION (Amending WSR 01-11-038, filed 5/9/01, effective 9/1/01)

WAC 296-62-07540 Formaldehyde. (1) Scope and application. This standard applies to all occupational exposures to formaldehyde, i.e., from formaldehyde gas, its solutions, and materials that release formaldehyde.

(2) Definitions. For purposes of this standard, the following definitions shall apply:

(a) "Action level" means a concentration of 0.5 part formaldehyde per million parts of air (0.5 ppm) calculated as an 8-hour time-weighted average (TWA) concentration.

(b) "Approved" means approved by the director of the department of labor and industries or his/her authorized representative: Provided, however, That should a provision of this chapter state that approval by an agency or organization other than the department of labor and industries is required, such as Underwriters' Laboratories or the Mine Safety and Health Administration and the National Institute for Occupational Safety and Health, the provision of WAC 296-800-370 shall apply.

(c) "Authorized person" means any person required by work duties to be present in regulated work areas, or authorized to do so by the employer, by this section of the standard, or by the WISHA Act.

(d) "Director" means the director of the department of labor and industries, or his/her designated representative.

(e) "Emergency" is any occurrence, such as but not limited to equipment failure, rupture of containers, or failure of control equipment that results in an uncontrolled release of a significant amount of formaldehyde.

(f) "Employee exposure" means the exposure to airborne formaldehyde which would occur without corrections for protection provided by any respirator that is in use.

(g) "Formaldehyde" means the chemical substance, HCHO, Chemical Abstracts Service Registry No. 50-00-0.

(3) Permissible exposure limit (PEL).

(a) TWA: The employer shall assure that no employee is exposed to an airborne concentration of formaldehyde which exceeds 0.75 part formaldehyde per million parts of air as an 8-hour TWA.

(b) Short term exposure limit (STEL): The employer shall assure that no employee is exposed to an airborne concentration of formaldehyde which exceeds two parts formaldehyde per million parts of air (2 ppm) as a fifteen-minute STEL.

(4) Exposure monitoring.

(a) General.

(i) Each employer who has a workplace covered by this standard shall monitor employees to determine their exposure to formaldehyde.

(ii) Exception. Where the employer documents, using objective data, that the presence of formaldehyde or formaldehyde-releasing products in the workplace cannot result in airborne concentrations of formaldehyde that would cause any employee to be exposed at or above the action level or the STEL under foreseeable conditions of use, the employer will not be required to measure employee exposure to formaldehyde.

(iii) When an employee's exposure is determined from representative sampling, the measurements used shall be representative of the employee's full shift or short-term exposure to formaldehyde, as appropriate.

(iv) Representative samples for each job classification in each work area shall be taken for each shift unless the employer can document with objective data that exposure levels for a given job classification are equivalent for different workshifts.

(b) Initial monitoring. The employer shall identify all employees who may be exposed at or above the action level or at or above the STEL and accurately determine the exposure of each employee so identified.

(i) Unless the employer chooses to measure the exposure of each employee potentially exposed to formaldehyde, the employer shall develop a representative sampling strategy and measure sufficient exposures within each job classification for each workshift to correctly characterize and not underestimate the exposure of any employee within each exposure group.

(ii) The initial monitoring process shall be repeated each time there is a change in production, equipment, process, personnel, or control measures which may result in new or additional exposure to formaldehyde.

(iii) If the employer receives reports or signs or symptoms of respiratory or dermal conditions associated with formaldehyde exposure, the employer shall promptly monitor the affected employee's exposure.

(c) Periodic monitoring.

(i) The employer shall periodically measure and accurately determine exposure to formaldehyde for employees shown by the initial monitoring to be exposed at or above the action level or at or above the STEL.

(ii) If the last monitoring results reveal employee exposure at or above the action level, the employer shall repeat monitoring of the employees at least every six months.

(iii) If the last monitoring results reveal employee exposure at or above the STEL, the employer shall repeat monitoring of the employees at least once a year under worst conditions.

(d) Termination of monitoring. The employer may discontinue periodic monitoring for employees if results from two consecutive sampling periods taken at least seven days apart show that employee exposure is below the action level and the STEL. The results must be statistically representative and consistent with the employer's knowledge of the job and work operation.

(e) Accuracy of monitoring. Monitoring shall be accurate, at the ninety-five percent confidence level, to within plus or minus twenty-five percent for airborne concentrations of formaldehyde at the TWA and the STEL and to within plus or minus thirty-five percent for airborne concentrations of formaldehyde at the action level.

(f) Employee notification of monitoring results. Within fifteen days of receiving the results of exposure monitoring conducted under this standard, the employer shall notify the affected employees of these results. Notification shall be in writing, either by distributing copies of the results to the employees or by posting the results. If the employee exposure is over either PEL, the employer shall develop and implement a written plan to reduce employee exposure to or below both PELs, and give written notice to employees. The written notice shall contain a description of the corrective action being taken by the employer to decrease exposure.

(g) Observation of monitoring.

(i) The employer shall provide affected employees or their designated representatives an opportunity to observe any monitoring of employee exposure to formaldehyde required by this standard.

(ii) When observation of the monitoring of employee exposure to formaldehyde requires entry into an area where the use of protective clothing or equipment is required, the employer shall provide the clothing and equipment to the

observer, require the observer to use such clothing and equipment, and assure that the observer complies with all other applicable safety and health procedures.

(5) Regulated areas.

(a) The employer shall establish regulated areas where the concentration of airborne formaldehyde exceeds either the TWA or the STEL and post all entrances and accessways with signs bearing the following information:

DANGER
FORMALDEHYDE
IRRITANT AND POTENTIAL CANCER HAZARD
AUTHORIZED PERSONNEL ONLY

(b) The employer shall limit access to regulated areas to authorized persons who have been trained to recognize the hazards of formaldehyde.

(c) An employer at a multi-employer worksite who establishes a regulated area shall communicate the access restrictions and locations of these areas to other employers with work operations at that worksite.

(6) Methods of compliance.

(a) Engineering controls and work practices. The employer shall institute engineering and work practice controls to reduce and maintain employee exposures to formaldehyde at or below the TWA and the STEL.

(b) Exception. Whenever the employer has established that feasible engineering and work practice controls cannot reduce employee exposure to or below either of the PELs, the employer shall apply these controls to reduce employee exposures to the extent feasible and shall supplement them with respirators which satisfy this standard.

(7) Respiratory protection.

(a) General. For employees who use respirators required by this section, the employer must provide respirators that comply with the requirements of this subsection. Respirators must be used during:

- (i) Periods necessary to install or implement feasible engineering and work-practice controls;
- (ii) Work operations, such as maintenance and repair activities or vessel cleaning, for which the employer establishes that engineering and work-practice controls are not feasible;
- (iii) Work operations for which feasible engineering and work-practice controls are not yet sufficient to reduce exposure to or below the PELs;
- (iv) Emergencies.

(b) Respirator program.

(i) The employer must implement a respiratory protection program as required by chapter 296-62 WAC, Part E (except WAC 296-62-07130(1), 296-62-07131 (4)((b)(i) and (ii))), and 296-62-07150 through 296-62-07156).

(ii) If air-purifying chemical-cartridge respirators are used, the employer must:

(A) Replace the cartridge after three hours of use or at the end of the workshift, whichever occurs first, unless the cartridge contains a NIOSH-certified end-of-service-life indicator (ESLI) to show when breakthrough occurs.

(B) Unless the canister contains a NIOSH-certified ESLI to show when breakthrough occurs, replace canisters used in

atmospheres up to 7.5 ppm (10 x PEL) every four hours and industrial-sized canisters used in atmospheres up to 75 ppm (100 x PEL) every two hours, or at the end of the workshift, whichever occurs first.

(c) Respirator selection.

(i) The employer must select appropriate respirators from Table 1 of this section.

TABLE 1
MINIMUM REQUIREMENTS FOR RESPIRATORY PROTECTION
AGAINST FORMALDEHYDE

Condition of use or formaldehyde concentration (ppm)	Minimum respirator required ¹
Up to 7.5 ppm (10 x PEL)	Full facepiece with cartridges or canisters specifically approved for protection against formaldehyde ² .
Up to 75 ppm (100 x PEL)	Full-face mask with chin style or chest or back mounted type industrial size canister specifically approved for protection against formaldehyde. Type C supplied-air respirator pressure demand or continuous flow type, with full facepiece, hood, or helmet.
Above 75 ppm or unknown (emergencies) (100 x PEL))	Self-contained breathing apparatus (SCBA) with positive-pressure full facepiece. Combination supplied-air, full facepiece positive-pressure respirator with auxiliary self-contained air supply.
Fire fighting	SCBA with positive-pressure in full facepiece.
Escape	SCBA in demand or pressure demand mode. Full-face mask with chin style or front or back mounted type industrial size canister specifically approved for protection against formaldehyde.

¹ Respirators specified for use at higher concentrations may be used at lower concentrations.

² A half-mask respirator with cartridges specifically approved for protection against formaldehyde can be substituted for the full facepiece respirator providing that effective gas-proof goggles are provided and used in combination with the half-mask respirator.

(ii) The employer must provide a powered air-purifying respirator adequate to protect against formaldehyde exposure to any employee who has difficulty using a negative-pressure respirator.

(8) Protective equipment and clothing. Employers shall comply with the provisions of WAC 296-800-160. When protective equipment or clothing is provided under these provisions, the employer shall provide these protective devices at no cost to the employee and assure that the employee wears them.

(a) Selection. The employer shall select protective clothing and equipment based upon the form of formaldehyde to be encountered, the conditions of use, and the hazard to be prevented.

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(i) All contact of the eyes and skin with liquids containing one percent or more formaldehyde shall be prevented by the use of chemical protective clothing made of material impervious to formaldehyde and the use of other personal protective equipment, such as goggles and face shields, as appropriate to the operation.

(ii) Contact with irritating or sensitizing materials shall be prevented to the extent necessary to eliminate the hazard.

(iii) Where a face shield is worn, chemical safety goggles are also required if there is a danger of formaldehyde reaching the area of the eye.

(iv) Full body protection shall be worn for entry into areas where concentrations exceed 100 ppm and for emergency reentry into areas of unknown concentration.

(b) Maintenance of protective equipment and clothing.

(i) The employer shall assure that protective equipment and clothing that has become contaminated with formaldehyde is cleaned or laundered before its reuse.

(ii) When ventilating formaldehyde-contaminated clothing and equipment, the employer shall establish a storage area so that employee exposure is minimized. Containers for contaminated clothing and equipment and storage areas shall have labels and signs containing the following information:

DANGER

FORMALDEHYDE-CONTAMINATED (CLOTHING) EQUIPMENT
AVOID INHALATION AND SKIN CONTACT

(iii) The employer shall assure that only persons trained to recognize the hazards of formaldehyde remove the contaminated material from the storage area for purposes of cleaning, laundering, or disposal.

(iv) The employer shall assure that no employee takes home equipment or clothing that is contaminated with formaldehyde.

(v) The employer shall repair or replace all required protective clothing and equipment for each affected employee as necessary to assure its effectiveness.

(vi) The employer shall inform any person who launders, cleans, or repairs such clothing or equipment of formaldehyde's potentially harmful effects and of procedures to safely handle the clothing and equipment.

(9) Hygiene protection.

(a) The employer shall provide change rooms, as described in WAC 296-24-120 for employees who are required to change from work clothing into protective clothing to prevent skin contact with formaldehyde.

(b) If employees' skin may become splashed with solutions containing one percent or greater formaldehyde, for example because of equipment failure or improper work practices, the employer shall provide conveniently located quick drench showers and assure that affected employees use these facilities immediately.

(c) If there is any possibility that an employee's eyes may be splashed with solutions containing 0.1 percent or greater formaldehyde, the employer shall provide acceptable eye-wash facilities within the immediate work area for emergency use.

(10) Housekeeping. For operations involving formaldehyde liquids or gas, the employer shall conduct a program to detect leaks and spills, including regular visual inspections.

(a) Preventative maintenance of equipment, including surveys for leaks, shall be undertaken at regular intervals.

(b) In work areas where spillage may occur, the employer shall make provisions to contain the spill, to decontaminate the work area, and to dispose of the waste.

(c) The employer shall assure that all leaks are repaired and spills are cleaned promptly by employees wearing suitable protective equipment and trained in proper methods for cleanup and decontamination.

(d) Formaldehyde-contaminated waste and debris resulting from leaks or spills shall be placed for disposal in sealed containers bearing a label warning of formaldehyde's presence and of the hazards associated with formaldehyde.

(11) Emergencies. For each workplace where there is the possibility of an emergency involving formaldehyde, the employer shall assure appropriate procedures are adopted to minimize injury and loss of life. Appropriate procedures shall be implemented in the event of an emergency.

(12) Medical surveillance.

(a) Employees covered.

(i) The employer shall institute medical surveillance programs for all employees exposed to formaldehyde at concentrations at or exceeding the action level or exceeding the STEL.

(ii) The employer shall make medical surveillance available for employees who develop signs and symptoms of overexposure to formaldehyde and for all employees exposed to formaldehyde in emergencies. When determining whether an employee may be experiencing signs and symptoms of possible overexposure to formaldehyde, the employer may rely on the evidence that signs and symptoms associated with formaldehyde exposure will occur only in exceptional circumstances when airborne exposure is less than 0.1 ppm and when formaldehyde is present in materials in concentrations less than 0.1 percent.

(b) Examination by a physician. All medical procedures, including administration of medical disease questionnaires, shall be performed by or under the supervision of a licensed physician and shall be provided without cost to the employee, without loss of pay, and at a reasonable time and place.

(c) Medical disease questionnaire. The employer shall make the following medical surveillance available to employees prior to assignment to a job where formaldehyde exposure is at or above the action level or above the STEL and annually thereafter. The employer shall also make the following medical surveillance available promptly upon determining that an employee is experiencing signs and symptoms indicative of possible overexposure to formaldehyde.

(i) Administration of a medical disease questionnaire, such as in Appendix D, which is designed to elicit information on work history, smoking history, any evidence of eye, nose, or throat irritation; chronic airway problems or hyperreactive airway disease; allergic skin conditions or dermatitis; and upper or lower respiratory problems.

(ii) A determination by the physician, based on evaluation of the medical disease questionnaire, of whether a medical examination is necessary for employees not required to wear respirators to reduce exposure to formaldehyde.

(d) Medical examinations. Medical examinations shall be given to any employee who the physician feels, based on information in the medical disease questionnaire, may be at increased risk from exposure to formaldehyde and at the time of initial assignment and at least annually thereafter to all employees required to wear a respirator to reduce exposure to formaldehyde. The medical examination shall include:

(i) A physical examination with emphasis on evidence of irritation or sensitization of the skin and respiratory system, shortness of breath, or irritation of the eyes.

(ii) Laboratory examinations for respirator wearers consisting of baseline and annual pulmonary function tests. As a minimum, these tests shall consist of forced vital capacity (FVC), forced expiratory volume in one second (FEV1), and forced expiratory flow (FEF).

(iii) Any other test which the examining physician deems necessary to complete the written opinion.

(iv) Counseling of employees having medical conditions that would be directly or indirectly aggravated by exposure to formaldehyde on the increased risk of impairment of their health.

(e) Examinations for employees exposed in an emergency. The employer shall make medical examinations available as soon as possible to all employees who have been exposed to formaldehyde in an emergency.

(i) The examination shall include a medical and work history with emphasis on any evidence of upper or lower respiratory problems, allergic conditions, skin reaction or hypersensitivity, and any evidence of eye, nose, or throat irritation.

(ii) Other examinations shall consist of those elements considered appropriate by the examining physician.

(f) Information provided to the physician. The employer shall provide the following information to the examining physician:

(i) A copy of this standard and Appendices A, C, D, and E;

(ii) A description of the affected employee's job duties as they relate to the employee's exposure to formaldehyde;

(iii) The representative exposure level for the employee's job assignment;

(iv) Information concerning any personal protective equipment and respiratory protection used or to be used by the employee; and

(v) Information from previous medical examinations of the affected employee within the control of the employer.

(vi) In the event of a nonroutine examination because of an emergency, the employer shall provide to the physician as soon as possible: A description of how the emergency occurred and the exposure the victim may have received.

(g) Physician's written opinion.

(i) For each examination required under this standard, the employer shall obtain a written opinion from the examining physician. This written opinion shall contain the results of the medical examination except that it shall not reveal specific findings or diagnoses unrelated to occupational exposure to formaldehyde. The written opinion shall include:

(A) The physician's opinion as to whether the employee has any medical condition that would place the employee at an increased risk of material impairment of health from exposure to formaldehyde;

(B) Any recommended limitations on the employee's exposure or changes in the use of personal protective equipment, including respirators;

(C) A statement that the employee has been informed by the physician of any medical conditions which would be aggravated by exposure to formaldehyde, whether these conditions may have resulted from past formaldehyde exposure or from exposure in an emergency, and whether there is a need for further examination or treatment.

(ii) The employer shall provide for retention of the results of the medical examination and tests conducted by the physician.

(iii) The employer shall provide a copy of the physician's written opinion to the affected employee within fifteen days of its receipt.

(h) Medical removal.

(i) The provisions of this subdivision apply when an employee reports significant irritation of the mucosa of the eyes or of the upper airways, respiratory sensitization, dermal irritation, or dermal sensitization attributed to workplace formaldehyde exposure. Medical removal provisions do not apply in case of dermal irritation or dermal sensitization when the product suspected of causing the dermal condition contains less than 0.05% formaldehyde.

(ii) An employee's report of signs or symptoms of possible overexposure to formaldehyde shall be evaluated by a physician selected by the employer pursuant to (c) of this subsection. If the physician determines that a medical examination is not necessary under (c)(ii) of this subsection, there shall be a two-week evaluation and remediation period to permit the employer to ascertain whether the signs or symptoms subside untreated or with the use of creams, gloves, first aid treatment, or personal protective equipment. Industrial hygiene measures that limit the employee's exposure to formaldehyde may also be implemented during this period. The employee shall be referred immediately to a physician prior to expiration of the two-week period if the signs or symptoms worsen. Earnings, seniority, and benefits may not be altered during the two-week period by virtue of the report.

(iii) If the signs or symptoms have not subsided or been remedied by the end of the two-week period, or earlier if signs or symptoms warrant, the employee shall be examined by a physician selected by the employer. The physician shall presume, absent contrary evidence, that observed dermal irritation or dermal sensitization are not attributable to formaldehyde when products to which the affected employee is exposed contain less than 0.1% formaldehyde.

(iv) Medical examinations shall be conducted in compliance with the requirements of (e)(i) and (ii) of this subsection. Additional guidelines for conducting medical exams are contained in WAC 296-62-07546, Appendix C.

(v) If the physician finds that significant irritation of the mucosa of the eyes or the upper airways, respiratory sensitization, dermal irritation, or dermal sensitization result from workplace formaldehyde exposure and recommends restrictions or removal. The employer shall promptly comply with

the restrictions or recommendations of removal. In the event of a recommendation of removal, the employer shall remove the affected employee from the current formaldehyde exposure and if possible, transfer the employee to work having no or significantly less exposure to formaldehyde.

(vi) When an employee is removed pursuant to item (v) of this subdivision, the employer shall transfer the employee to comparable work for which the employee is qualified or can be trained in a short period (up to six months), where the formaldehyde exposures are as low as possible, but not higher than the action level. The employer shall maintain the employee's current earnings, seniority, and other benefits. If there is no such work available, the employer shall maintain the employee's current earnings, seniority, and other benefits until such work becomes available, until the employee is determined to be unable to return to workplace formaldehyde exposure, until the employee is determined to be able to return to the original job status, or for six months, whichever comes first.

(vii) The employer shall arrange for a follow-up medical examination to take place within six months after the employee is removed pursuant to this subsection. This examination shall determine if the employee can return to the original job status, or if the removal is to be permanent. The physician shall make a decision within six months of the date the employee was removed as to whether the employee can be returned to the original job status, or if the removal is to be permanent.

(viii) An employer's obligation to provide earnings, seniority, and other benefits to a removed employee may be reduced to the extent that the employee receives compensation for earnings lost during the period of removal either from a publicly or employer-funded compensation program or from employment with another employer made possible by virtue of the employee's removal.

(ix) In making determinations of the formaldehyde content of materials under this subsection the employer may rely on objective data.

(i) Multiple physician review.

(i) After the employer selects the initial physician who conducts any medical examination or consultation to determine whether medical removal or restriction is appropriate, the employee may designate a second physician to review any findings, determinations, or recommendations of the initial physician and to conduct such examinations, consultations, and laboratory tests as the second physician deems necessary and appropriate to evaluate the effects of formaldehyde exposure and to facilitate this review.

(ii) The employer shall promptly notify an employee of the right to seek a second medical opinion after each occasion that an initial physician conducts a medical examination or consultation for the purpose of medical removal or restriction.

(iii) The employer may condition its participation in, and payment for, the multiple physician review mechanism upon the employee doing the following within fifteen days after receipt of the notification of the right to seek a second medical opinion, or receipt of the initial physician's written opinion, whichever is later:

(A) The employee informs the employer of the intention to seek a second medical opinion; and

(B) The employee initiates steps to make an appointment with a second physician.

(iv) If the findings, determinations, or recommendations of the second physician differ from those of the initial physician, then the employer and the employee shall assure that efforts are made for the two physicians to resolve the disagreement. If the two physicians are unable to quickly resolve their disagreement, then the employer and the employee through their respective physicians shall designate a third physician who shall be a specialist in the field at issue:

(A) To review the findings, determinations, or recommendations of the prior physicians; and

(B) To conduct such examinations, consultations, laboratory tests, and discussions with prior physicians as the third physician deems necessary to resolve the disagreement of the prior physicians.

(v) In the alternative, the employer and the employee or authorized employee representative may jointly designate such third physician.

(vi) The employer shall act consistent with the findings, determinations, and recommendations of the third physician, unless the employer and the employee reach an agreement which is otherwise consistent with the recommendations of at least one of the three physicians.

(13) Hazard communication.

(a) General. Notwithstanding any exemption granted in WAC 296-800-170 for wood products, each employer who has a workplace covered by this standard shall comply with the requirements of WAC 296-800-170. The definitions of the chemical hazard communication standard shall apply under this standard.

(i) The following shall be subject to the hazard communication requirements of this section: Formaldehyde gas, all mixtures or solutions composed of greater than 0.1 percent formaldehyde, and materials capable of releasing formaldehyde into the air under reasonably foreseeable concentrations reaching or exceeding 0.1 ppm.

(ii) As a minimum, specific health hazards that the employer shall address are: Cancer, irritation and sensitization of the skin and respiratory system, eye and throat irritation, and acute toxicity.

(b) Manufacturers and importers who produce or import formaldehyde or formaldehyde-containing products shall provide downstream employers using or handling these products with an objective determination through the required labels and MSDSs if these items may constitute a health hazard within the meaning of WAC 296-62-05407 under normal conditions of use.

(c) Labels.

(i) The employer shall assure that hazard warning labels complying with the requirements of WAC 296-800-170 are affixed to all containers of materials listed in (a)(i) of this subsection, except to the extent that (a)(i) of this subsection is inconsistent with this item.

(ii) Information on labels. As a minimum, for all materials listed in (a)(i) of this subsection, capable of releasing formaldehyde at levels of 0.1 ppm to 0.5 ppm, labels shall identify that the product contains formaldehyde: List the

name and address of the responsible party; and state that physical and health hazard information is readily available from the employer and from material safety data sheets.

(iii) For materials listed in (a)(i) of this subsection, capable of releasing formaldehyde at levels above 0.5 ppm, labels shall appropriately address all the hazards as defined in WAC 296-800-170, and Appendices A and B, including respiratory sensitization, and shall contain the words "Potential Cancer Hazard."

(iv) In making the determinations of anticipated levels of formaldehyde release, the employer may rely on objective data indicating the extent of potential formaldehyde release under reasonably foreseeable conditions of use.

(v) Substitute warning labels. The employer may use warning labels required by other statutes, regulations, or ordinances which impart the same information as the warning statements required by this subitem.

(d) Material safety data sheets.

(i) Any employer who uses formaldehyde-containing materials listed in (a)(i) of this subsection shall comply with the requirements of WAC 296-800-170 with regard to the development and updating of material safety data sheets.

(ii) Manufacturers, importers, and distributors of formaldehyde containing materials listed in (a)(i) of this subsection shall assure that material safety data sheets and updated information are provided to all employers purchasing such materials at the time of the initial shipment and at the time of the first shipment after a material safety data sheet is updated.

(e) Written hazard communication program. The employer shall develop, implement, and maintain at the workplace, a written hazard communication program for formaldehyde exposures in the workplace, which at a minimum describes how the requirements specified in this section for labels and other forms of warning and material safety data sheets, and subsection (14) of this section for employee information and training, will be met. Employees in multi-employer workplaces shall comply with the requirements of WAC 296-800-170.

(14) Employee information and training.

(a) Participation. The employer shall assure that all employees who are assigned to workplaces where there is a health hazard from formaldehyde participate in a training program, except that where the employer can show, using objective data, that employees are not exposed to formaldehyde at or above 0.1 ppm, the employer is not required to provide training.

(b) Frequency. Employers shall provide such information and training to employees at the time of their initial assignment and whenever a new exposure to formaldehyde is introduced into their work area. The training shall be repeated at least annually.

(c) Training program. The training program shall be conducted in a manner which the employee is able to understand and shall include:

- (i) A discussion of the contents of this regulation and the contents of the material safety data sheet;
- (ii) The purpose for and a description of the medical surveillance program required by this standard, including:

(A) A description of the potential health hazards associated with exposure to formaldehyde and a description of the signs and symptoms of exposure to formaldehyde.

(B) Instructions to immediately report to the employer the development of any adverse signs or symptoms that the employee suspects is attributable to formaldehyde exposure.

(iii) Description of operations in the work area where formaldehyde is present and an explanation of the safe work practices appropriate for limiting exposure to formaldehyde in each job;

(iv) The purpose for, proper use of, and limitations of personal protective clothing;

(v) Instructions for the handling of spills, emergencies, and clean-up procedures;

(vi) An explanation of the importance of engineering and work practice controls for employee protection and any necessary instruction in the use of these controls;

(vii) A review of emergency procedures including the specific duties or assignments of each employee in the event of an emergency; and

(viii) The purpose, proper use, limitations, and other training requirements for respiratory protection as required by chapter 296-62 WAC, Part E.

(d) Access to training materials.

(i) The employer shall inform all affected employees of the location of written training materials and shall make these materials readily available, without cost, to the affected employees.

(ii) The employer shall provide, upon request, all training materials relating to the employee training program to the director of labor and industries, or his/her designated representative.

(15) Recordkeeping.

(a) Exposure measurements. The employer shall establish and maintain an accurate record of all measurements taken to monitor employee exposure to formaldehyde. This record shall include:

- (i) The date of measurement;
- (ii) The operation being monitored;
- (iii) The methods of sampling and analysis and evidence of their accuracy and precision;
- (iv) The number, durations, time, and results of samples taken;

(v) The types of protective devices worn; and

(vi) The names, job classifications, Social Security numbers, and exposure estimates of the employees whose exposures are represented by the actual monitoring results.

(b) Exposure determinations. Where the employer has determined that no monitoring is required under this standard, the employer shall maintain a record of the objective data relied upon to support the determination that no employee is exposed to formaldehyde at or above the action level.

(c) Medical surveillance. The employer shall establish and maintain an accurate record for each employee subject to medical surveillance under this standard. This record shall include:

- (i) The name and Social Security number of the employee;
- (ii) The physician's written opinion;

(iii) A list of any employee health complaints that may be related to exposure to formaldehyde; and

(iv) A copy of the medical examination results, including medical disease questionnaires and results of any medical tests required by the standard or mandated by the examining physician.

(d) Record retention. The employer shall retain records required by this standard for at least the following periods:

(i) Exposure records and determinations shall be kept for at least thirty years; and

(ii) Medical records shall be kept for the duration of employment plus thirty years.

(e) Availability of records.

(i) Upon request, the employer shall make all records maintained as a requirement of this standard available for examination and copying to the director of labor and industries, or his/her designated representative.

(ii) The employer shall make employee exposure records, including estimates made from representative monitoring and available upon request for examination and copying, to the subject employee, or former employee, and employee representatives in accordance with WAC 296-62-052 through 296-62-05209 and 296-62-05213 through 296-62-05217 and WAC 296-800-180.

(iii) Employee medical records required by this standard shall be provided upon request for examination and copying, to the subject employee, or former employee, or to anyone having the specific written consent of the subject employee or former employee in accordance with WAC 296-62-05201 through 296-62-05209, and 296-62-05213 through 296-62-05217.

AMENDATORY SECTION (Amending WSR 99-22-046, filed 10/29/99, effective 2/1/00)

WAC 296-62-14105 Definitions. "Acceptable entry conditions" means the conditions that must exist in a permit space to allow entry and to ensure that employees involved with a permit-required confined space entry can safely enter into and work within the space.

"Attendant" means an individual stationed outside one or more permit spaces who monitors the authorized entrants and who performs all attendant's duties assigned in the employer's permit space program.

"Authorized entrant" means an employee who is authorized by the employer to enter a permit space.

"Blanking or blinding" means the absolute closure of a pipe, line, or duct by the fastening of a solid plate (such as a spectacle blind or a skillet blind) that completely covers the bore. It is capable of withstanding the maximum pressure of the pipe, line, or duct with no leakage beyond the plate.

"Confined space" means a space that:

- Is large enough and so configured that an employee can bodily enter and perform assigned work; and

- Has limited or restricted means for entry or exit (For example, tanks, vessels, silos, storage bins, hoppers, vaults, and pits are spaces that may have limited means of entry.); and

- Is not designed for continuous employee occupancy.

"Double block and bleed" means the closure of a line, duct, or pipe by closing and locking or tagging two in-line valves and by opening and locking or tagging a drain or vent valve in the line between the two closed valves.

"Emergency" means any occurrence (including any failure of hazard control or monitoring equipment) or event internal or external to the permit space that could endanger entrants.

"Engulfment" means the surrounding and effective capture of a person by a liquid or finely divided (flowable) solid substance that can be inhaled to cause death by filling or plugging the respiratory system or that can exert enough force on the body to cause death by strangulation, constriction, or crushing.

"Entry" means the action by which a person passes through an opening into a permit-required confined space and includes work activities in that space. Entry is considered to have occurred as soon as any part of the entrant's body breaks the plane of an opening into the space.

Note: If the opening is large enough for the worker to fully enter the space a permit is required even for partial body entry. Permits are not required for partial body entry where the opening is not large enough for full entry, although other standards such as lockout-tagout or respiratory protection may apply.

"Entry permit (permit)" means the written or printed document that is provided by the employer to allow and control entry into a permit space and that contains the information specified in WAC ((296-62-14509)) 296-62-14125.

"Entry supervisor" means the person (such as the employer, crew leader, or crew chief) responsible for:

- Determining if acceptable entry conditions are present at a permit space where entry is planned;
- Authorizing entry and overseeing entry operations; and
- Terminating entry as required by this part.

Note: An entry supervisor also may serve as an attendant or as an authorized entrant, as long as that person is trained and equipped as required by this section for each role he or she fills. Also, the duties of entry supervisor may be passed from one individual to another during the course of an entry operation.

"Hazardous atmosphere" means an atmosphere that may expose employees to the risk of death, incapacitation, impairment of ability to self-rescue (that is, escape unaided from a permit space), injury, or acute illness from one or more of the following causes:

- Flammable gas, vapor, or mist in excess of ten percent of its lower flammable limit (LFL);
- Airborne combustible dust at a concentration that meets or exceeds its LFL;

Note: This concentration may be approximated as a condition in which the dust obscures vision at a distance of five feet (1.52 m) or less.

- Atmospheric oxygen concentration below 19.5 percent or above 23.5 percent;

- Atmospheric concentration of any substance which may exceed a permissible exposure limit is published in chapter 296-62 WAC, Parts F, G, H, and I, general occupational health standards;

Note: An atmospheric concentration of any substance that is not capable of causing death, incapacitation, impairment of ability to self-rescue, injury, or acute illness due to its health effects is not covered by this provision.

- Any other atmospheric condition that is immediately dangerous to life or health.

Note: For air contaminants for which WISHA has not determined a dose or permissible exposure limit, other sources of information, such as material safety data sheets that comply with the Hazard Communication Standard, chapter 296-62 WAC, Part C, published information, and internal documents can provide guidance in establishing acceptable atmospheric conditions.

"Hot work permit" means the employer's written authorization to perform operations (for example, riveting, welding, cutting, burning, and heating) capable of providing a source of ignition.

"Immediately dangerous to life or health (IDLH)" means any condition that:

- Poses an immediate or delayed threat to life; or
- Would cause irreversible adverse health effects; or
- Would interfere with an individual's ability to escape unaided from a permit space.

Note: Some materials - hydrogen fluoride gas and cadmium vapor, for example - may produce immediate transient effects that, even if severe, may pass without medical attention, but are followed by sudden, possibly fatal collapse 12-72 hours after exposure. The victim "feels normal" from recovery from transient effects until collapse. Such materials in hazardous quantities are considered to be "immediately" dangerous to life or health.

"Inerting" means the displacement of the atmosphere in a permit space by a noncombustible gas (such as nitrogen) to such an extent that the resulting atmosphere is noncombustible.

Note: This procedure produces an IDLH oxygen-deficient atmosphere.

"Isolation" means the process by which a permit space is removed from service and completely protected against the release of energy and material into the space by such means as: Blanking or blinding; misaligning or removing sections of lines, pipes, or ducts; a double block and bleed system; lockout or tagout of all sources of energy; or blocking or disconnecting all mechanical linkages.

"Line breaking" means the intentional opening of a pipe, line, or duct that is or has been carrying flammable, corrosive, or toxic material, an inert gas, or any fluid at a volume, pressure, or temperature capable of causing injury.

"Nonpermit confined space" means a confined space that does not contain any physical hazards or any actual or potential atmospheric hazards capable of causing death or serious physical harm.

"Oxygen deficient atmosphere" means an atmosphere containing less than 19.5 percent oxygen by volume.

"Oxygen enriched atmosphere" means an atmosphere containing more than 23.5 percent oxygen by volume.

"Permit-required confined space (permit space)" means a confined space that has one or more of the following characteristics:

- Contains or has a potential to contain a hazardous atmosphere;
- Contains a material that has the potential for engulfing an entrant;
- Has an internal configuration such that an entrant could be trapped or asphyxiated by inwardly converging walls or by a floor which slopes downward and tapers to a smaller cross-section; or
- Contains any other recognized serious safety or health hazard.

"Permit-required confined space program (permit space program)" means the employer's overall program for:

- Controlling, and, where appropriate, for protecting employees from, permit space hazards; and
- Regulating employee entry into permit spaces.

"Permit system" means the employer's written procedure for:

- Preparing and issuing permits for entry; and
- Returning the permit space to service following termination of entry.

"Prohibited condition" means any condition in a permit space that is not allowed by the permit during the period when entry is authorized.

"Rescue service" means the personnel designated to rescue employees from permit spaces.

"Retrieval system" means the equipment (including a retrieval line, chest or full-body harness, wristlets, if appropriate, and a lifting device or anchor) used for nonentry rescue of persons from permit spaces.

"Testing" means the process by which the hazards that may confront entrants of a permit space are identified and evaluated. Testing includes specifying the tests that are to be performed in the permit space.

Note: Testing enables employers both to devise and implement adequate control measures for the protection of authorized entrants and to determine if acceptable entry conditions are present immediately prior to, and during, entry.

AMENDATORY SECTION (Amending WSR 99-22-046, filed 10/29/99, effective 2/1/00)

WAC 296-62-14110 General requirements. (1) The employer must evaluate the workplace to determine if confined spaces are present. A confined space must be assumed to be a permit-required space unless it can be documented to be a nonpermit-confined space as required in subsection (2) of this section.

Note: Proper application of the decision flow chart in WAC 296-62-14171, Appendix A, would facilitate compliance with this requirement.

(2) A confined space may be classified as a nonpermit-confined space under the following conditions and procedures:

- If the confined space poses no actual or potential atmospheric hazards.
- If the confined space has no other recognized health or safety hazards including engulfment in solid or liquid material, electrical shock, or moving parts.

(c) If all hazards within the space are eliminated without entry into the space, the confined space may be classified as a nonpermit confined space for as long as the hazards remain eliminated.

(d) If it is necessary to enter the confined space to eliminate hazards, it must be assumed to be a permit space and such entry must be performed under WAC 296-62-14115 through 296-62-14150. If testing and inspection during that entry demonstrate that the hazards within the permit space have been eliminated, the permit space may be reclassified as a nonpermit confined space for as long as the hazards remain eliminated.

Note: Control of atmospheric hazards through forced air ventilation does not constitute elimination of the hazards. Subsections (6) and (7) of this section cover permit space entry where the employer can demonstrate that forced air ventilation alone will control all hazards in the space.

(e) The employer must:

(i) Document that all hazards in a permit space have been eliminated, through a certification that contains the date, the location of the space, and the signature of the person making the determination.

(ii) Make the certification available to each employee entering the space or to that employee's authorized representative.

(f) When there are changes in the use or configuration of a nonpermit confined space that might increase the hazards to entrants, the employer must reevaluate that space and, if necessary, reclassify it as a permit-required confined space.

(g) If hazards arise within a confined space that has been classified as a nonpermit space under this subsection, each employee in the space must exit the space. The employer must then reevaluate the space and determine whether it must be reclassified as a permit space, in accordance with chapter 296-62 WAC, Part M.

(3) If the workplace contains permit-required confined spaces, the employer must inform exposed employees, by posting danger signs or by any other equally effective means, of the existence and location of and the danger posed by the permit spaces.

Note: A sign reading "DANGER-PERMIT-REQUIRED CONFINED SPACE, DO NOT ENTER" or using other similar language would satisfy the requirement for a sign.

(4) If the employer decides that its employees will not enter permit spaces, the employer must:

- Take effective measures to prevent its employees from entering the permit spaces; and
- Comply with subsections (1), (3), and (8) of this section.

(5) If the employer decides that its employees will enter permit spaces, the employer must:

- (a) Follow the procedures outlined in WAC 296-62-14115 through 296-62-14155; and
- (b) Develop and implement a written permit space program that complies with this part; and
- (c) Make the written program available for inspection by employees and their authorized representatives.

(6) An employer may use the alternate entry procedures specified in subsection (7) of this section for entering a permit space under the following conditions:

(a) The employer can demonstrate that the only hazard posed by the permit space is an actual or potential hazardous atmosphere;

(b) The employer can demonstrate that continuous forced air ventilation alone is sufficient to maintain that permit space safe for entry;

(c) The employer develops or has monitoring and inspection data that supports the demonstrations required by (a) and (b) of this subsection;

(d) If an initial entry of the permit space is necessary to obtain the data required by (c) of this subsection, the entry must be performed in compliance with the permit required confined space procedures outlined in WAC 296-62-14115 through 296-62-14150; and

(e) The determinations and supporting data required by (a), (b), and (c) of this subsection are documented by the employer and are made available to each employee who enters the permit space or to that employee's authorized representative.

(7) Alternate procedures for entering permit confined spaces.

The following alternate procedures apply to entry into permit spaces that meet the conditions set forth in subsection (6) of this section.

(a) During permit space entry using these alternate procedures an employer need not comply with WAC 296-62-14115 through 296-62-14125 and WAC 296-62-14135 through 296-62-14150. Training and employee participation requirements of WAC 296-62-14130 and 296-62-14155 still apply.

(b) Any conditions making it unsafe to remove an entrance cover must be eliminated before the cover is removed.

(c) When entrance covers are removed, the opening must be promptly guarded by a railing, temporary cover, or other temporary barrier that will prevent an accidental fall through the opening and will protect each employee working in the confined space from objects falling into the space.

(d) Before an employee enters the confined space, the internal atmosphere must be tested, with a calibrated direct-reading instrument, for the following conditions in the order given below:

Any employee who enters the space, or that employee's authorized representative, must be provided an opportunity to observe the preentry testing required by this ~~(paragraph)~~ subdivision.

- (i) Oxygen content,
- (ii) Flammable gases and vapors, and
- (iii) Potential toxic air contaminants.

(e) There must be no hazardous atmosphere within the space whenever any employee is inside the space.

(f) Continuous forced air ventilation must be used, as follows:

- (i) An employee must not enter the space until the forced air ventilation has eliminated any hazardous atmosphere;
- (ii) The forced air ventilation must:

- Be directed to ventilate the immediate areas where an employee is or will be present within the space; and
 - Continue until all employees have left the space;
- (iii) The air supply for the forced air ventilation must be from a clean source and may not increase the hazards in the space.
- (g) The atmosphere within the space must be periodically tested as necessary to ensure that the continuous forced air ventilation is preventing the accumulation of a hazardous atmosphere. Any employee who enters the space, or that employee's authorized representative, shall be provided with an opportunity to observe the periodic testing required by this subsection.
- (h) If a hazardous atmosphere is detected during entry:
- (i) Each employee must leave the space immediately;
 - (ii) The space must be evaluated to determine how the hazardous atmosphere developed; and
 - (iii) Measures must be implemented to protect employees from the hazardous atmosphere before any subsequent entry takes place.
- (i) The employer must verify that:
- The space is safe for entry; and
 - The preentry measures required by (a), (b), and (c) of this subsection have been taken, through a written certification that contains the date, the location of the space, and the signature of the person providing the certification. The certification is made before entry and available to each employee entering the space.
- (8) When an employer (host employer) arranges to have employees of another employer (contractor) perform work that involves permit space entry, the host employer must:
- (a) Inform the contractor that the workplace contains permit spaces and that permit space entry is allowed only through compliance with a permit space program meeting the requirements of this standard;
 - (b) Inform the contractor of the hazards identified and the host employer's experience with each permit space to be entered;
 - (c) Inform the contractor of any precautions or procedures that the host employer requires for the protection of employees in or near permit spaces where contractor personnel will be working;
 - (d) Coordinate entry operations with the contractor, when both host employer personnel and contractor personnel will be working in or near permit spaces, as required by WAC 296-62-14115(11); and
 - (e) Debrief the contractor at the conclusion of the entry operations regarding the permit space program followed and regarding any hazards confronted or created in permit spaces during entry operations.
- (9) In addition to complying with the permit space requirements that apply to all employers, each contractor who is retained to perform permit space entry operations must:
- (a) Obtain any available information regarding permit space hazards and entry operations from the host employer;
 - (b) Coordinate entry operations with the host employer, when both host employer personnel and contractor personnel will be working in or near permit spaces, as required by WAC 296-62-14115(11); and

(c) Inform the host employer either through a debriefing or during the entry operation of the permit space program that the contractor will follow and of any hazards confronted or created in permit spaces.

AMENDATORY SECTION (Amending WSR 99-22-046, filed 10/29/99, effective 2/1/00)

WAC 296-62-14155 Employee participation. (1) Employers must consult with affected employees and their authorized representatives on the development and implementation of all aspects of the permit space program required by WAC ((296-62-14503)) 296-62-14110.

(2) Employers must make available to affected employees and their authorized representatives all information required to be developed by this part.

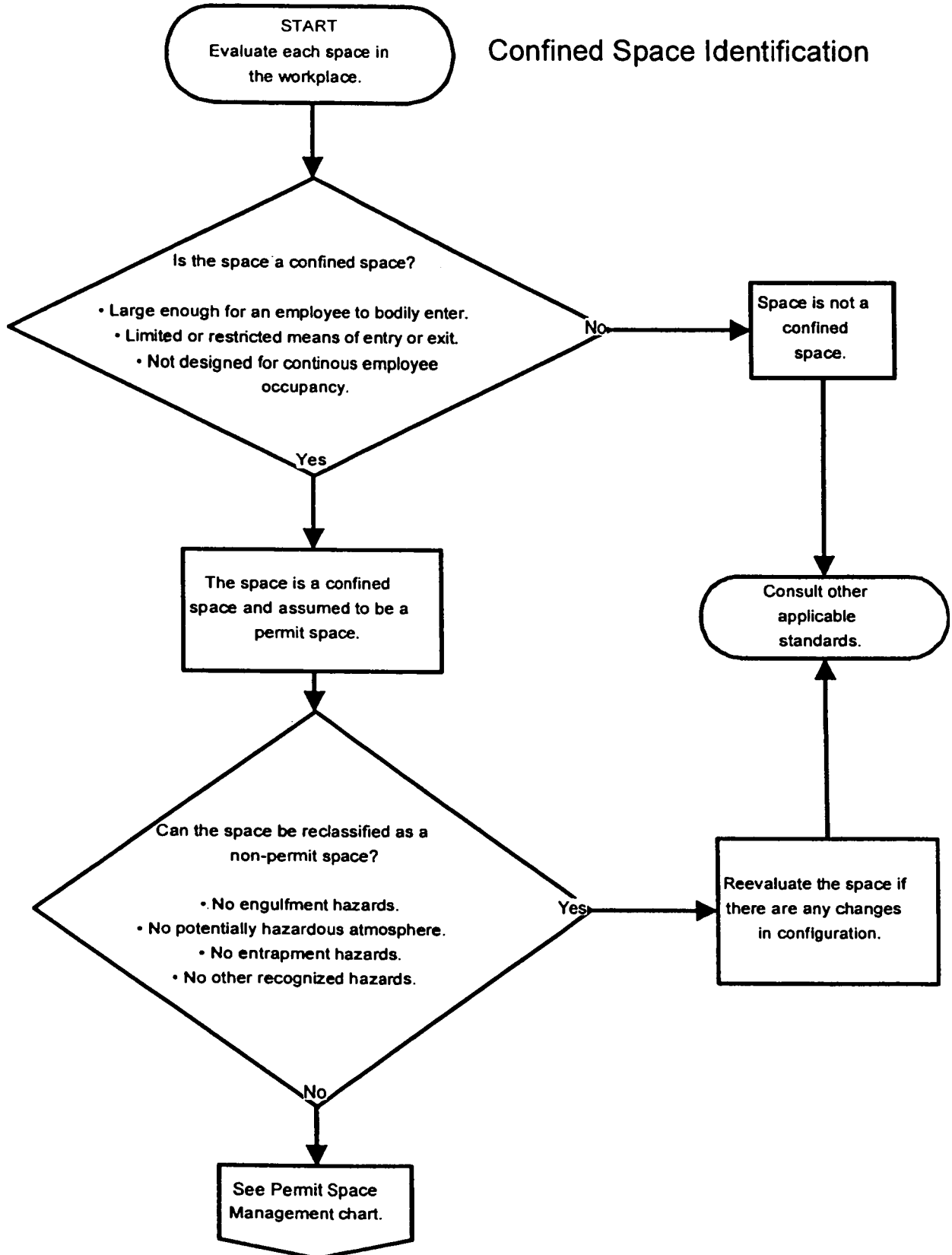
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AMENDATORY SECTION (Amending WSR 99-22-046, filed 10/29/99, effective 2/1/00)

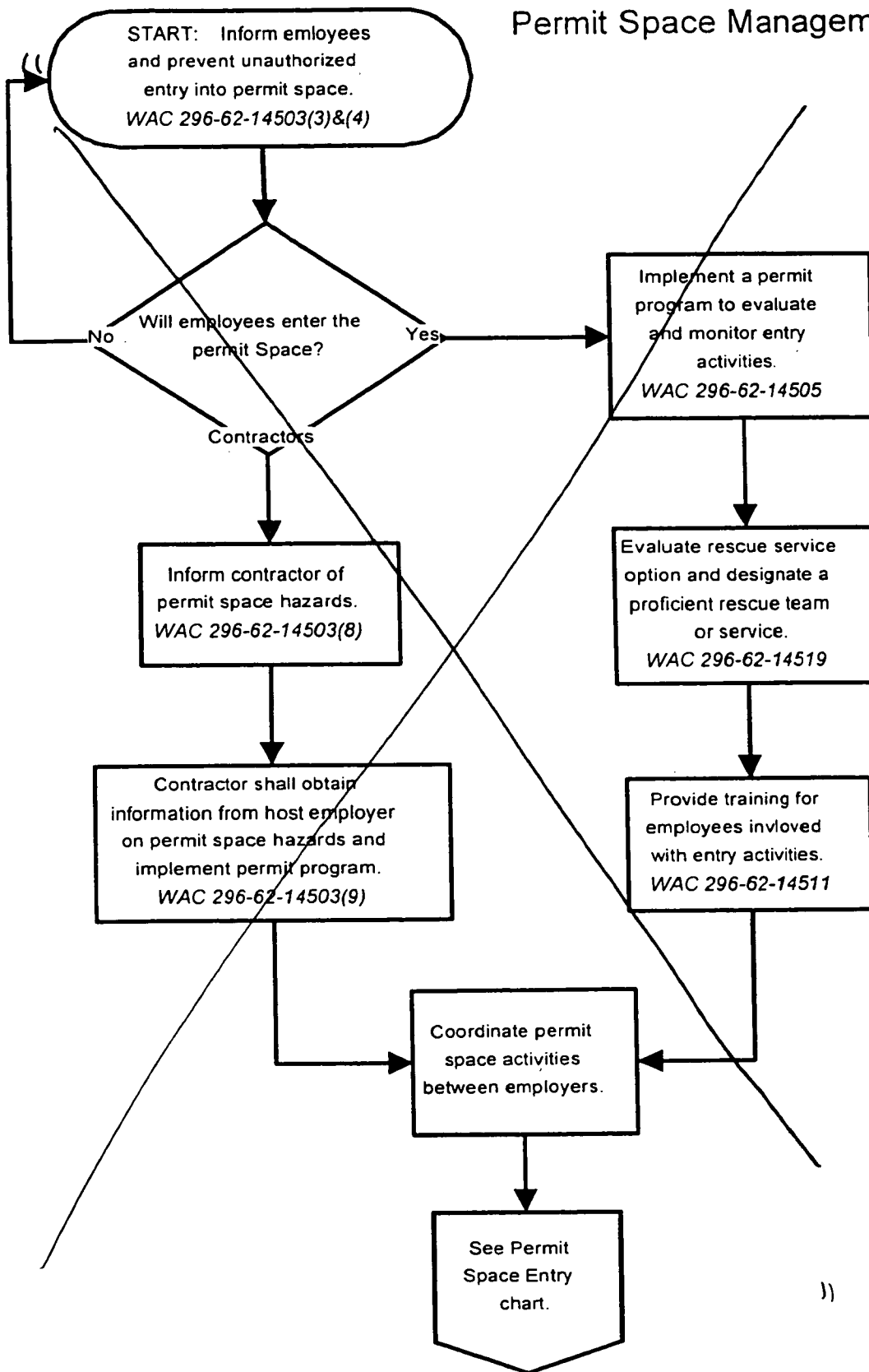
WAC 296-62-14171 Appendix A—Permit-required confined space decision flow chart.

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Confined Space Identification

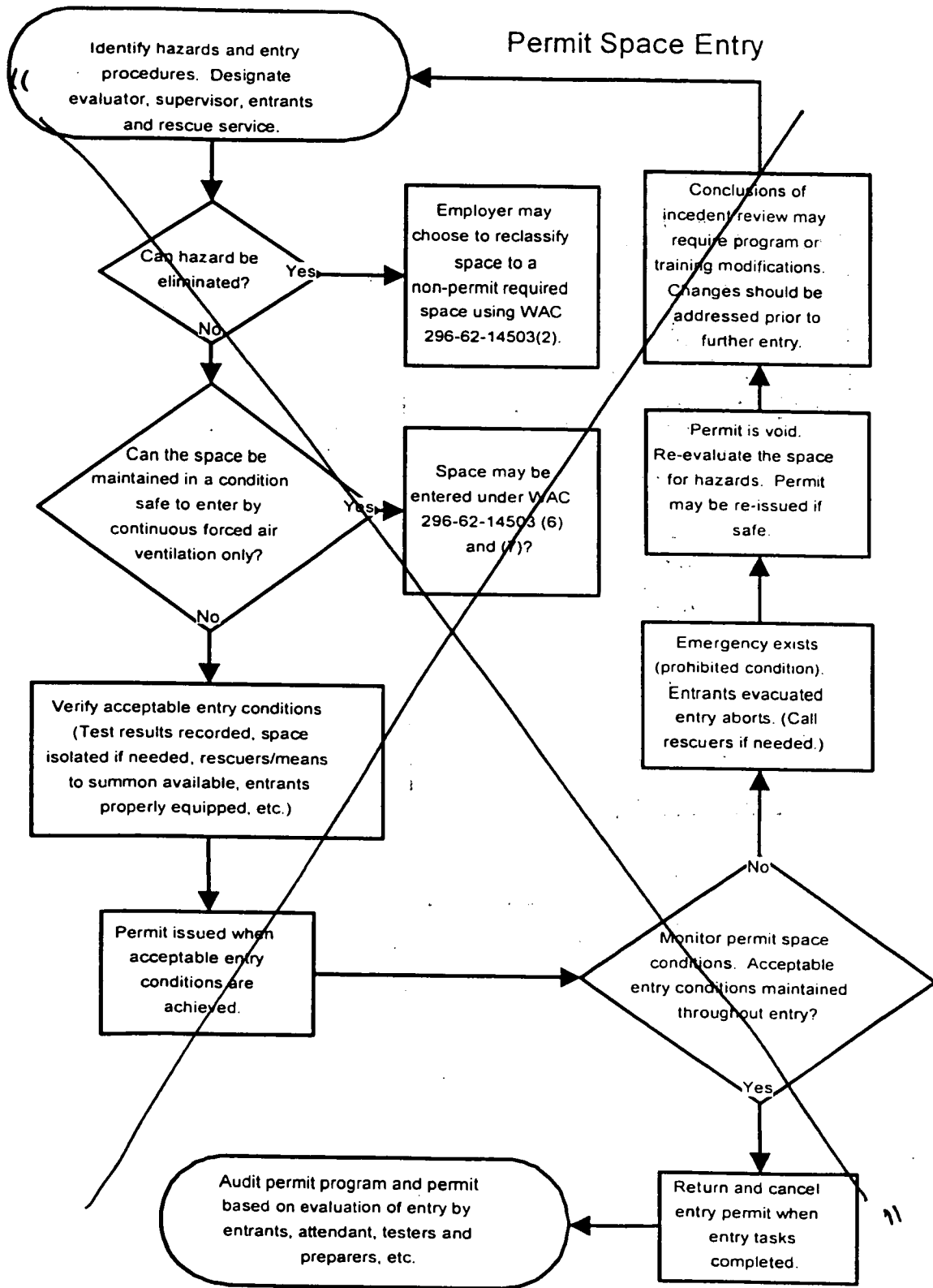


Permit Space Management



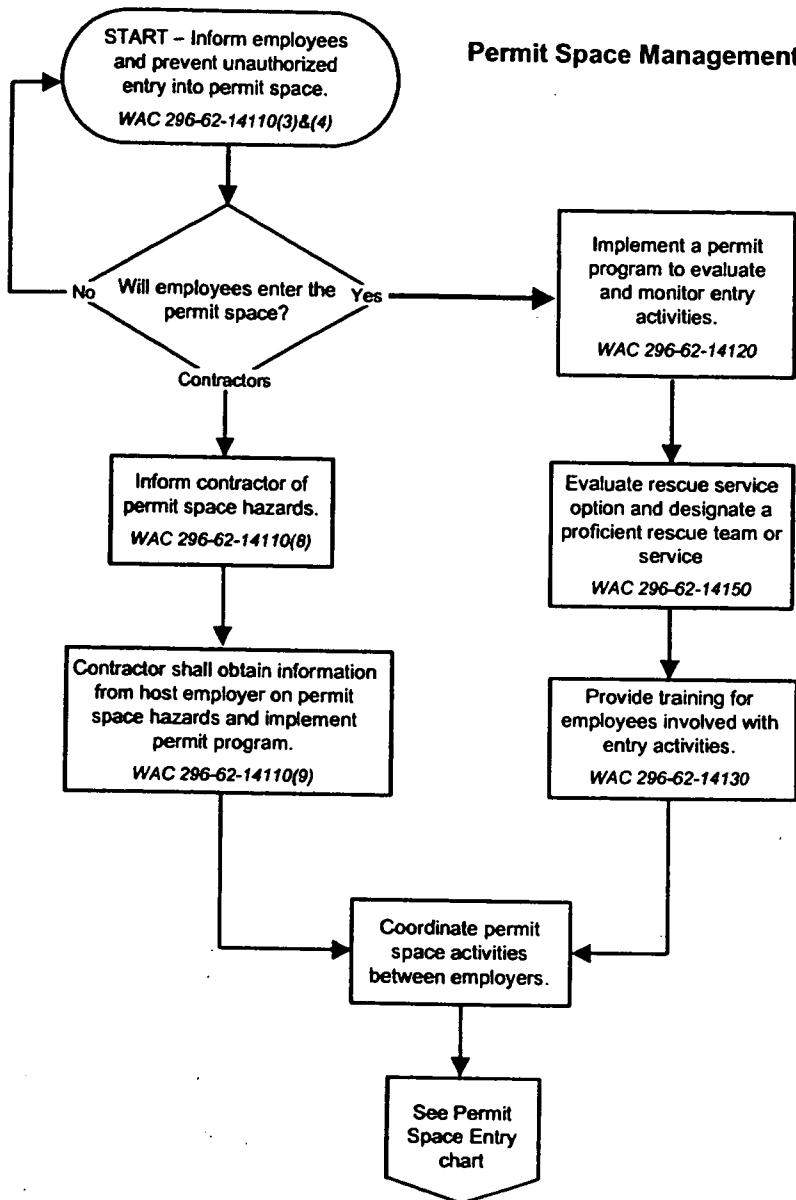
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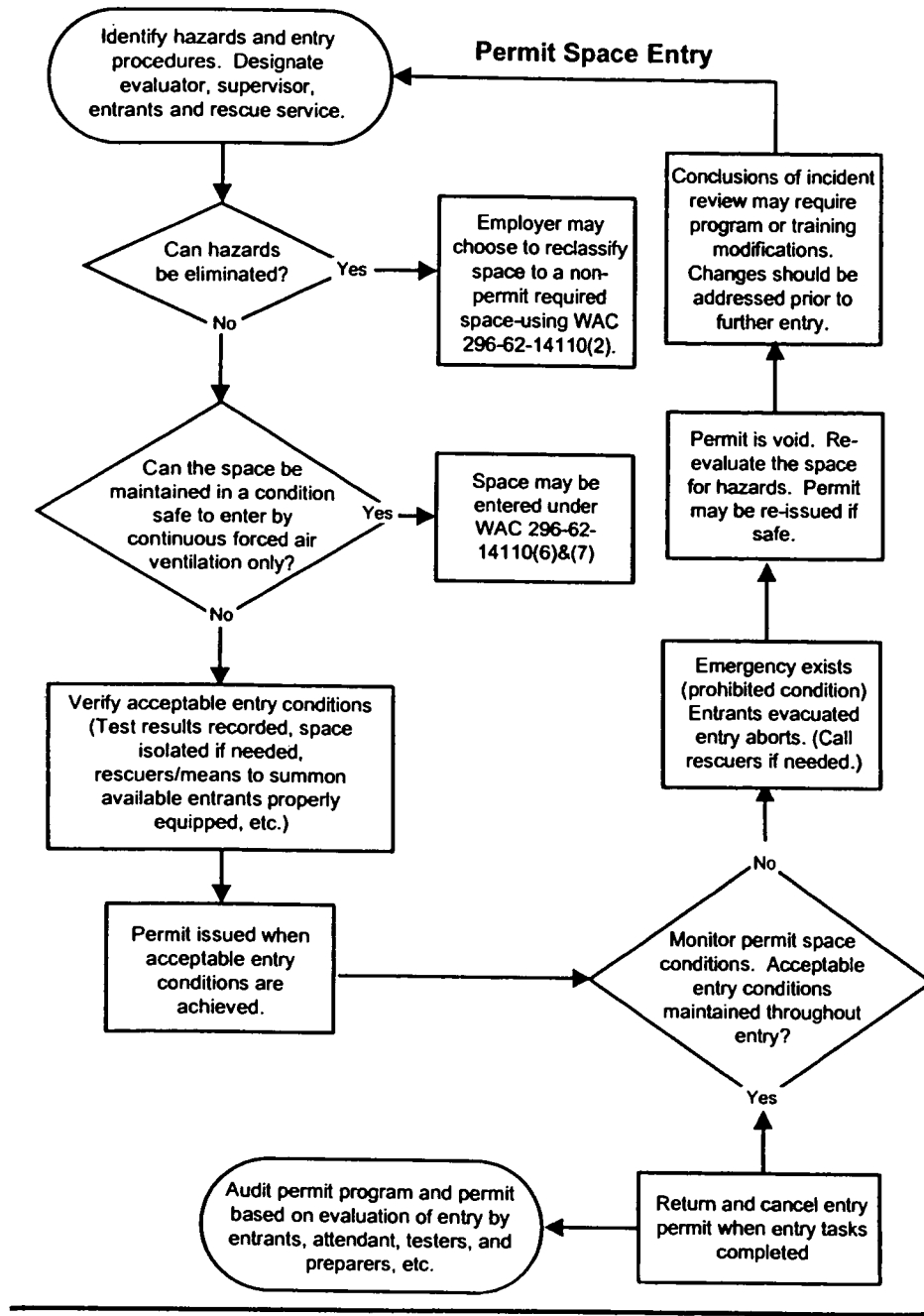


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Permit Space Management



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AMENDATORY SECTION (Amending WSR 99-16-083, filed 8/3/99, effective 11/3/99)

WAC 296-79-140 Installation, inspection, and maintenance of pipes, piping systems, and hoses. (1) Definitions applicable to this section.

"Hazardous material system" - any system within the following classifications:

- Flammable or explosive - any system containing materials which are hazardous because they are easily ignited and create a fire or explosion hazard, defined by NFPA as Class I liquids;

- Chemically active or toxic - any system containing material which offers corrosion or toxic hazard in itself or can be productive of harmful gases upon release, defined by NFPA 704M as Class 3 and 4 materials;

- Thermally hazardous - any system above 130°F which exposes persons to potential thermal burns;

- Pressurized - any gaseous system above 200 psig or liquid system above 500 psig.

"Piping system" - any fixed piping, either rigid pipe or flexible hose, including all fittings and valves, in either permanent or temporary application.

(2) Design and installation. All new piping systems intended to be used in hazardous material service must be designed and installed in accordance with applicable provisions of the ASME Code for Pressure Piping or in accordance with applicable provisions of ANSI B31.1-1995 through B31.8-1995.

(3) Inspection and maintenance.

(a) The employer must develop a formal program of installation inspections and maintenance for all hazardous material piping systems. The program must be:

- Based on sound maintenance engineering principle, and
- Demonstrate due consideration for the manufacturing specifications of the pipe, hose, valves and fittings, the ambient environment of the installation and the corrosive or abrasive effect of the material handled within the system.

(b) Type and frequency of tests and/or inspections and selection of inspection sites must be adequate to give indications that minimum safe design operating tolerances are maintained. The tests may include visual or nondestructive methods.

(4) Inspection records.

(a) Results of inspections and/or tests must be maintained as a record for each system. Portions of systems that are buried or enclosed in permanent structures in such a manner as to prevent exposure to employees even in the event of a failure, may be exempted from the inspection requirements only.

- Past records may be discarded provided the current inspection report and the immediately preceding two reports are maintained.

- When a system is replaced, a new record must be established and all past records may be discarded.

(b) Upon request the records for each system must be made available for review by the department of labor and industries.

(5) Systems or sections of systems found to be below the minimum design criteria requirements for the current service must be repaired or replaced with component parts and methods which equal the requirements for new installations.

(6) Identification of piping systems.

(a) ~~((Pipes containing hazardous materials must be identified. It is recommended that))~~ USAS A13.1-1956, "Scheme for Identification of Piping Systems," must be followed.

Positive identification of a piping system content:

- Must have a lettered legend giving the name of the content in full or abbreviated form, or a commonly used identification system.

- Must be made and maintained at suitable intervals and at valves, fittings, and on both sides of walls or floors as needed.

- May have arrows to indicate the direction of flow.

- May provide necessary supplementary information such as hazard of use. This may be done by additional legend or by color applied to the entire piping system or as colored bands. Legends may be placed on colored bands.

Examples of legend which may give both positive identification and supplementary information regarding hazards or use are:

Ammonia	Hazardous liquid or gas
Chlorine	Hazardous liquid or gas
Chlorine dioxide	Hazardous liquid or gas
Sulphur dioxide	Hazardous gas
Liquid caustic	Hazardous liquid
Liquid sulphur	Hazardous liquid
Sulphuric acid	Hazardous liquid
Sodium chlorate	When dry, danger of fire or explosion

Note: Manual L-1, published by Chemical Manufacturers Association, Inc., is a valuable guide in respect to supplementary legend.

- When color, applied to the entire piping system or as colored bands, is used to give supplementary information it should conform to the following:

CLASSIFICATION	PREDOMINANT COLOR
F—Fire-protection equipment	Red
D—Dangerous materials	Yellow (or orange)
S—Safe materials	Green (or the achromatic colors, white, black, gray or aluminum)

and, when required,

P—Protective materials	Bright blue
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(b) When legend systems are used, legend boards showing the color and identification scheme in use must be prominently displayed at each plant. They must be located so that employees who may be exposed to hazardous material piping systems will have a frequent reminder of the identification program.

(c) All employees who work in the area of hazardous material piping systems must be given training in the color and identification scheme in use.

(7) Steam hoses. Steam hoses must be specifically designed to safely carry steam at any pressures to which they may be subjected.

AMENDATORY SECTION (Amending WSR 00-14-058, filed 7/3/00, effective 10/1/00)

WAC 296-155-24525 Appendix B to Part C-1—Fall restraint and fall arrest (employer information only). Additional standards that require the use of fall restraint and/or fall arrest protection for employees are listed below:

Ladders	WAC 296-155-480 (1)(r) WAC 296-155-480 (1)(s)
Scaffolds	WAC 296-155-483(7)
Boom Supported Elevating Work Platforms	WAC 296-155-489

EXPEDITED

Vehicle Mounted Elevated and Rotating Work Platforms	WAC 296-155-490 (2)(b)(v)
Crane and Derrick Supported Work Platforms	WAC 296-155-528 (6)(c) WAC 296-155-528 (6)(d) WAC 296-155-528 (7)(i) WAC 296-155-528 (7)(j) WAC 296-155-528 (7)(k) WAC 296-155-528 (10)(h)
Open Sided Floors	WAC 296-155-505 (6)(a) through (f)
Pile Driving	WAC 296-155-620 (1)(i)
Vertical Slip Forms	WAC 296-155-688(9)
Placing and Removal of Forms	WAC 296-155-689(4)
Steel Erection Temporary Floors	WAC 296-155-705 (2)(b)
((Tunneling (Skips and Platforms)	WAC 296-155-730 (8)(e))

AMENDATORY SECTION (Amending Order 88-04, filed 5/11/88)

WAC 296-155-441 Applicability. (1) Covered. WAC 296-155-441 through 296-155-459 contain installation safety requirements for electrical equipment and installations used to provide electric power and light at the jobsite. These sections apply to installations, both temporary and permanent, used on the jobsite; but these sections do not apply to existing permanent installations that were in place before the construction activity commenced.

Note: If the electrical installation is made in accordance with the National Electrical Code ANSI/NFPA 70-1984, exclusive of formal interpretations and tentative interim amendments, it will be deemed to be in compliance with WAC 296-155-444 through 296-155-459, except for WAC 296-155-447 (2)(a) and 296-155-449 (1)(b)(ii)(E), (F), (G), and (J).

(2) Not covered. WAC 296-155-441 through 296-155-459 do not cover installations used for the generation, transmission, and distribution of electric energy, including related communication, metering, control, and transformation installations. (However, these regulations do cover portable and vehicle-mounted generators used to provide power for equipment used at the jobsite.) See ~~((chapter 296-44 WAC, Safety standards—Electrical Construction Code, for the construction of power distribution and transmission lines))~~ the National Electrical Safety Code (NESC).

AMENDATORY SECTION (Amending WSR 01-17-033, filed 8/8/01, effective 9/1/01)

WAC 296-155-525 Cranes and derricks. (1) Definitions applicable to this part:

Accessory - a secondary part or assembly of parts which contributes to the overall function and usefulness of a machine.

Administrative or regulatory authority - a governmental agency, or the employer in the absence of governmental jurisdiction.

Angle indicator (boom) - an accessory which measures the angle of the boom to the horizontal.

Appointed - assigned specific responsibilities by the employer or the employer's representative.

Authorized person - means a person approved or assigned by the employer to perform a specific type of duty or duties or be at a specific location or locations at the workplace.

Auxiliary hoist - a secondary hoist rope system used either in conjunction with, or independently of, the main hoist system.

Axis of rotation - the vertical axis around which the crane superstructure rotates.

Axle - the shaft or spindle with which or about which a wheel rotates. On wheel-mounted cranes it refers to a type of axle assembly including housings, gearing, differential, bearings, and mounting appurtenances.

Axle (bogie) - two or more axles mounted in tandem in a frame so as to divide the load between the axles and permit vertical oscillation of the wheels.

Ballast - weight used to supplement the weight of the machine in providing stability for lifting working loads (the term **ballast** is normally associated with locomotive cranes).

Base, anchor bolt - a crane base that is bolted to a footing.

Base, expendable - for static-mounting cranes, a style of bottom mast section or member that is cast into a concrete footing block; all or part of this component is lost to future installations.

Base, fixed - a crane base that does not travel. It may be expendable, knee braced, or anchor bolted.

Base (mounting) - the traveling base on which the rotating superstructure of a locomotive or crawler crane is mounted.

Base, tower crane - the lowermost supporting component of the crane.

Base, travel - a crane base that is a ballasted platform mounted on trucks that ride along rails.

Boom (crane) - a member hinged at the rotating superstructure and used for supporting the existing tackle.

Boom angle - the angle above or below horizontal of the longitudinal axis of the base boom section.

Boom hoist mechanism - means for supporting the boom and controlling the boom angle.

Boom point - the outer extremity of the crane boom, containing the hoist sheave assembly.

Boom point sheave assembly - an assembly of sheaves and pin built as an integral part of the boom point.

Boom stop - a device used to limit the angle of the boom at the highest recommended position.

Brake - a device used for retarding or stopping motion.

Brace, tower - a structural attachment placed between a crane tower and an adjacent structure to pass loads to the

adjacent structure and permit the crane to be erected to greater than free standing height.

Buffer - an energy absorbing device for reducing impact when a moving crane or trolley reaches the end of its permitted travel.

Cab - a housing which covers the rotating superstructure machinery, or the operator's or driver's station.

Climbing frame - a frame used with climbing cranes to transmit operational and climbing reactions to the host building frame.

Climbing ladder - a steel member with crossbars (used in parts) suspended from a climbing frame and used as jacking support points when some cranes climb.

Clutch - a means for engagement or disengagement of power.

Commercial truck vehicle - a commercial motor vehicle designed primarily for the transportation of property in connection with business and industry.

Counterweight - weight used to supplement the weight of the machine in providing stability for lifting working loads.

Counterweight jib - a horizontal member of a crane on which the counterweights and usually the hoisting machinery are mounted.

Crane carrier - the undercarriage of a wheel-mounted crane specifically designed for transporting the rotating crane superstructure. It may or may not provide its own travel mechanism. It is distinguished from a commercial truck vehicle in that it is not designed to transport personnel, materials, or equipment other than the crane-rotating superstructure.

Cross-over points - in multiple layer spooling of rope on a drum, those points of rope contact where the rope crosses the preceding rope layer.

Designated - selected or assigned by the employer or the employer's representative as being competent to perform specific duties.

Drum - the cylindrical member around which a rope is wound for lifting and lowering the load or boom.

Dynamic (loading) - loads introduced into the machine or its components due to accelerating or decelerating forces.

Flange point - a point of contact between rope and drum flange where the rope changes layers.

Free standing height - that height of a crane which is supported by the tower (mast) alone without assistance from braces, guys, or other means.

Gage, track - the horizontal distance between two rails measured perpendicular to the direction of travel.

Gantry (A-frame) - a structural frame, extending above the superstructure, to which the boom support ropes are reeved.

High strength (traction) bolts - high strength tensile bolts used in the assembly of crane sections. The bolts are installed in tension by torquing or other means at a level greater than that produced by in- or out-of-service loads for the purpose of reducing the likelihood of bolt fatigue failure.

Hoist mechanism - a hoist drum and rope reeving system used for lifting and lowering loads.

Jib - an extension attached to the boom point to provide added boom length for lifting specified loads. The jib may be in line with the boom or offset to various angles in the vertical plane of the boom.

Jib backstop - a device which will restrain the jib from turning over backward.

Job site - work area defined by the construction contract.

Limiting device - a mechanical device which is operated by some part of a power driven machine or equipment to control loads or motions of the machine or equipment.

Load (working) - the external load in pounds (kilograms) applied to the crane, including the weight of load-attaching equipment such as lower load block, shackles, and slings.

Load block, lower - the assembly of hook or shackle, swivel, sheaves, pins, and frame suspended by the hoisting ropes.

Load block, upper - the assembly of shackle, swivel, sheaves, pins, and frame suspended from the boom point.

Load ratings - crane ratings in pounds (kilograms) established by the manufacturer.

Mast (boom) - a frame hinged at or near the boom hinge for use in connection with supporting a boom. The head of the mast is usually supported and raised or lowered by the boom hoist ropes.

Mast (jib) - a frame hinged at or near the boom point for use in connection with supporting a jib.

Normal operating conditions.

Cab- or station-operated cranes - conditions during which a crane is performing functions within the manufacturer's operating recommendations. Under these conditions, the operator is at the operating control devices on the crane, and no other persons except those appointed are to be on the crane.

Ground- or floor-operated cranes - conditions during which a crane is performing functions within the manufacturer's operating recommendations. Under these conditions, the operator is at the operating control devices that are mounted to the crane but operated with the operator off the crane, and no other persons except those appointed are to be on the crane.

Remote-operated cranes - conditions during which a crane is performing functions within the manufacturer's operating recommendations. Under these conditions, the operator is at the operating control devices that are mounted to any part of the crane, and no other persons except those appointed are to be on the crane.

Out-of-service - the condition of a crane when unloaded, without power and with the controls unattended and prepared to endure winds above the in-service level.

Outriggers - extendable or fixed members attached to the mounting base, which rest on supports at the outer ends used to support the crane.

Pawl (dog) - a device for positively holding a member against motion in one or more directions.

Payload - that load or loads being transported by the commercial truck chassis from place to place.

Pendant - a rope or strand of specified length with fixed end connections.

Pitch diameter - the diameter of a sheave or rope drum measured at the center line of the rope.

Power-controlled lowering - a system or device in the power train, other than the load hoist brake, which can control the lowering rate of speed of the load hoist mechanism.

Qualified person - a person who, by possession of a recognized degree or certificate of professional standing, or who, by extensive knowledge, training, and experience, has successfully demonstrated the ability to solve or resolve problems relating to the subject matter and work.

Radius (load) - the horizontal distance from a projection of the axis of rotation to the base of the crane, before loading, to the center of the vertical hoist line or tackle with load applied.

Rail clamp - a tong-like metal device mounted on a locomotive crane car, which can be connected to the track.

Reeving - a rope system in which the rope travels around drums and sheaves.

Remote control station - a location, not on the crane, from which the operator can control all the crane movements.

Repetitive pickup point - when operating on a short cycle operation, the rope being used on a single layer and being spooled repetitively over a short portion of the drum.

Rope - refers to wire rope unless otherwise specified.

Rotation resistant rope - a wire rope consisting of an inner layer of strand laid in one direction covered by a layer of strand laid in the opposite direction. This has the effect of counteracting torque by reducing the tendency of the finished rope to rotate.

Running rope - a rope which travels around sheaves or drums.

Shall - this word indicates that the rule is mandatory and must be followed.

Service, light - service that involves irregular operation with loads generally about one-half or less of the rated load; a service crane at a storage yard or building site would be an example.

Service, normal - service that involves operating occasionally at rated load but normally at less than eighty-five percent of the rated load and not more than ten lift cycles per hour except for isolated instances; a crane used for concrete placement at a building site would be an example.

Service, heavy - service that involves operating at eighty-five percent to one hundred percent of the rated load or in excess of ten lift cycles per hour as a regular specified procedure; some cranes operating at material yards or in industrial applications may fall into this category.

Sheave - a grooved wheel or pulley used with a rope to change the direction and point of application of a pulling force.

Should - this word indicates that the rule is a recommendation, the advisability of which depends on the facts in each situation.

Side loading - a load applied to an angle to the vertical plane of the boom.

Stabilizer - stabilizers are extendable or fixed members attached to the mounting base to increase the stability of the crane, but which may not have the capability of relieving all of the weight from wheels or tracks.

Standby crane - a crane which is not in regular service but which is used occasionally or intermittently as required.

Standing (guy) rope - a supporting rope which maintains a constant distance between the points of attachment to the two components connected by the rope.

Structural competence - the ability of the machine and its components to withstand the stresses imposed by applied loads.

Superstructure - the rotating upper frame structure of the machine and the operating machinery mounted thereon.

Swing - rotation of the superstructure for movement of loads in a horizontal direction about the axis of rotation.

Swing mechanism - the machinery involved in providing rotation of the superstructure.

Swivel - a load carrying member with thrust bearings to permit rotation under load in a plane perpendicular to the direction of the load.

Swiveling - the rotation of the load attachment portion (hook or shackle) of a load block (lower) or hook assembly about its axis of suspension in relation to the load line(s).

Tackle - an assembly of ropes and sheaves arranged for lifting, lowering, or pulling.

Telescoping boom - consists of a base boom from which one or more boom sections are telescoped for additional length.

Telescoping (tower crane) - a process whereby the height of a traveling or fixed base crane is increased typically by raising the inner tower and then adding sections at the top of the outer tower; there are also cranes that are telescoped by adding to the inner tower from below.

Tower (mast) - a vertical structural frame consisting of columns and bracing capable of supporting an upperstructure with its working and dynamic loads and transmitting them to the supporting surface or structure.

Traction (high strength) bolts - see high strength bolts.

Transit - the moving or transporting of a crane from one job site to another.

Travel - the function of the machine moving under its own power from one location to another on a job site.

Trolley - the device that travels along the load jib and contains the upper load block.

Two-blocking - the condition in which the lower load block or hook assembly comes in contact with the upper load block or boom point sheave assembly.

Weathervaning - wind induced rotation of a crane upperstructure, when out-of-service, to expose minimal surface area to the wind.

Wedge - a tapered wood or steel device used to provide stability to cranes during use as a climber. When the wedges are tightened against the four main legs of the tower, they convert overturning moments into horizontal forces to be resisted by the floor framing or slab.

Wheel base - the distance between centers of front and rear axles. For a multiple axle assembly the axle center for

wheel base measurement is taken as the midpoint of the assembly.

Whipline (runner or auxiliary) - a secondary rope system usually of lighter load capacity than that provided by the main rope system.

Winch head - a power driven spool for handling of loads by means of friction between fiber or wire rope and the spool.

(2) General requirements.

(a) The employer shall comply with the manufacturer's specifications and limitations applicable to the operation of any and all cranes and derricks. Where manufacturer's specifications are not available the limitations assigned to the equipment shall be based on the determinations of a qualified engineer, competent in this field and such determinations will be appropriately documented and recorded. Attachments used with cranes shall not exceed the capacity, rating, or scope recommended by the manufacturer.

(b) Rated load capacities, and recommended operating speeds, and special hazard warnings, or instruction, shall be conspicuously posted on all equipment. Instructions or warnings shall be visible to the operator while at the control station.

(c) Hand signals to crane and derrick operators shall be those prescribed by the applicable ANSI standard for the type of crane in use. An illustration of the signals shall be posted at the job site.

(d) The employer shall designate a competent person who shall inspect all machinery and equipment prior to each use, and periodically during use to make sure it is in safe operating condition. Any deficiencies shall be repaired, or defective parts replaced, before continued use.

(e) A thorough, annual inspection of the hoisting machinery shall be made by a competent person, or by a government or private agency recognized by the department. The employer shall maintain a permanent record of the dates and results of all inspections for each hoisting machine and piece of equipment.

(f) A tag line or guide rope shall be used on all loads that swing freely. Guide ropes or tag lines shall be held by experienced persons.

(g) Care shall be taken to guard against injury to workers, or damage to scaffolds or buildings, from swinging loads.

(h) The operator shall avoid carrying loads over people.

(i) When work is stopped or when the derrick is not in operation, the boom shall be lowered to a horizontal position or tied in place to prevent it whipping with the wind or other external force.

(j) Only authorized personnel shall make sling hitches on loads.

(k) Workers shall not be allowed to ride on loads handled by derricks.

(l) Operators shall observe signals only from duly authorized persons. Under no circumstances shall a load be moved until the signal is received from authorized personnel.

(m) Belts, gears, shafts, pulleys, sprockets, spindles, drums, fly wheels, chains, or other reciprocating, rotating, or other moving parts or equipment shall be guarded if such parts are exposed to contact by employees, or otherwise cre-

ate a hazard. Guarding shall meet the requirements of chapter 296-24 WAC.

(n) A minimum distance of thirty inches clearance shall be maintained between the swing radius of the greatest extension of the crane superstructure or counterweights and a stationary object, including the crane itself, while the crane is in operation. When this clearance cannot be maintained, suitable barricades or safeguards shall be used to isolate the pinch point hazard area.

(o) All exhaust pipes shall be guarded or insulated where contact by employees, in the performance of normal duties, is possible.

(3) Additional requirements.

(a) Whenever internal combustion engine powered equipment exhausts in enclosed spaces, tests shall be made and recorded to see that employees are not exposed to unsafe concentrations of toxic gases or oxygen deficient atmospheres. (See chapter 296-62 WAC, the general occupational health standards and other applicable standards.)

(b) All cab glazing shall be safety glazing material. Windows shall be provided in the front and on both sides of the cab or operator's compartment with visibility forward and to either side. Visibility forward shall include a vertical range adequate to cover the boom point at all times. The front window may have a section which can be readily removed or held open, if desired. If the section is of the type held in the open position, it shall be secured to prevent inadvertent closure. A windshield wiper should be provided on the front window.

(c)(i) Where necessary for rigging or service requirements, a ladder or steps shall be provided to give access to a cab roof.

(ii) On cranes, guardrails, handholds and steps shall be provided for easy access to the car and cab in accordance with chapter 296-155 WAC, Part C-1 and Part J.

(iii) Platforms and walkways shall have anti-skid surfaces.

(d) Fuel tank filler pipe shall be located in such a position, or protected in such manner, as to not allow spill or overflow to run onto the engine, exhaust, or electrical equipment of any machine being fueled.

(i) An accessible fire extinguisher of 5BC rating, or higher, shall be available at all operator stations or cabs of equipment.

Note: For additional requirements relating to portable fire extinguishers see WAC 296-800-300.

(ii) All fuels shall be transported, stored, and handled to meet the rules of Part D of this chapter. When fuel is transported by vehicles on public highways, department of transportation rules concerning such vehicular transportation are considered applicable.

(e) Except where electrical distribution and transmission lines have been deenergized and visibly grounded at point of work or where insulating barriers, not a part of or an attachment to the equipment or machinery, have been erected to prevent physical contact with the lines, equipment or machines shall be operated proximate to power lines only in accordance with the following:

(i) For lines rated 50 kV. or below, minimum clearance between the lines and any part of the crane or load shall be 10 feet;

(ii) For lines rated over 50 kV., minimum clearance between the lines and any part of the crane or load shall be 10 feet plus 0.4 inch for each 1 kV. over 50 kV., or twice the length of the line insulator, but never less than 10 feet;

(iii) In transit with no load and boom lowered, the equipment clearance shall be a minimum of 4 feet for voltages less than 50 kV., and 10 feet for voltages over 50 kV. up to and including 345 kV., and 16 feet for voltages up to and including 750 kV.;

(iv) A person shall be designated to observe clearance of the equipment and give timely warning to insure that the required separation is maintained for all operations where it is difficult for the operator to maintain the desired clearance by visual means;

(v) Cage-type boom guards, insulating links, or proximity warning devices may be used on cranes, but the use of such devices shall not alter the requirements of any other regulation of this part even if such device is required by law or regulation;

(vi) Any overhead wire shall be considered to be an energized line unless and until the person owning such line or the electrical utility authorities indicate that it is not an energized line and it has been visibly grounded;

(vii) Prior to work near transmitter tower where an electrical charge can be induced in the equipment or materials being handled, the transmitter shall be deenergized or tests shall be made to determine if electrical charge is induced on the crane.

(f) The following precautions shall be taken when necessary to dissipate induced voltage:

(i) The equipment shall be provided with an electrical ground directly to the upper rotating structure supporting the boom; and

(ii) Ground jumper cables shall be attached to materials being handled by boom equipment when electrical charge is induced while working near energized transmitters. Crews shall be provided with nonconductive poles having large alligator clips or other similar protection to attach the ground cable to the load.

(iii) Combustible and flammable materials shall be removed from the immediate area prior to operations.

(g) No modifications or additions which affect the capacity or safe operation of the equipment shall be made by the employer without the manufacturer's or a qualified engineer's written approval. If such modifications or changes are made, the capacity, operation, and maintenance instruction plates, tags, or decals, shall be changed accordingly. In no case shall the original safety factor of the equipment be reduced.

(h) The employer shall comply with Power Crane and Shovel Association, Mobile Hydraulic Crane Standard No. 2.

(i) Sideboom cranes mounted on wheel or crawler tractors shall meet the requirements of SAE J743a-1964.

(4) Crawler, locomotive, and truck cranes.

(a) All jibs shall have positive stops to prevent their movement of more than 5° above the straight line of the jib and boom on conventional type crane booms. The use of

cable type belly slings does not constitute compliance with this standard.

(b) All crawler, truck or locomotive cranes in use shall meet the applicable requirements for design, inspection, construction, testing, maintenance and operation as prescribed in the ANSI B30.5-1989, Safety Code for Crawler, Locomotive and Truck Cranes.

(5) Tower cranes.

(a) Tower cranes shall be erected, jumped and dismantled under the immediate supervision of a competent person, designated by the employer.

(b) Tower cranes shall be erected, maintained and used in accordance with the manufacturer's specifications, recommendations and procedures. All modifications shall be approved by the manufacturer and engineered by a professional engineer. The safety factors shall not be reduced by any modifications. The crane plates and charts shall be changed to reflect any modifications made.

(c) A professional engineer shall certify that the crane foundations and underlying soil are adequate support for the tower crane with its maximum overturning movement.

(d) Tower cranes shall be positioned whereby they can swing 360° without either the counterweight or jib striking any building, structure or other object, except:

(i) If the crane can strike an object or another crane, suitable limit switches shall be installed which will prohibit contact with such objects, or;

(ii) Direct voice communications shall be established between any operator of the tower crane(s) involved and a signalperson so stationed where the boom and/or counterweight movement, and the object with which it may contact can be observed so that the operator(s) can be warned of imminent danger.

(iii) A secondary means of positive communications shall be established as a back-up for possible direct voice communication failure.

(iv) Radio communication systems without tone coded squelch are prohibited. Citizens band radios shall not be used as a means of communications for tower cranes.

(e) Prior to installing a climbing tower crane within an existing building or new construction, a structural engineer shall certify that the building is designed to withstand the torque and floor loading created by the crane to be installed.

(f) Tower cranes erected on a new foundation shall be tested in accordance with ANSI B30.3-1990 Chapter 3-1.

(i) The test shall consist of suspending a load of not less than 110% of the rated capacity for 15 minutes. The load shall be suspended from the furthest point of the length of boom (jib) to be used. The results of this test shall be within the manufacturer's recommendations and/or specifications.

(ii) A record of each test shall be made and signed by the person responsible for conducting the test. Such records shall be maintained on the construction site for the duration of the construction work for which it was erected and subsequently made a part of the firm's permanent equipment records. Records shall be made available to authorized representatives of the department, upon request.

(g) A capacity chart shall be furnished by each crane manufacturer which shall include a full and complete range

of crane load ratings at all stated operating radii for each allowable speed and each recommended counterweight load.

(i) Such chart shall be posted in the operator's cab or at the remote control stand in use. In lieu of the chart at the remote control stand, a minimum of two weight capacity signs shall be affixed to the jib or boom.

(ii) The chart shall be visible and readable to the operator while at the normal operating position.

(h) Operating controls shall be properly marked to indicate the function of the controls in each position.

(i) An operating and maintenance manual written in the English language shall be provided with each tower crane.

(j) Limit switches shall be installed and shall be kept properly adjusted. They shall be protected or isolated in a manner which will prevent unauthorized tampering. Limit switches shall provide the following functions:

(i) Safely limit the travel of the trolley to prevent it from hitting the outer end of the jib.

(ii) Limit the upward travel of the load block to prevent two-blocking.

(iii) Lower over travel limiting devices shall be provided for all load hoists where the hook area is not visible to the operator.

(iv) Limit the load being lifted in a manner whereby no more than 110% of the maximum rated load can be lifted or moved.

(k) The crane shall not be used to pull vehicles of any type, remove piling, loosen form work, pull away loads which are attached to the ground or walls, or for any operation other than the proper handling of freely suspended loads.

(l) When the operator may be exposed to the hazard of falling objects, the tower crane cab and/or remote control station shall have adequate overhead protection.

(m) The operator shall be protected from the weather. If enclosed cabs are provided they shall provide clear visibility in all directions and glass shall be approved safety glass or the equivalent.

(n) An approved and safe means shall be provided for access to operator's cab and machinery platform.

(o) When necessary for inspection or maintenance purposes, ladders, walkways with railing or other devices shall be provided.

(p) Each tower crane shall be provided with a slewing brake capable of preventing the jib or boom from rotating in either direction and stopping the rotation of the jib or boom while loaded, when desired. Such brake shall have a holding device which, when set, will hold the jib or boom in a fixed location without additional attention of the operator. When the crane is out of operation, the jib or boom shall be pointed downwind and the slewing brake shall be released so as to permit the jib or boom to weathervane, providing the jib or boom has a clear 360 degree rotation. Where a 360 degree rotation is not provided, the jib or boom shall be pointed downwind from the prevailing wind and the slewing brake set.

(q) Each tower crane shall be provided with a braking system on the trolley capable of stopping and holding the trolley in any desired position while carrying a maximum load. This brake shall be capable of being locked in a fixed location without additional attention of the operator. An auto-

matic brake or device shall be installed which will immediately stop and lock the trolley in position in the event of a breakage of the trolley rope.

(r) All electrical equipment shall be properly grounded and protection shall be provided against lightning.

(s) When the operator is actually operating the crane, the operator shall remain in a stationary position.

(t) All crane brakes shall automatically set in event of power failure. Swing brakes shall also function in this manner or be capable of being set manually.

(u) Climbing jack systems used for raising a tower crane shall be equipped with over-pressure relief valves, direct-reading pressure gauges, and pilot-operated hydraulic check valves installed in a manner which will prevent jack from retracting should a hydraulic line or fitting rupture or fail.

(v) During periods of high winds or weather affecting visibility, i.e., fog, etc., only loads shall be handled that are consistent with good safety practices. Good safety practices shall be mutually agreed upon by the operator and the person in charge of the construction job, with due consideration given to manufacturer's specifications and recommendations.

(w) Counterweights shall be securely fastened in place and shall not exceed the weight as recommended by the manufacturer for the length of jib being used. However, an amount of counterweight as recommended by the manufacturer shall be used.

(x) Tower cranes shall be inspected and maintained in accordance with the manufacturer's recommendations or more frequently if there is reason to suspect a possible defect or weakening of any portion of the structure or equipment.

(y) Guy wires, wedges, braces or other supports shall be inspected at the beginning and at midpoint of each working shift to ascertain that they are functioning as intended.

(6) Additional tower crane requirements.

(a) An approved method (~~shall~~) must be instituted for transmitting signals to the operator. Standard hand signals for crane operations (~~shall~~) must be used, whenever possible; however, if conditions are such that hand signals are ineffective, radio-controlled or electric-whistle signal or two-way voice communication (~~shall~~) must be used. (See WAC 296-155-525 (~~(4)~~) (5)(d).)

(b) Tower cranes shall not be erected or raised when the wind velocity at the worksite exceeds 20 m.p.h. or that specified by the manufacturer.

(c) Tower crane operators shall be trained and experienced in tower crane operations; however, for gaining experience, persons may operate the tower crane if under the immediate supervision of an experienced operator.

(d) Adequate clearance shall be maintained between moving and rotating structures of the crane and fixed objects to allow the passage of employees without harm.

(e) Employees required to perform duties on the horizontal boom of hammerhead tower cranes shall be protected against falling by guardrails or by a full body harness and lanyards attached to crane or to lifelines in conformance with Part C-1 of this chapter.

(f) Buffers shall be provided at both ends of travel of the trolley.

(g) Cranes mounted on rail tracks shall be equipped with limit switches limiting the travel of the crane on the track and stops or buffers at each end of the tracks.

(h) All hammerhead tower cranes in use shall meet the applicable requirements for design, construction, installation, testing, maintenance, inspection, and operation as prescribed by the manufacturer.

(i) Access ladders inside the telescoping sections of tower cranes are exempt from those sections of the safety standards pertaining to cleat length and cleat spacing, but shall conform to manufacturer's recommendations and specifications.

(7) Overhead and gantry cranes.

(a) The rated load of the crane shall be plainly marked on each side of the crane, and if the crane has more than one hoisting unit, each hoist shall have its rated load marked on it or its load block, and this marking shall be clearly legible from the ground or floor.

(b) Bridge trucks shall be equipped with sweeps which extend below the top of the rail and project in front of the truck wheels.

(c) Except for floor-operated cranes, a gong or other effective audible warning signal shall be provided for each crane equipped with a power traveling mechanism.

(d) All overhead and gantry cranes in use shall meet the applicable requirements for design, construction, installation, testing, maintenance, inspection, and operation as prescribed in ANSI B30.2.0-1990, Safety Code for Overhead and Gantry Cranes.

(8) Derricks. All derricks in use shall meet the applicable requirements for design, construction, installation, inspection, testing, maintenance, and operation as prescribed in American National Standard Institute B30.6-1990, Safety Code for Derricks.

(9) Floating cranes and derricks.

(a) Mobile cranes mounted on barges.

(i) When a mobile crane is mounted on a barge, the rated load of the crane shall not exceed the original capacity specified by the manufacturer.

(ii) A load rating chart, with clearly legible letters and figures, shall be provided with each crane, and securely fixed at a location easily visible to the operator.

(iii) When load ratings are reduced to stay within the limits for list of the barge with a crane mounted on it, a new load rating chart shall be provided.

(iv) Mobile cranes on barges shall be positively secured.

(b) Permanently mounted floating cranes and derricks.

(i) When cranes and derricks are permanently installed on a barge, the capacity and limitations of use shall be based on competent design criteria.

(ii) A load rating chart with clearly legible letters and figures shall be provided and securely fixed at a location easily visible to the operator.

(iii) Floating cranes and floating derricks in use shall meet the applicable requirements for design, construction, installation, testing, maintenance, and operation as prescribed by the manufacturer.

(c) Protection of employees working on barges. The employer shall comply with the applicable requirements for protection of employees as specified in WAC 296-155-630.

(10) Mobile cranes and excavation machines.

(a) In all power driven shovel operations the person in charge shall issue instructions necessary to prevent accidents, to detect and correct unsafe acts and dangerous conditions, and to enforce all safety rules and regulations.

The person in charge shall also issue instructions on the proper method of using tools and handling material.

(b) Where the ground is soft or uneven, timbering and planking shall be used to provide firm foundation and distribute the load.

(c) In case of a breakdown, the shovel shall be moved away from the foot of the slope before repairs are made.

(d) All persons shall keep away from the range of the shovel's swing and shall not be permitted to stand back of the shovel or in line with the swing of the dipper during operation or moving of shovel.

(e) Unauthorized persons shall not be allowed on the shovel during operations, and the operator shall not converse with other persons while operating machine.

(f) The shovel dipper shall rest on the ground or on blocking during shut down periods.

(g) Shovels shall be inspected daily and all defects promptly repaired.

(h) All rubber tired mobile cranes shall be equipped with outriggers and sufficient blocking to properly stabilize crane while operating.

(i) Rubber tired mobile cranes shall be equipped with rear view mirrors.

(j) Positive boom stops shall be provided on all mobile cranes of the wheel and crawler type.

(k) Length of a crane boom and amount of counterweight shall not exceed manufacturer's rated capacity for equipment involved; except on isolated cases where permission is granted by the department.

(l) On all cranes where wedge (~~beekets~~) brackets are used as terminal connections, the proper size wedge shall be used.

(m) On all mobile cranes, the hoist and boom drums shall be provided with a positive operated pawl or dog which shall be used in addition to the brake to hold the load and boom when they are suspended. Counterweight operated dogs are prohibited.

(n) Oiling and greasing shall be done under safe conditions with machine at rest, except when motion of machine is necessary.

(o) All steps, running boards, and boom ladder shall be of substantial construction and in good repair at all times.

(p) Operators shall not leave the cab while master clutch is engaged.

(q) Fire extinguishers shall be readily accessible and within reach of operator at all times.

(r) All shovel and crane cabs shall be kept clean and free of excess oil and grease on floor and machinery. Oily and greasy rags shall be disposed of immediately after use and not allowed to accumulate.

(s) Tools shall not be left on the cab floor. Spare cans of oil or fuel, and spare parts, shall not be stored in cabs, except in approved racks provided for that purpose.

(t) Mats or planking shall be used in moving shovels or cranes over soft or uneven ground.

(u) Cranes or shovels setting on steep grades shall be securely blocked or secured with a tail hold.

(v) Smoking shall be prohibited while fueling or oiling machines.

(w) Gasoline powered motors shall be stopped during refueling.

(x) Handling of movable feed line (bologna) shall be accomplished with insulated hooks and lineman's rubber gloves.

(y) Where cables cross roads they shall be elevated or placed in a trench.

(z) On all power shovels, including back-hoe types, of one-half cubic yard capacity or over, and on all dragline cranes or all-purpose cranes of the crawler or wheel type, two persons shall constitute the minimum working crew. It is mandatory that one be a qualified operator of the equipment in use. The job title of the other crew member may be oiler, rigger, signal person, or a laborer. The primary purpose of the second crew member is to signal the operator when the operator's vision is impaired or obscured and to be on-hand in case of emergency.

(i) Second-crew persons shall be properly trained in their second-person required skills.

(ii) The second crew member shall be close enough to the machine in operation to be aware of any emergency, if one arises, and to assure the machine is operated with necessary and appropriate signals to the operator.

AMENDATORY SECTION (Amending Order 94-07, filed 7/20/94, effective 9/20/94)

WAC 296-155-530 Material hoists, personnel hoists, and elevators. (1) General requirements.

(a) The employer shall comply with the manufacturer's specifications and limitations applicable to the operation of all hoists and elevators. Where the manufacturer's specifications are not available, the limitations assigned to the equipment shall be based on the determinations of a professional engineer competent in the field.

(b) The employer shall ensure that no person shall enter a hoistway, elevator shaft, or similar enclosure in which the hoisting apparatus or vehicle is installed and functioning unless the power source operating those systems is locked out in accordance with WAC 296-155-429.

(c) Rated load capacities, recommended operating speeds, and special hazard warning or instructions shall be posted on cars and platforms.

(d) Wire rope shall be removed from service when any of the following conditions exists:

(i) In hoisting ropes, six randomly distributed broken wires in one rope lay or three broken wires in one strand in one rope lay;

(ii) Abrasion, scrubbing, flattening, or peening, causing loss of more than one-third of the original diameter of the outside wires;

(iii) Evidence of any heat damage resulting from a torch or any damage caused by contact with electrical wires;

(iv) Reduction from nominal diameter of more than three sixty-fourths inch for diameters up to and including three-fourths inch; one-sixteenth inch for diameters seven-eighths

to 1 1/8 inches; and three thirty-seconds inch for diameters 1 1/4 to 1 1/2 inches.

(e) Hoisting ropes shall be installed in accordance with the wire rope manufacturer's recommendations.

(f) The installation of live booms on hoists is prohibited.

(g) The use of endless belt-type man lifts on construction shall be prohibited.

(h) Employees shall not be permitted to ride on top of material hoists, personnel hoists or permanent elevators except for purposes of inspection, maintenance, elevator installation or dismantling work.

(2) Material hoists, (a)(i) Operating rules shall be established and posted at the operator's station of the hoist. Such rules shall include signal system and allowable line speed for various loads. Rules and notices shall be posted on the car frame or crosshead in a conspicuous location, including the statement "No riders allowed."

(ii) No person shall be allowed to ride on material hoists except for the purposes of inspection and maintenance.

(b) All entrances of the hoistways shall be protected by substantial gates or bars which shall guard the full width of the landing entrance. All hoistway entrance bars and gates shall be painted with diagonal contrasting colors, such as black and yellow stripes.

(i) Bars shall be not less than 2- by 4-inch wooden bars or the equivalent, located 2 feet from the hoistway line. Bars shall be located not less than 36 inches nor more than 42 inches above the floor.

(ii) Gates or bars protecting the entrances to hoistway shall be quipped with a latching device.

(c) Overhead protective covering of two-inch planking, 3/4-inch plywood or other solid material of equivalent strength shall be provided on the top of every material hoist cage or platform to prevent objects falling on the workers loading or unloading the hoist.

(i) The protective covering on the top of the cage or platform may be made in hinged sections that may be raised when hoisting long material.

(ii) When using a cage or platform for long material, the several pieces of the material shall be securely fastened together and made fast to the cage or platform, so that no part of the load can fall or project beyond the sides of the cage or platform.

(d) The operator's station of a hoisting machine shall be provided with overhead protection equivalent to tight planking not less than 2 inches thick. The support for the overhead protection shall be of equal strength.

(e) Hoist towers may be used with or without an enclosure on all sides. However, whichever alternative is chosen, the following applicable conditions shall be met:

(i) When a hoist tower is enclosed, it shall be enclosed on all sides for its entire height with a screen enclosure of 1/2-inch mesh, No. 18 U.S. gauge wire or equivalent, except for landing access.

(ii) When a hoist tower is not enclosed, the hoist platform or car shall be totally enclosed (caged) on all sides for the full height between the floor and the overhead protective covering with 1/2-inch mesh of No. 14 U.S. gauge wire or equivalent. The hoist platform enclosure shall include the required gates for loading and unloading. A 6-foot high

enclosure shall be provided on the unused sides of the hoist tower at ground level.

(f) Car arresting devices shall be installed to function in case of rope failure.

(g) All material hoist towers shall be designed by a licensed professional engineer.

(h) All material hoists shall conform to the requirements of ANSI A10.5-1969, Safety Requirements for Material Hoists.

(3) Personnel hoists.

(a) Personnel hoists shall be provided for access and egress on all multi story buildings where vertical travel exceeds sixty feet from a ground level access point.

(b) Hoist towers outside the structure shall be enclosed for the full height on the side or sides used for entrance and exit to the structure. At the lowest landing, the enclosure on the sides not used for exit or entrance to the structure shall be enclosed to a height of at least 10 feet. Other sides of the tower adjacent to floors or scaffold platforms shall be enclosed to a height of 10 feet above the level of such floors or scaffolds.

(c) Towers inside of structures shall be enclosed on all four sides throughout the full height.

(d) Towers shall be anchored to the structure at intervals not exceeding 25 feet. In addition to tie-ins, a series of guys shall be installed. Where tie-ins are not practical the tower shall be anchored by means of guys made of wire rope at least one-half inch in diameter, securely fastened to anchorages to ensure stability.

(e) Hoistway doors or gates shall be not less than 6 feet 6 inches high and shall be provided with mechanical locks which cannot be operated from the landing side, and shall be accessible only to persons on the car.

(f) Cars shall be permanently enclosed on all sides and the top, except sides used for entrance and exit, which have car gates or doors.

(g) A door or gate shall be provided at each entrance to the car which shall protect the full width and height of the car entrance opening.

(h) Overhead protective covering of 2-inch planking, 3/4-inch plywood or other solid material of equivalent strength shall be provided on the top of every personnel hoist.

(i) Doors or gates shall be provided with electric contacts which do not allow movement of the hoist when door or gate is open.

(j) A signal device shall be installed in the elevator car and only operated by an attendant who shall give the signals for operation, when transporting workers.

(k) An electrical push button signalling device or other approved signalling system shall be provided at each floor landing connected to an annunciator in the car. The signal code shall be posted adjacent to the signal device at each and every work level and at operator's work level. All wording shall be black on a white card, in large clear letters.

(l) The elevator machine and controls shall be housed in as a protection against accidents and the weather, and the door kept locked against unauthorized entrance when operator is not in attendance.

(m) Safeties shall be capable of stopping and holding the car and rated load when traveling at governor tripping speed.

(n) Cars shall be provided with a capacity and data plate secured in a conspicuous place on the car or crosshead.

(o) Internal combustion engines shall not be permitted for direct drive.

(p) Normal and final terminal stopping devices shall be provided.

(q) An emergency stop switch shall be provided in the car and marked "stop."

(r) Ropes:

(i) The minimum number of hoisting ropes used shall be three for traction hoists and two for drum-type hoists.

(ii) The minimum diameter of hoisting and counter-weight wire ropes shall be 1/2-inch.

(iii) Safety factors:

MINIMUM FACTORS OF SAFETY
FOR SUSPENSION WIRE ROPES

Rope speed in feet per minute:	Minimum factor of safety
50	7.60
75	7.75
100	7.95
125	8.10
150	8.25
175	8.40
200	8.60
225	8.75
250	8.90
300	9.20
350	9.50
400	9.75
450	10.00
500	10.25
550	10.45
600	10.70

(s) Following assembly and erection of hoists, and before being put in service, an inspection and test of all functions and safety devices shall be made under the supervision of a competent person. A similar inspection and test is required following major alteration of an existing installation. All hoists shall be inspected and tested at not more than 3-month intervals. Records shall be maintained and kept on file for the duration of the job.

(t) All personnel hoists used by employees shall be constructed of materials and components which meet the specifications for materials, construction, safety devices, assembly, and structural integrity as stated in the American National Standard A10.4-1963, Safety Requirements for Workmen's Hoists. The requirements of this subdivision do not apply to cantilever type personnel hoists.

(u) Wire rope shall be taken out of service when any of the following conditions exist:

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(i) In running ropes, six randomly distributed broken wires in one lay or three broken wires in one strand in one lay;

(ii) Wear of one-third the original diameter of outside individual wires. Kinking, crushing, bird caging, or any other damage resulting in distortion of the rope structure;

(iii) Evidence of any heat damage from any cause;

(iv) Reductions from nominal diameter of more than three-sixty-fourths inch for diameters to and including three-fourths inch, one sixteenth inch for diameter seven-eighths inch to 1 1/8 inches inclusive, three-thirty-seconds inch for diameters 1 1/4 to 1 1/2 inches inclusive;

(v) In standing ropes, more than two broken wires in one lay in sections beyond end connections or more than one broken wire at an end connection.

(v)(i) Personnel hoists used in bridge tower construction shall be approved by a registered professional engineer and erected under the supervision of a qualified engineer competent in this field.

(ii) When a hoist tower is not enclosed, the hoist platform or car shall be totally enclosed (caged) on all sides for the full height between the floor and the overhead protective covering with 3/4-inch mesh of No. 14 U.S. gauge wire or equivalent. The hoist platform enclosure shall include the required gates for loading and unloading.

(iii) These hoists shall be inspected and maintained on a weekly basis. Whenever the hoisting equipment is exposed to winds exceeding 35 miles per hour it shall be inspected and put in operable condition before reuse.

(4) ~~((Permanent elevators under the care and custody of the employer and used by employees for work covered by this act shall comply with the requirements of American National Standards Institute, A17.1-1971, and inspected in accordance with A17.2-1960 with addenda A17.2a-1965, A17.2b-1967.))~~ All elevators, manlifts or other lifting devices must be installed and maintained in conformity with the requirements specified in the Washington state elevator laws and regulations adopted by the elevator section of the department of labor and industries.

Note: For additional information refer to chapter 296-100 WAC, safety requirements for material hoists.

AMENDATORY SECTION (Amending Order 92-06, filed 10/30/92, effective 12/8/92)

WAC 296-155-66405 Appendix C—Timber shoring for trenches. (1) Scope. This appendix contains information that can be used when timber shoring is provided as a method of protection from cave-ins in trenches that do not exceed 20 feet (6.1 m) in depth. This appendix must be used when design of timber shoring protective systems is to be performed in accordance with WAC 296-155-657 (3)(a). Other timber shoring configurations; other systems of support such as hydraulic and pneumatic systems; and other protective systems such as sloping, benching, shielding, and freezing systems must be designed in accordance with the requirements set forth in WAC 296-155-657 (2) and (3).

(2) Soil classification. In order to use the data presented in this appendix, the soil type or types in which the excava-

tion is made must first be determined using the soil classification method set forth in appendix A of this part.

(3) Presentation of information. Information is presented in several forms as follows:

(a) Information is presented in tabular form in Tables N-2 through N-7 following subsection (7) of this appendix. Each table presents the minimum sizes of timber members to use in a shoring system, and each table contains data only for the particular soil type in which the excavation or portion of the excavation is made. The data are arranged to allow the user the flexibility to select from among several acceptable configurations of members based on varying the horizontal spacing of the crossbraces. Stable rock is exempt from shoring requirements and therefore, no data are presented for this condition.

(b) Information concerning the basis of the tabular data and the limitations of the data is presented in subsection (4) of this appendix, and on the tables themselves.

(c) Information explaining the use of the tabular data is presented in subsection (5) of this appendix.

(d) Information illustrating the use of the tabular data is presented in subsection (6) of this appendix.

(e) Miscellaneous notations regarding Tables N-2 through N-7 are presented in subsection (7) of this Appendix.

(4) Basis and limitations of the data.

(a) Dimensions of timber members.

(i) The sizes of the timber members listed in Tables N-2 through N-7 are taken from the National Bureau of Standards (NBS) report, "Recommended Technical Provisions for Construction Practice in Shoring and Sloping of Trenches and Excavations." In addition, where NBS did not recommend specific sizes of members, member sizes are based on an analysis of the sizes required for use by existing codes and on empirical practice.

(ii) The required dimensions of the members listed in Tables N-2, N-3, and N-4 refer to actual dimensions and not nominal dimensions of the timber. Employers wanting to use nominal size shoring are directed to Tables N-5, N-6, and N-7, or have this choice under WAC 296-155-657 (3)(c), and are referred to The Corps of Engineers, The Bureau of Reclamation or data from other acceptable sources.

(b) Limitation of application.

(i) It is not intended that the timber shoring specification apply to every situation that may be experienced in the field. These data were developed to apply to the situations that are most commonly experienced in current trenching practice. Shoring systems for use in situations that are not covered by the data in this appendix must be designed as specified in WAC 296-155-657(3).

(ii) When any of the following conditions are present, the members specified in the tables are not considered adequate. Either an alternate timber shoring system must be designed or another type of protective system designed in accordance with WAC 296-155-657.

(A) When loads imposed by structures or by stored material adjacent to the trench weigh in excess of the load imposed by a two-foot soil surcharge. The term "adjacent" as used here means the area within a horizontal distance from the edge of the trench equal to the depth of the trench.

(B) When vertical loads imposed on cross braces exceed a 240-pound gravity load distributed on a one-foot section of the center of the crossbrace.

(C) When surcharge loads are present from equipment weighing in excess of 20,000 pounds.

(D) When only the lower portion of a trench is shored and the remaining portion of the trench is sloped or benched unless: The sloped portion is sloped at an angle less steep than three horizontal to one vertical; or the members are selected from the tables for use at a depth which is determined from the top of the overall trench, and not from the toe of the sloped portion.

(5) Use of Tables. The members of the shoring system that are to be selected using this information are the cross braces, the uprights, and the wales, where wales are required. Minimum sizes of members are specified for use in different types of soil. There are six tables of information, two for each soil type. The soil type must first be determined in accordance with the soil classification system described in appendix A of this Part. Using the appropriate table, the selection of the size and spacing of the members is then made. The selection is based on the depth and width of the trench where the members are to be installed and, in most instances, the selection is also based on the horizontal spacing of the crossbraces. Instances where a choice of horizontal spacing of crossbracing is available, the horizontal spacing of the crossbraces must be chosen by the user before the size of any member can be determined. When the soil type, the width and depth of the trench, and the horizontal spacing of the crossbraces are known, the size and vertical spacing of the crossbraces, the size and vertical spacing of the wales, and the size and horizontal spacing of the uprights can be read from the appropriate table.

(6) Examples to illustrate the use of Tables N-2 through N-4.

(a) Example 1.

A trench dug in Type A soil is 13 feet deep and five feet wide.

From Table N-2, for acceptable arrangements of timber can be used.

Arrangement #1

Space 4x4 crossbraces at six feet horizontally and four feet vertically.

Wales are not required.

Space 3x8 uprights at six feet horizontally. This arrangement is commonly called "skip shoring."

Arrangement #2

Space 4x6 crossbraces at eight feet horizontally and four feet vertically.

Space 8x8 wales at four feet vertically.

Space 2x6 uprights at four feet horizontally.

Arrangement #3

Space 6x6 crossbraces at 10 feet horizontally and four feet vertically.

Space 8x10 wales at four feet vertically.

Space 2x6 uprights at five feet horizontally.

Arrangement #4

Space 6x6 crossbraces at 12 feet horizontally and four feet vertically.

Space 10x10 wales at four feet vertically.

Space 3x8 uprights at six feet horizontally.

(b) Example 2.

A trench dug in Type B soil in 13 feet deep and five feet wide.

From Table N-3 three acceptable arrangements of members are listed.

Arrangement #1

Space 6x6 crossbraces at six feet horizontally and five feet vertically.

Space 8x8 wales at five feet vertically.

Space 2x6 uprights at two feet horizontally.

Arrangement #2

Space 6x8 crossbraces at eight feet horizontally and five feet vertically.

Space 10x10 wales at five feet vertically.

Space 2x6 uprights at two feet horizontally.

Arrangement #3

Space 8x8 crossbraces at 10 feet horizontally and five feet vertically.

Space 10x12 wales at five feet vertically.

Space 2x6 uprights at two feet vertically.

(c) Example 3.

A trench dug Type C soil is 13 feet deep and five feet wide.

From Table N-4 two acceptable arrangements of members can be used.

Arrangement #1

Space 8x8 crossbraces at six feet horizontally and five feet vertically.

Space 10x12 wales at five feet vertically.

Position 2x6 uprights as closely together as possible.

If water must be retained use special tongue and groove uprights to form tight sheeting.

Arrangement #2

Space 8x10 crossbraces at eight feet horizontally and five feet vertically.

Space 12x12 wales at five feet vertically.

Position 2x6 uprights in a close sheeting configuration unless water pressure must be resisted. Tight sheeting must be used where water must be retained.

(d) Example 4.

A trench dug in Type C soil is 20 feet deep and 11 feet wide. The size and spacing of members for the section of trench that is over 15 feet in depth is determined using Table N-4. Only one arrangement of members is provided.

Space 8x10 crossbraces at six feet horizontally and five feet vertically.

Space 12x12 wales at five feet vertically.

Use 3x6 tight sheeting.

Use of Tables N-5, N-6, and N-7 would follow the same procedures.

(7) Notes for all tables.

(a) Member sizes at spacings other than indicated are to be determined as specified in WAC 296-155-657(3). "Design of Protective Systems."

(b) When conditions are saturated or submerged use Tight Sheeting. Tight Sheeting refers to the use of specially-edged timber planks (e.g., tongue and groove) at least three inches thick, steel sheet piling, or similar construction that when driven or placed in position provide a tight wall to resist the lateral pressure of water and to prevent the loss of backfill material. Close Sheeting refers to the placement of planks side-by-side allowing as little space as possible between them.

(c) All spacing indicated is measured center to center.

(d) Wales to be installed with greater dimension horizontal.

(e) If the vertical distance from the center of the lowest crossbrace to the bottom of the trench exceeds two and one-half feet, uprights shall be firmly embedded or a mudsill shall be used. Where uprights are embedded, the vertical distance from the center of the lowest crossbrace to the bottom of the trench shall not exceed 36 inches. When mudsills are used, the vertical distance shall not exceed 42 inches. Mudsills are wales that are installed at the toe of the trench side.

(f) Trench jacks may be used in lieu of or in combination with timber crossbraces.

(g) Placement of crossbraces. When the vertical spacing of crossbraces is four feet, place the top crossbrace no more than two feet below the top of the trench. When the vertical spacing of crossbraces is five feet, place the top crossbrace no more than 2.5 feet below the top of the trench.

TABLE N-2

TIMBER TRENCH SHORING -- MINIMUM TIMBER REQUIREMENTS*
 SOIL TYPE A $P_a - 25 \times H + 72$ psf (2 ft. Surcharge)

DEPTH OF TRENCH (FEET)	SIZE (ACTUAL) AND SPACING OF MEMBERS **													
	HORIZ. SPACING (FEET)	CROSS BRACES					VERT. SPACING (FEET)	WALES		UPRIGHTS				
		WIDTH OF TRENCH (FEET)						SIZE (IN.)	VERT. SPACING (FEET)	MAXIMUM ALLOWABLE HORIZONTAL SPACING (FEET)				
	UP TO	UP TO	UP TO	UP TO	UP TO				CLOSE	4	5	6	7	
4 TO 10	UP TO 6	4 X 4	4 X 4	4 X 6	6 X 6	6 X 6	4	Not Req'd	---				2 X 6	
	UP TO 8	4 X 4	4 X 4	4 X 6	6 X 6	6 X 6	4	Not Req'd	---					2 X 8
10 TO 15	UP TO 10	4 X 6	4 X 6	4 X 6	6 X 6	6 X 6	4	8 X 8	4			2 X 6		
	UP TO 12	4 X 6	4 X 6	4 X 6	6 X 6	6 X 6	4	8 X 8	4				2 X 6	
10 TO 15	UP TO 6	4 X 4	4 X 4	4 X 4	6 X 6	6 X 6	4	Not Req'd	---				3 X 8	
	UP TO 8	4 X 6	4 X 6	4 X 6	6 X 6	6 X 6	4	8 X 8	4		2 X 6			
15 TO 20	UP TO 10	6 X 6	6 X 6	6 X 6	6 X 8	6 X 8	4	8 X 10	4			2 X 6		
	UP TO 12	6 X 6	6 X 6	6 X 6	6 X 8	6 X 8	4	10 X 10	4				3 X 8	
15 TO 20	UP TO 6	6 X 6	6 X 6	6 X 6	6 X 8	6 X 8	4	6 X 8	4	3 X 6				
	UP TO 8	6 X 6	6 X 6	6 X 6	6 X 8	6 X 8	4	8 X 8	4	3 X 6				
20 TO 25	UP TO 10	8 X 8	8 X 8	8 X 8	8 X 8	8 X 10	4	8 X 10	4	3 X 6				
	UP TO 12	8 X 8	8 X 8	8 X 8	8 X 8	8 X 10	4	10 X 10	4	3 X 6				
OVER 20	SEE NOTE 1													

* Mixed oak or equivalent with a bending strength not less than 850 psi.
 ** Manufactured members of equivalent strength may be substituted for wood.

EXPEDITED

TIMBER TRENCH SHORING - MINIMUM TIMBER REQUIREMENTS*
SOIL TYPE B P_u - 45 X H + 72 psf (2 ft. Surcharge)

DEPTH OF TRENCH (FEET)	SIZE (ACTUAL) AND SPACING OF MEMBERS **													
	HORZ. SPACING (FEET)	CROSS BRACES					VERT. SPACING (FEET)	WALES		UPRIGHTS				
		UP TO 4	UP TO 6	UP TO 9	UP TO 12	UP TO 15		SIZE (IN.)	VERT. SPACING (FEET)	MAXIMUM ALLOWABLE HORIZONTAL SPACING (FEET)				
4 TO 10	UP TO 6	4 X 4	4 X 4	6 X 6	6 X 6	6 X 6	5	6 X 6	5			2 X 6		
	UP TO 8	4 X 4	4 X 4	6 X 6	6 X 6	6 X 6	5	8 X 10	5			2 X 6		
	UP TO 10	4 X 6	4 X 6	6 X 6	6 X 6	6 X 6	5	8 X 8	5			2 X 6		
10 TO 16	UP TO 6	4 X 4	4 X 4	6 X 6	6 X 6	6 X 6	5	8 X 8	5			2 X 6		
	UP TO 8	4 X 6	4 X 6	6 X 6	6 X 6	6 X 6	5	10 X 10	5			2 X 6		
	UP TO 10	6 X 6	6 X 6	8 X 8	8 X 8	8 X 10	5	10 X 12	5			2 X 6		
16 TO 20	UP TO 6	6 X 6	6 X 6	8 X 8	8 X 8	8 X 8	5	8 X 10	5			3 X 6		
	UP TO 8	6 X 6	6 X 6	8 X 8	8 X 8	8 X 10	5	10 X 10	5			3 X 6		
	UP TO 10	8 X 10	8 X 10	8 X 10	8 X 10	10 X 10	5	10 X 12	5			3 X 6		
OVER 20	SEE NOTE 1													

* Mixed oak or equivalent with a bending strength not less than 840 psi.
** Manufactured members of equivalent strength may be substituted for wood.

TABLE N-4

TIMBER TRENCH SHORING - MINIMUM TIMBER REQUIREMENTS*
SOIL TYPE C P_u - 80 X H + 72 psf (2 ft. Surcharge)

DEPTH OF TRENCH (FEET)	SIZE (ACTUAL) AND SPACING OF MEMBERS **													
	HORZ. SPACING (FEET)	CROSS BRACES					VERT. SPACING (FEET)	WALES		UPRIGHTS				
		UP TO 4	UP TO 6	UP TO 9	UP TO 12	UP TO 15		SIZE (IN.)	VERT. SPACING (FEET)	MAXIMUM ALLOWABLE HORIZONTAL SPACING (FEET)				
4 TO 10	UP TO 6	6 X 6	6 X 6	6 X 6	8 X 8	8 X 8	5	8 X 10	5			2 X 6		
	UP TO 8	8 X 8	8 X 8	8 X 8	8 X 8	8 X 10	5	10 X 12	5			2 X 6		
	UP TO 10	8 X 10	8 X 10	8 X 10	8 X 10	10 X 10	5	12 X 12	5			2 X 6		
10 TO 15	UP TO 6	8 X 8	8 X 8	8 X 8	8 X 8	8 X 10	5	10 X 12	5			2 X 6		
	UP TO 8	8 X 10	8 X 10	8 X 10	8 X 10	10 X 10	5	12 X 12	5			2 X 6		
	UP TO 10	8 X 10	8 X 10	8 X 10	8 X 10	10 X 10	5	12 X 12	5			2 X 6		
15 TO 20	UP TO 6	8 X 10	8 X 10	8 X 10	8 X 10	10 X 10	5	12 X 12	5			3 X 6		
	UP TO 8													
	UP TO 10													
OVER 20	SEE NOTE 1													

* Mixed oak or equivalent with a bending strength not less than 850 psi.

EXPEDITED

TABLE N-5
TIMBER TRENCH SHORING - MINIMUM TIMBER REQUIREMENTS*
 SOIL TYPE A Pa - 25 X H + 72 psf (2 ft. Surcharge)

DEPTH OF TRENCH (FEET)	SIZE (S4S) AND SPACING OF MEMBERS**													
	HORIZ. SPACING (FEET)	CROSS BRACES					VERT. SPACING (FEET)	WALES		UPRIGHTS				
		WIDTH OF TRENCH (FEET)						SIZE (IN.)	VERT. SPACING (FEET)	MAXIMUM ALLOWABLE HORIZONTAL SPACING (FEET)				
		UP TO 4	UP TO 6	UP TO 9	UP TO 12	UP TO 15				CLOSE	4	5	6	7
4 TO 10	UP TO 6	4X4	4X4	4X4	4X4	4X6	4	Not Req'd	Not Req'd				4X6	
	UP TO 8	4X4	4X4	4X4	4X6	4X6	4	Not Req'd	Not Req'd					4X8
	UP TO 10	4X6	4X6	4X6	6X6	6X6	4	8X8	4			4X6		
10 TO 15	UP TO 6	4X4	4X4	4X4	6X6	6X6	4	Not Req'd	Not Req'd				4X10	
	UP TO 8	4X6	4X6	4X6	6X6	6X6	4	6X8	4			4X6		
	UP TO 10	6X6	6X6	6X6	6X6	6X6	4	8X8	4				4X8	
15 TO 20	UP TO 6	6X6	6X6	6X6	6X6	6X6	4	8X10	4			4X6		4X10
	UP TO 8	6X6	6X6	6X6	6X6	6X6	4	6X8	4	3X6				
	UP TO 10	6X6	6X6	6X6	6X6	6X6	4	8X8	4	3X6	4X12			
20 TO OVER 20	UP TO 12	6X6	6X6	6X6	6X8	6X8	4	8X12	4	3X6	4X12			
	SEE NOTE 1													

* Douglas fir or equivalent with a bending strength not less than 1500 psi.
 ** Manufactured members of equivalent strength may be substituted for wood.

TABLE N-4
TIMBER TRENCH SHORING - MINIMUM TIMBER REQUIREMENTS*
 SOIL TYPE B B - 48 X H + 72 psf (2 ft. Surcharge)

DEPTH OF TRENCH (FEET)	SIZE (S4S) AND SPACING OF MEMBERS**													
	HORIZ. SPACING (FEET)	CROSS BRACES					VERT. SPACING (FEET)	WALES		UPRIGHTS				
		WIDTH OF TRENCH (FEET)						SIZE (IN.)	VERT. SPACING (FEET)	MAXIMUM ALLOWABLE HORIZONTAL SPACING (FEET)				
		UP TO 4	UP TO 6	UP TO 9	UP TO 12	UP TO 15				CLOSE	2	3	4	6
4 TO 10	UP TO 6	4X6	4X6	4X6	6X6	6X6	6	6X8	6			3X12		4X12
	UP TO 8	4X6	4X6	6X6	6X6	6X6	6	8X8	6		3X8		4X8	
	UP TO 10	4X6	4X6	6X6	6X6	6X8	6	8X10	6			4X6		
10 TO 15	See Note 1													
	UP TO 6	6X6	6X6	6X6	6X8	6X8	6	6X8	6	3X6	4X10			
	UP TO 8	6X6	6X8	6X6	6X8	6X8	6	10X10	6	3X6	4X10			
15 TO 20	UP TO 10	6X8	6X8	6X8	6X8	6X8	6	10X12	6	3X6	4X10			
	See Note 1													
	UP TO 6	8X8	6X8	6X8	6X8	6X8	6	8X10	6	4X6				
20 TO OVER 20	UP TO 8	6X8	6X8	6X8	6X8	6X8	6	10X12	6	4X6				
	UP TO 10	8X8	6X8	6X8	6X8	6X8	6	12X12	6	4X6				
	See Note 1													
OVER 20	SEE NOTE 1													

* Douglas fir or equivalent with a bending strength not less than 1800 psi.
 ** Manufactured members of equivalent strength may be substituted for wood.

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TABLE N-7

TIMBER TRENCH SHORING - MINIMUM TIMBER REQUIREMENTS*
 SOIL TYPE C P_s - 80 X H + 72 psf (2 ft. Surcharge)

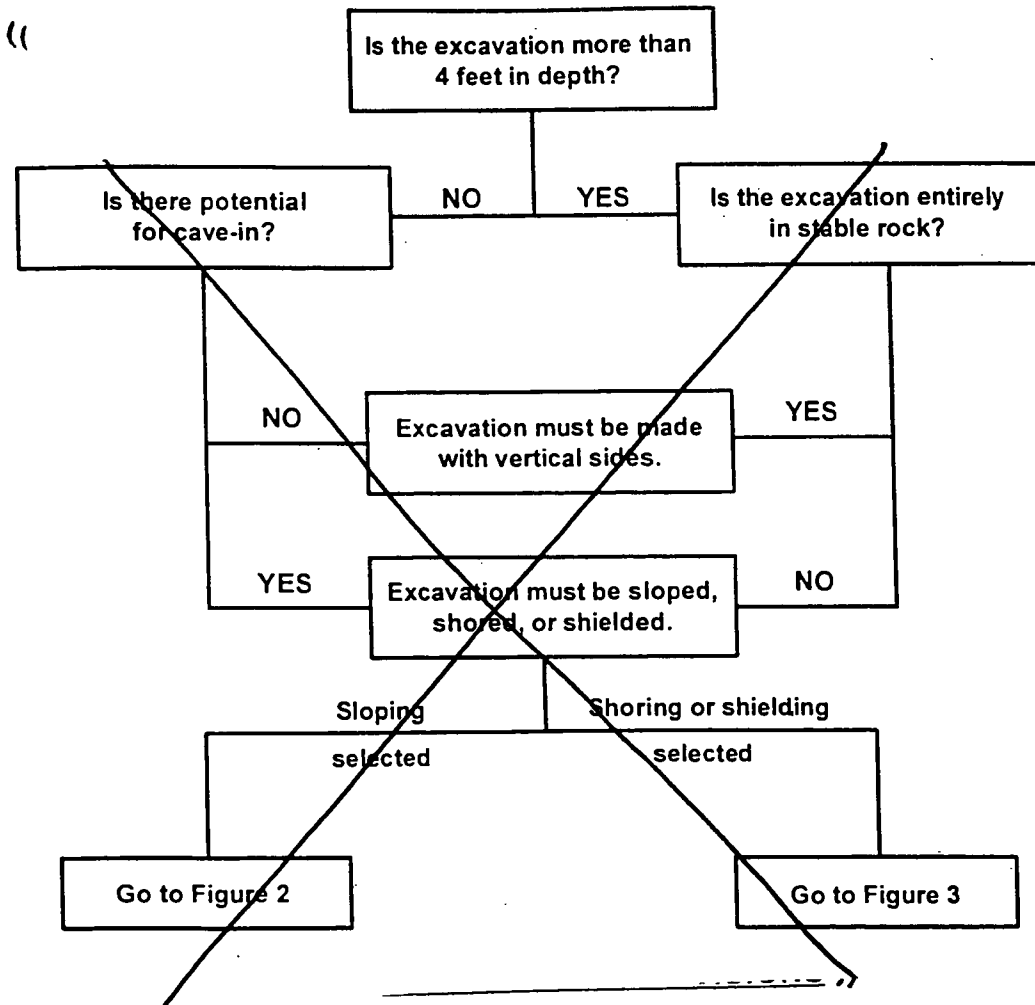
DEPTH OF TRENCH (FEET)	SIZE (S4S) AND SPACING OF MEMBERS **												
	HORIZ. SPACING (FEET)	CROSS BRACES					VERT. SPACING (FEET)	WALES		UPRIGHTS			
		WIDTH OF TRENCH (FEET)						SIZE (IN.)	VERT. SPACING (FEET)	MAXIMUM ALLOWABLE HORIZONTAL SPACING (FEET)			
	UP TO 4	UP TO 6	UP TO 9	UP TO 12	UP TO 15				CLOSE				
4 TO 10	UP TO 6	6 X 6	6 X 6	6 X 6	6 X 6	8 X 8	5	8 X 8	5	3 X 6			
	UP TO 8	6 X 6	6 X 6	6 X 6	8 X 8	8 X 8	5	10 X 10	5	3 X 6			
	UP TO 10	6 X 6	6 X 6	8 X 8	8 X 8	8 X 8	5	10 X 12	5	3 X 6			
10 TO 15	See Note 1												
	UP TO 8	8 X 8	8 X 8	8 X 8	8 X 8	8 X 8	5	10 X 10	5	4 X 6			
	UP TO 8	8 X 8	8 X 8	8 X 8	8 X 8	8 X 8	5	12 X 12	5	4 X 6			
15 TO 20	See Note 1												
	UP TO 8	8 X 8	8 X 8	8 X 8	8 X 10	8 X 10	5	10 X 12	5	4 X 6			
	See Note 1												
OVER 20	SEE NOTE 1												

* Douglas fir or equivalent with a bending strength not less than 1800 psi.
 ** Manufactured members of equivalent strength may be substituted for wood.

AMENDATORY SECTION (Amending Order 92-06, filed 10/30/92, effective 12/8/92)

WAC 296-155-66411 Appendix F—Selection of protective systems. The following figures are a graphic summary of the requirements contained in Part N for excavations 20 feet or less in depth. Protective systems for use in excavations more than 20 feet in depth must be designed by a registered professional engineer in accordance with WAC 296-155-657 (2) and (3).

Place Illustration Here



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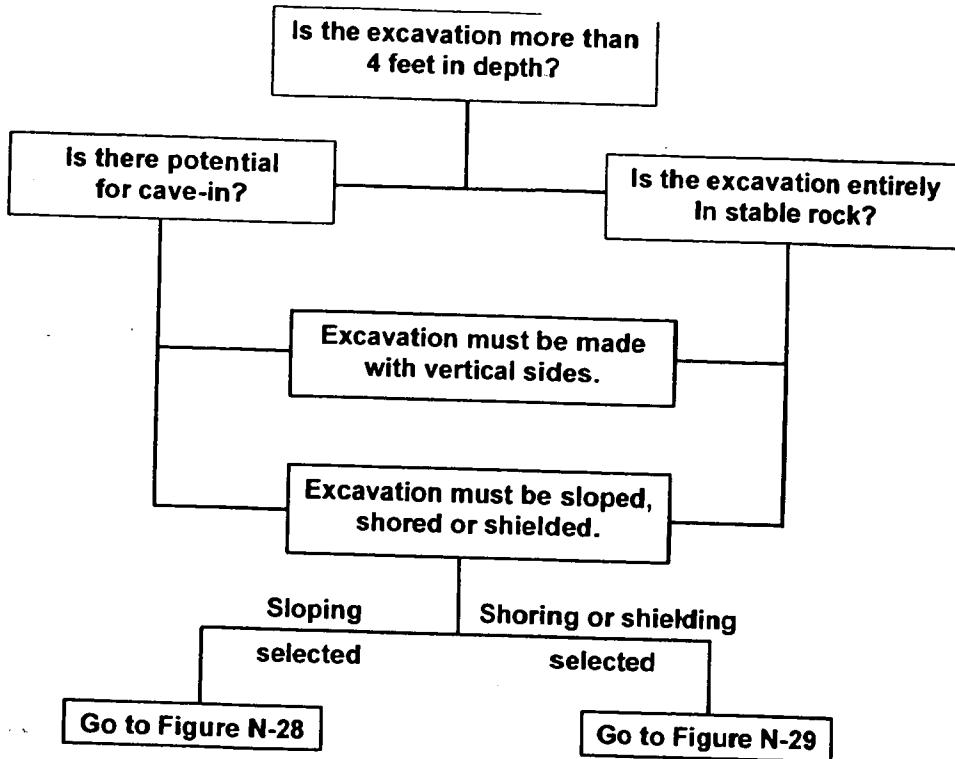


Figure N-27 - PRELIMINARY DECISIONS

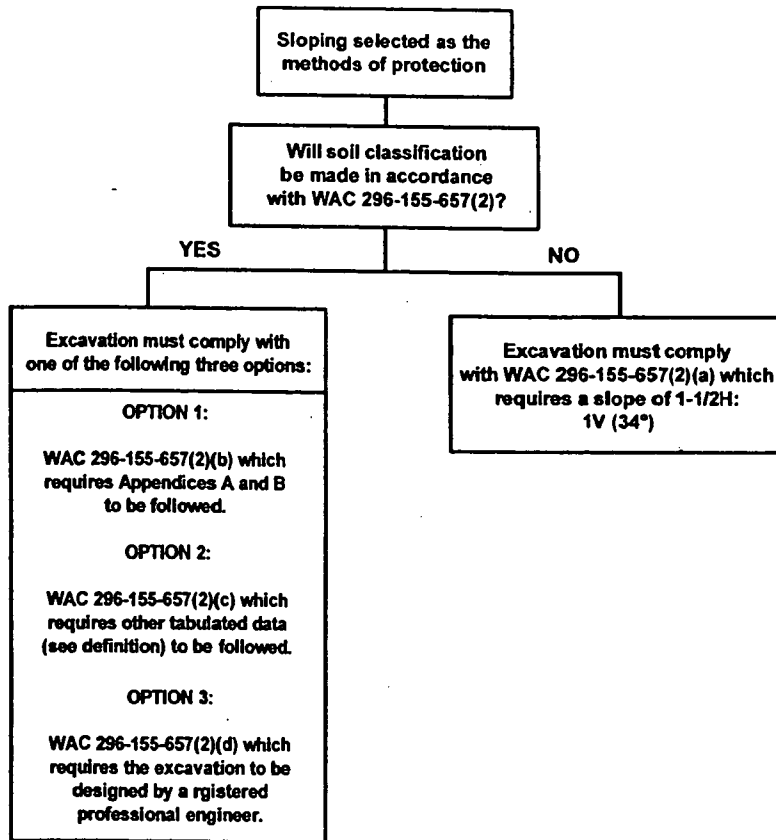


FIGURE N-28 - SLOPING OPTIONS

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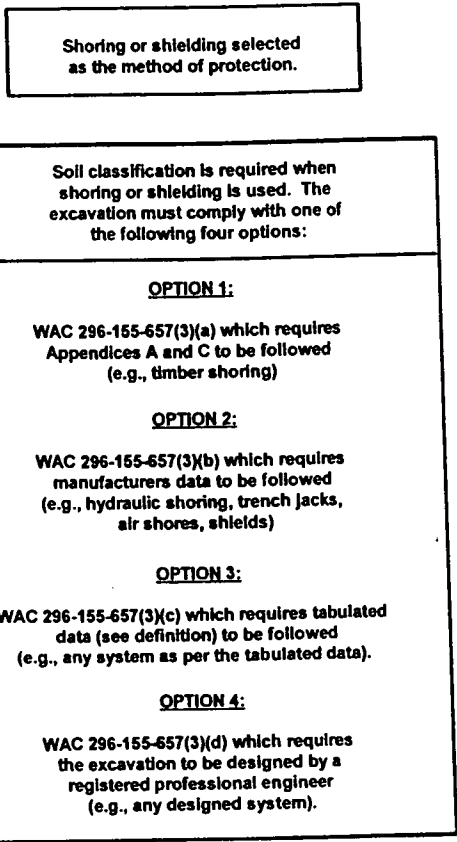


FIGURE N-29 - SHORING AND SHIELDING OPTIONS.

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AMENDATORY SECTION (Amending Order 74-26, filed 5/7/74, effective 6/6/74)

WAC 296-155-960 Protective frame (ROPS) test procedures and performance requirements for wheel-type agricultural and industrial tractors used in construction. (1) Definitions applicable to this section.

(a) SAE J333a, Operator Protection for Wheel-Type Agricultural and Industrial Tractors (July 1970) defines "agricultural tractor" as a "wheel-type vehicle of more than 20 engine horsepower designed to furnish the power to pull, carry, propel, or drive implements that are designed for agricultural usage." Since this chapter applies only to construction work, the following definition of "agricultural tractor" is adopted for purposes of this part: "Agricultural tractor" means a wheel-type vehicle of more than 20 engine horsepower, used in construction work, which is designed to furnish the power to pull, propel, or drive implements.

(b) "Industrial tractor" means that class of wheeled type tractor of more than 20 engine horsepower (other than rubber-tired loaders and dozers described in WAC 296-155-955), used in operations such as landscaping, construction services, loading, digging, grounds keeping, and highway maintenance.

(c) The following symbols, terms, and explanations apply to this section:

E_{is} = Energy input to be absorbed during side loading. $E_{is} = 723 + 0.4 W$ ft.-lb. ($E'_{is} = 100 + 0.12 W'$, m.- kg).

E_{ir} = Energy input to be absorbed during rear loading. $E_{ir} = 0.47 W$ ft.- lb. ($E'_{ir} = 0.14 W'$, m.- kg).

W = Tractor weight as prescribed in WAC 296-155-960 (5)(a) and (5)(c) in lb. (W' , kg).

L = Static load, lb. (kg.).

D = Deflection under L , in. (mm.).

$L-D$ = Static load-deflection diagram.

L_m-D_m = Modified static load-deflection diagram (Figure V-20). To 'account for increase in strength due to increase in strain rate, raise L in plastic range to $L \times K$.

K = Increase in yield strength induced by higher rate of loading (1.3 for hot rolled low carbon steel 1010-1030). Low carbon is preferable; however, if higher carbon or other material is used, K must be determined in the laboratory. Refer to Charles H. Norris, et al., Structural Design for Dynamic Loads (1959), p. 3.

L_{max} = Maximum observed static load.

Load limit = Point on $L-D$ curve where observed static load is $0.8 L_{max}$ (refer to Figure V-19).

E_u = Strain energy absorbed by the frame, ft.-lb. (m. - kg) area under L_m-D_m curve.

FER = Factor of energy ratio, $FER = E_u/E_{is}$; also $= E_u/E_{ir}$.

P_b = Maximum observed force in mounting connection under static load, L , lb. (kg.).

FSB = Design margin for mounting connection $FSB = (P_u/P_b) - 1$.

H = Vertical height of lift of 4,410 lb. (2,000 kg.) weight, in. (H' , mm.). The weight shall be pulled back so that the height of its center of gravity above the point of impact is defined as follows: $H = 4.92 + 0.00190 W$ or ($H' = 125 + 0.107 W'$) (Figure V-14).

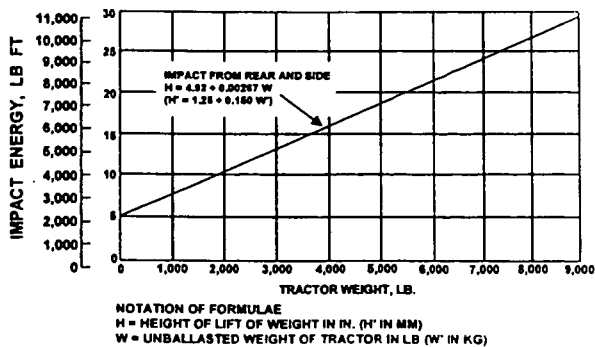


FIGURE V-14

Impact energy and corresponding lift height of 4,410 lb. (2,000 kg.) weight.

((+)) (d) Source of standard. The standard in this section is derived from, and restates, Society of Automotive Engineers Standard J334a (July 1970), Protective Frame Test Procedures and Performance Requirements. This standard ((shall) must be ((resorted to) used in the event that questions of interpretation arise. The standard appears in the 1971 SAE Handbook.

(2) General.

(a) The purpose of this section is to set forth requirements for frames for the protection of operators of wheel type agricultural and industrial tractors to minimize the possibility of operator injury resulting from accidental upsets during normal operation. With respect to agricultural and industrial tractors, the provisions of WAC 296-155-955 and 296-155-965 for rubber-tired dozers and rubber-tired loaders may be utilized in lieu of the requirements of this section.

(b) The protective frame which is the subject of this standard is a structure mounted to the tractor that extends above the operator's seat and conforms generally to Figure V-15.

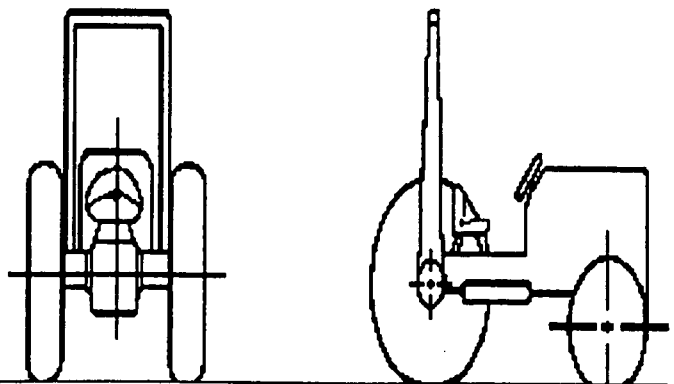


FIGURE V-15

Typical frame configuration.

(c) If an overhead weather shield is attached to the protective frame, it may be in place during tests: Provided, That it does not contribute to the strength of the protective frame. If such an overhead weather shield is attached, it must meet the requirements of subsection (10) of this section.

(d) For overhead protection requirements, see WAC 296-155-965.

(e) If protective enclosures are used on wheel-type agricultural and industrial tractors, they shall meet the requirements of Society of Automotive Engineers Standard J168 (July 1970), Protective Enclosures, Test Procedures, and performance requirements.

(3) Applicability. The requirements of this section apply to wheel-type agricultural tractors use in construction work and to wheel-type industrial tractors used in construction work. See subsection (1) of this section for definitions of agricultural tractors and industrial tractors.

(4) Performance requirements.

(a) Either a laboratory test or a field test is required in order to determine the performance requirements set forth in subsection (10) of this section.

(b) A laboratory test may be either static or dynamic. The laboratory test must be under conditions of repeatable and controlled loading in order to permit analysis of the protective frame.

(c) A field upset test, if used, shall be conducted under reasonably controlled conditions, both rearward and sideways, to verify the effectiveness of the protective frame under actual dynamic conditions.

(5) Test procedure—General.

(a) The tractor used shall be the tractor with the greatest weight on which the protective frame is to be used.

(b) A new protective frame and mounting connections of the same design shall be used for each test procedure.

(c) Instantaneous and permanent frame deformation shall be measured and recorded for each segment of the test.

(d) Dimensions relative to the seat shall be determined with the seat unloaded and adjusted to its highest and most rearward latched position provided for a seated operator.

(e) If the seat is offset, the frame loading shall be on the side with the least space between the centerline of the seat and the upright.

(f) The low temperature impact strength of the material used in the protective structure shall be verified by suitable material tests or material certifications in accordance with WAC 296-155-955 (7)(b)(iv).

(6) Test procedure for vehicle overturn.

(a) Vehicle weight. The weight of the tractor, for purposes of this section, includes the protective frame, all fuels, and other components required for normal use of the tractor. Ballast must be added if necessary to achieve a minimum total weight of 130 lb. (59 kg.) per maximum power takeoff horsepower at rated engine speed. The weight of the front end must be at least 33 lb. (15 kg.) per maximum power takeoff horsepower. In case power takeoff horsepower is unavailable, 95 percent of net engine flywheel horsepower shall be used.

(b) Agricultural tractors shall be tested at the weight set forth in subdivision (a) of this subsection.

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(c) Industrial tractors shall be tested with items of integral or mounted equipment and ballast that are sold as standard equipment or approved by the vehicle manufacturer for use with the vehicle where the protective frame is expected to provide protection for the operator with such equipment installed. The total vehicle weight and front end weight as tested shall not be less than the weights established in subdivision (a) of this subsection.

(d) The test shall be conducted on a dry, firm soil bank as illustrated in Figure V-16. The soil in the impact area shall have an average cone index in the 0.6 in. (153 mm.) layer not less than 150 according to American Society of Agricultural Engineers Recommendations ASAE R313, Soil Cone Penetrometer. The path of travel of the vehicle shall be $12^\circ \pm 2^\circ$ to the top edge of the bank.

(e) The upper edge of the bank shall be equipped with an 18 in. (457 mm.) high ramp as described in Figure V-16 to assist in tipping the vehicle.

(f) The front and rear wheel tread settings, where adjustable, shall be at the position nearest to halfway between the minimum and maximum settings obtainable on the vehicle. Where only two settings are obtainable, the minimum setting shall be used.

(g) Vehicle overturn test—Sideways and rearward.

(i) The tractor shall be driven under its own power along the specified path of travel at a minimum speed of 10 m.p.h. (16 km./hr.) or maximum vehicle speed if under 10 m.p.h. (16 km./hr.) up the ramp as described in subdivision (e) of this subsection to induce sideways overturn.

(ii) Rear upset shall be induced by engine power with the tractor operating in gear to obtain 3-5 m.p.h. (4.8-8 km./hr.) at maximum governed engine r.p.m. preferably by driving forward directly up a minimum slope of two vertical to one horizontal. The engine clutch may be used to aid in inducing the upset.

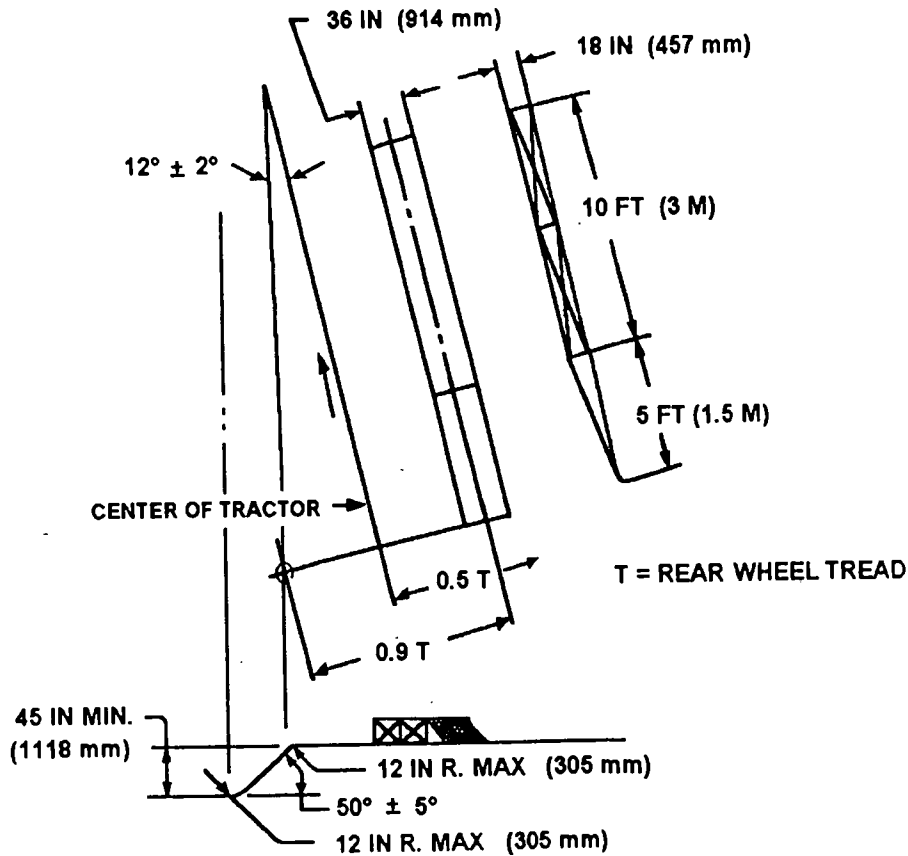


FIGURE V-16

(7) Other test procedures. When the field upset test is not used to determine ROPS performance, either the static test or the dynamic test, contained in subsection (8) or (9) of this section, shall be made.

(8) Static test.

(a) Test conditions.

(i) The laboratory mounting base shall include that part of the tractor chassis to which the protective frame is attached including the mounting parts.

(ii) The protective frame shall be instrumented with the necessary equipment to obtain the required load deflection data at the locations and directions specified in Figures V-17, V-18, and V-19.

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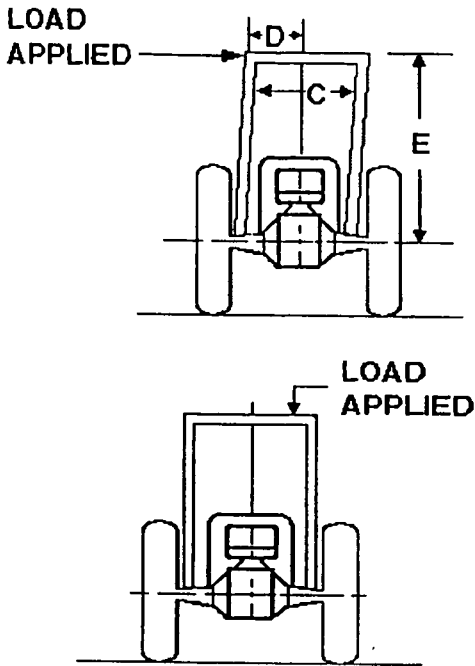


FIGURE V-17
Side load application

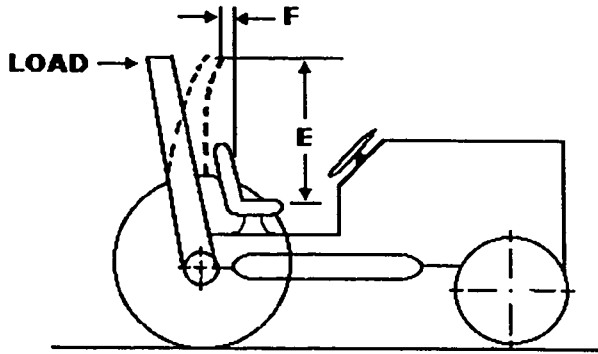


FIGURE V-18
Rear load application.

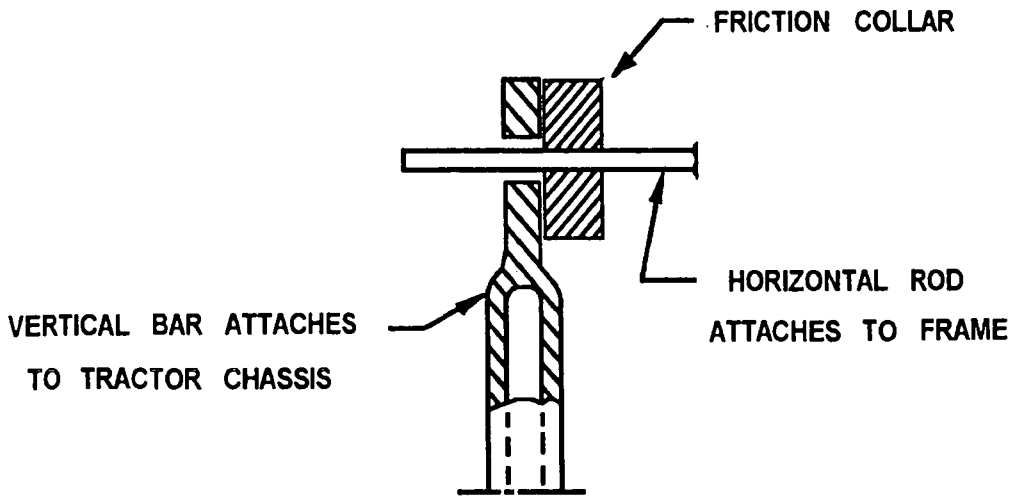


FIGURE V-19
Method of measuring instantaneous deflection.

(iii) The protective frame and mounting connections shall be instrumented with the necessary recording equipment to obtain the required load-deflection data to be used in calculating FSB (see subsection (1)(c) of this section). The gauges shall be placed on mounting connections before the installation load is applied.

(b) Test procedure.

(i) The side load application shall be at the upper extremity of the frame upright at a 90° angle to the centerline of the vehicle. The side load "L" shall be applied according to Figure V-17. "L" and "D" shall be recorded simultaneously. The test shall be stopped when:

(a) The strain energy absorbed by the frame is equal to the required input energy (E_{is}) or

(b) Deflection of the frame exceeds the allowable deflection, or

(c) The frame load limit occurs before the allowable deflection is reached in the side load.

(ii) The L-D diagram, as shown by means of a typical example in Figure V-20, shall be constructed, using the data obtained in accordance with item (i) of this subdivision.

(iii) The modified L_m-D_m diagram shall be constructed according to item (ii) of this subdivision and according to Figure V-21. The strain energy absorbed by the frame (E_u) shall then be determined.

(iv) E_{is} , FER and FSB shall be calculated.

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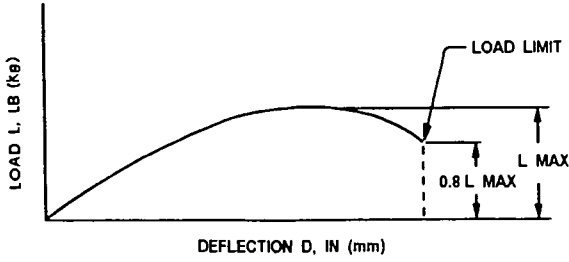


FIGURE V-20
Typical L-D diagram.

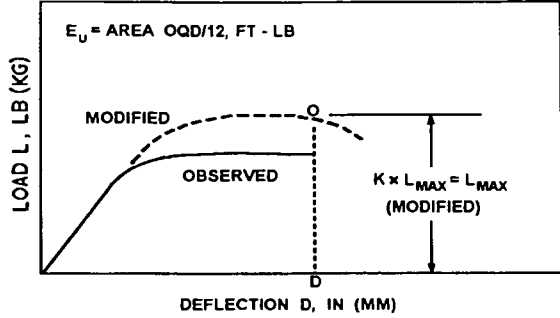


FIGURE V-21
Typical modified L_m - D_m diagram.

(v) The test procedure shall be repeated on the same frame utilizing L (rear input; see Figure V-19) and E_{ir} . Rear load application shall be uniformly distributed along a maximum projected dimension of 27 in. (686 mm.) and a maximum area of 160 sq. in. (1,032 sq. cm.) normal to the direction of load application. The load shall be applied to the upper extremity of the frame at the point which is midway between the centerline of the seat and the inside of the frame upright.

(9) Dynamic test.

(a) Test conditions.

(i) The protective frame and tractor shall meet the requirements of subsection (6)(b) or (c) of this section, as appropriate.

(ii) The dynamic loading shall be produced by use of a 4,410 lb. (2,000 kg.) weight acting as a pendulum. The impact face of the weight shall be 27 plus or minus 1 in. by 27 plus or minus 1 in. (686 + or - 25 mm.) and shall be constructed so that its center of gravity is within 1 in. (25.4 mm.) of its geometric center. The weight shall be suspended from a pivot point 18-22 ft. (5.5-6.7 m.) above the point of impact on the frame and shall be conveniently and safely adjustable for height. (See Figure V-22.)

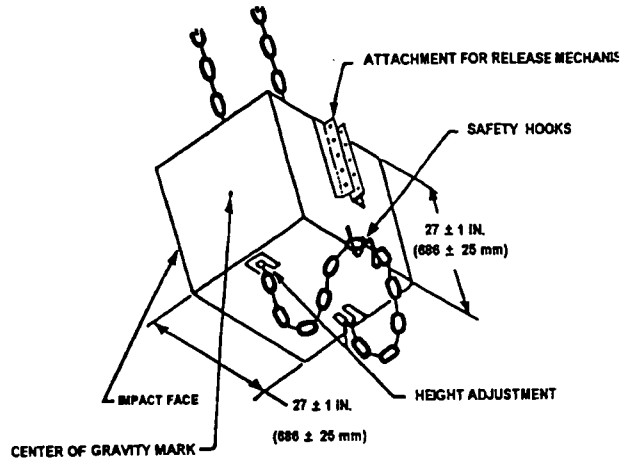


FIGURE V-22
Pendulum.

(iii) For each phase of testing, the tractor shall be restrained from moving when the dynamic load is applied. The restraining members shall be of 0.5-0.63 in. (12.5-16 mm.) steel cable and points of attaching restraining members shall be located an appropriate distance behind the rear axle and in front of the front axle to provide a 15°-30° angle between a restraining cable and the horizontal. The restraining member shall either be in the plane in which the center gravity of the pendulum will swing or more than one restraining cable shall give a resultant force in this plane. (See Figure V-23.)

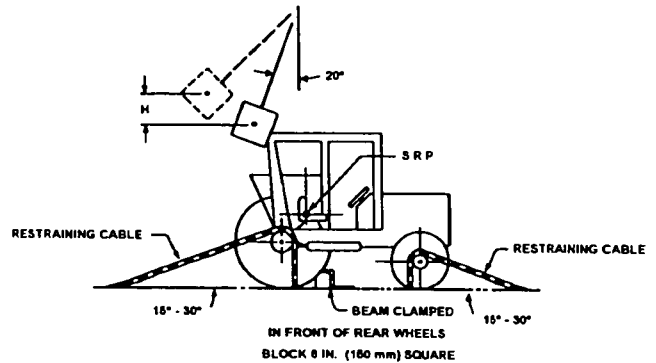


FIGURE V-23
Method of impact from rear.

(iv) The wheel tread setting shall comply with the requirements of subsection (6)(f) of this section. The tires shall have no liquid ballast and shall be inflated to the maximum operating pressure recommended by the tire manufac-

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turer. With specified tire inflation, the restraining cables shall be tightened to provide tire deflection of 6-8 percent of nominal tire section width. After the vehicle is properly restrained, a wooden beam 6 x 6 in. (15 x 15 cm.) shall be driven tightly against the appropriate wheels and clamped. For the test to the side, an additional wooden beam shall be placed as a prop against the wheel nearest the operator's station and shall be secured to the floor so that it is held tightly against the wheel rim during impact. The length of this beam shall be chosen so that when it is positioned against the wheel rim it is at an angle of 25°-40° to the horizontal. It shall have a length 20-25 times its depth and a width two to three times its depth. (See Figures V-23 and V-24.)

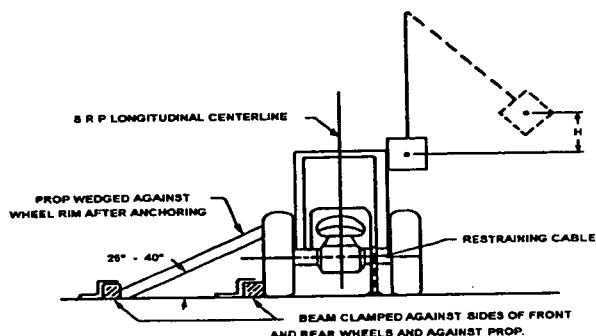


FIGURE V-24
Method of impact from side.

(v) Means shall be provided indicating the maximum instantaneous deflection along the line of impact. A simple friction device is illustrated in Figure V-24.

(vi) No repair or adjustments may be carried out during the test.

(vii) If any cables, props, or blocking shift or break during the test, the test shall be repeated.

(b) Test procedure.

(i) General. The frame shall be evaluated by imposing dynamic loading to rear followed by a load to the side on the same frame. The pendulum dropped from the height (see definition "H" in subsection (1)(c) of this section) imposes the dynamic load. The position of the pendulum shall be so selected that the initial point of impact on the frame shall be in line with the arc of travel of the center of gravity of the pendulum. A quick release mechanism should be used but, if used, shall not influence the attitude of the block.

(ii) Impact at rear. The tractor shall be properly restrained according to subdivisions (a)(iii) and (iv) of this section. The tractor shall be positioned with respect to the pivot point of the pendulum such that the pendulum is 20° from the vertical prior to impact, as shown in Figure V-23. The impact shall be applied to the upper extremity of the frame at the point which is midway between the centerline of the seat and the inside of the frame upright of a new frame.

(iii) Impact at side. The block and restraining shall conform to subdivisions (a)(iii) and (iv) of this subsection. The point of impact shall be that structural member of the protective frame likely to hit the ground first in a sideways accidental upset. The side impact shall be applied to the side opposite that used for rear impact.

(10) Performance requirements.

(a) General.

(i) The frame, overhead weather shield, fenders, or other parts in the operator area may be deformed but shall not shatter or leave sharp edges exposed to the operator, or violate dimensions as shown in Figures V-17 and V-18 as follows:

D = 2 in. (51 mm.) inside of frame upright to vertical centerline of seat.

E = 30 in. (762 mm.).

F = Not less than 0 in. and not more than 12 in. (305 mm.), measured at centerline front of seat backrest to crossbar along the line of load application as shown in Figure V-17.

G = 24 in. (610 mm.).

(ii) The material and design combination used in the protective structure must be such that the structure can meet all prescribed performance tests at zero degrees Fahrenheit in accordance with WAC 296-155-955 (7)(b)(iv).

(b) Vehicle overturn performance requirements. The requirements of this subsection (10) must be met in both side and rear overturns.

(c) Static test performance requirements. Design factors shall be incorporated in each design to withstand an overturn test as prescribed in this subsection (10). The structural requirements will be generally met if FER is greater than 1 and FSB is greater than K-1 in both side and rear loadings.

(d) Dynamic test performance requirements. Design factors shall be incorporated in each design to withstand the overturn test prescribed in this subsection (10). The structural requirements will be generally met if the dimensions in this subsection (10) are adhered to in both side and rear loads.

AMENDATORY SECTION (Amending WSR 01-17-033, filed 8/8/01, effective 9/1/01)

WAC 296-307-039 First-aid rule summary. Your responsibility: Make sure first-aid trained personnel are available to provide quick and effective first aid.

You must:

Make sure that first-aid trained personnel are available to provide quick and effective first aid.

WAC ((246-307-03905)) 296-307-03905.

Make sure first-aid training contains required subjects.

WAC 296-307-03910.

Keep current and document your first-aid training.

WAC 296-307-03915.

Make sure appropriate first-aid supplies are readily available.

WAC 296-307-03920.

Provide a first-aid station when required.

WAC 296-307-03925.

Note: Additional requirements relating to first-aid are also located in the following sections:

- WAC 296-307-07013(12), What rules apply to vehicles used to transport employees?
- WAC 296-307-16175, First-aid requirements for operators of temporary worker housing.
- WAC 296-307-16380, First-aid requirements for operators of cherry harvest camps.

Definitions:

First aid: The extent of treatment you would expect from a person trained in basic first aid, using supplies from a first-aid kit.

Emergency medical service: Medical treatment and care given at the scene of any medical emergency or while transporting any victim to a medical facility.

You can get copies of these rules by calling 1-800-4BE SAFE (1-800-423-7233), or by going to <http://www.lni.wa.gov>.

AMENDATORY SECTION (Amending WSR 98-24-096, filed 12/1/98, effective 3/1/99)

WAC 296-307-08009 What requirements apply to the testing and performance of ROPS used on agricultural tractors? You must provide a rollover protective structure (ROPS) for each employee-operated tractor that is covered by WAC 296-307-080. ROPS used on wheel-type tractors must meet the test and performance requirements of OSHA 1928.((52))51 CFR((;)). Protective frames for wheel type agricultural tractors, and ROPS used on track-type tractors must meet the test and performance requirements of SAE Standard J334a (July 1970) and the portions of SAE Standard J167 (1971) pertaining to overhead protection requirements.

AMENDATORY SECTION (Amending Order 90-18, filed 1/10/91, effective 2/12/91)

WAC 296-62-07314 Medical surveillance. (1) At no cost to the employee, a program of medical surveillance ((shall)) must be established and implemented for employees considered for assignment to enter regulated areas, and for authorized employees.

(2) Examinations.

(a) Before an employee is assigned to enter a regulated area, a preassignment physical examination by a physician ((shall)) must be provided and ((shall)) must include a personal history of the employee and/or his/her family and ((occupation)) occupational background, including genetic and environmental factors.

(i) Taking of employees' medical history and background history ((shall)) must be considered to be a routine part of standard medical practice.

(ii) This provision does not require "genetic testing" of any employee.

(iii) This provision does not require the exclusion of otherwise qualified employees from jobs on the basis of genetic factors.

(b) Authorized employees ((shall)) must be provided periodic physical examination, not less often than annually, following the preassignment examination.

(c) In all physical examinations, the examining physician ((shall)) must be requested to consider whether there exist conditions of increased risk, including reduced immunologi-

cal competence, ((those undergoing treatment with steroids or cytotoxic agents,)) pregnancy ((and)), cigarette smoking, and those undergoing treatment with steroids or cytotoxic agents.

(3) Records.

(a) Employers of employees examined pursuant to this subdivision ((shall cause to be maintained)) must maintain complete and accurate records of all such medical examinations. Records ((shall)) must be maintained for the duration of the employee's employment. Upon termination of the employee's employment, including retirement or death, or in the event that the employer ceases business without a successor, records, or notarized true copies thereof, ((shall)) must be forwarded by registered mail to the director.

(b) Records required by this section ((shall)) must be provided upon request to employees, designated representatives, and the director in accordance with WAC 296-62-05201 through 296-62-05209 and 296-62-05213 through 296-62-05217. ((These records shall also be provided upon request to the director.))

(c) Any employer who requests a physical examination of ((one of his)) an employee((s)) or prospective employee((s)) as required by this section ((shall)) must obtain from the physician a statement of the employee's suitability for employment in the specific exposure.

AMENDATORY SECTION (Amending WSR 99-05-080, filed 2/17/99, effective 6/1/99)

WAC 296-305-04001 Respiratory equipment protection. (1) Fire fighter's self-contained breathing apparatus (SCBA) shall:

- (a) Be pressure demand type (positive pressure);
- (b) Operate in the positive pressure mode only;
- (c) Have a minimum of thirty minutes service duration;
- (d) Be NIOSH certified; and

(e) Meet the requirements of the 1992 or 1997 edition of NFPA, Standard on Open Circuit Self Contained Breathing Apparatus for Fire Fighters 1981.

(2) Closed circuit SCBA shall:

- (a) Be positive pressure;
- (b) Be NIOSH certified; and
- (c) Have a minimum thirty-minute service duration.

(3) Members using SCBA's shall operate in teams of two or more.

(4) Except as otherwise provided in this chapter, fire departments shall adopt, maintain and implement a written respiratory protection program that addresses the requirements of chapter 296-62 WAC, Part E. Respiratory protection and Part I-1. Asbestos, Tremolite, Anthophyllite, and Actinolite. This includes program administration, medical limitations, equipment limitations, equipment selection, inspection, use, maintenance, training, fit testing procedures, air quality, and program evaluation.

Note: Additional information on respirators and respirator usage can be found in ANSI Z88.2 - American National Standard for Respiratory Protection; ANSI Z88.5 - Practices for Respiratory Protection for Fire Service; various NFPA publications (1981, 1404, 1500, etc.), and the Washington State Fire Service Training Program for respiratory training and usage.

(5) When fire departments purchase compressed breathing air from a vendor, the fire department shall require the vendor to provide certification and documentation of breathing air quality as specified in subsection (21) of this section and in chapter 296-62 WAC, Part E.

(6) When the fire department makes its own breathing air or uses vendor purchased breathing air, the air quality from compressors, cascade systems cylinders, shall be tested at least quarterly as specified in subsection (21) of this section.

(7) Fit testing shall be conducted in accordance with this section and chapter 296-62 WAC, Part E, Respiratory protection.

(a) Each new member shall be tested before being permitted to use SCBA's in a hazardous atmosphere.

(b) Only fire fighters with a properly fitting facepiece shall be permitted by the fire department to function in a hazardous atmosphere with SCBA. (Reference WAC ((~~296-62-0715(3)~~) 296-62-07170 Respiratory Sealing Problems.)

(c) Fit testing shall be repeated:

(i) At least once every twelve months.

(ii) Whenever there are changes in the type of SCBA or facepiece used.

(iii) Whenever there are significant physical changes in the user. Example: Weight change of ten percent or more, scarring of face seal area, dental changes, cosmetic surgery, or any other condition that may affect the fit of the facepiece seal.

(d) The fit testing is done only in a negative-pressure mode. If the facepiece is modified for fit testing, the modification shall not affect the normal fit of the device. Such modified devices shall only be used for fit testing.

(e) The fit test procedures and test exercises described in WAC ((~~296-62-07739~~) 296-62-07162, Asbestos, Appendix C, shall be followed unless stated otherwise in this chapter.

(f) Respirator fit test records shall include:

(i) Written guidelines for the respirator fit testing program including pass/fail criteria;

(ii) Type of respirator tested including manufacturer, model, and size;

(iii) Type of fit test and instrumentation or equipment used;

(iv) Name or identification of test operator;

(v) Name of person tested;

(vi) Date of test; and

(vii) Results of test.

Note: Fire fighters should be issued individual facepieces.

(8) Facial hair, contact lenses, and eye and face protective devices.

(a) A negative pressure respirator, any self-contained breathing apparatus, or any respirator which is used in an atmosphere immediately dangerous to life or health (IDLH) equipped with a facepiece shall not be worn if facial hair comes between the sealing periphery of the facepiece and the face or if facial hair interferes with the valve function.

(b) The wearer of a respirator shall not be allowed to wear contact lenses if the risk of eye damage is increased by their use.

(c) If a spectacle, goggle, or face shield must be worn with a facepiece, it shall be worn so as to not adversely affect

the seal of the facepiece to the face. See WAC ((~~296-62-0715(3)~~) 296-62-07170(2)).

(d) Straps or temple bars shall not pass between the seal or surface of the respirator and the user's face.

(9) At the end of suppression activities (to include fire overhaul) and before returning to quarters:

(a) Fire fighters shall be decontaminated prior to removal of respirators whenever fire fighting activities resulted in exposure to a hazardous substance.

(b) When exchanging air supply bottles during suppression or overhaul activities, reasonable precautions shall be taken to maintain uncontaminated atmosphere to the breathing zone and facepiece supply hose.

(10) Self-contained respiratory equipment shall be available and used by all fire fighters who enter into hazardous atmospheres during structural fire fighting activities.

(11) Positive pressure air line respirators may be used only for atmospheres other than IDLH and must be equipped with a five minute minimum capacity positive pressure escape bottle.

(a) If the service life of the auxiliary air supply is fifteen minutes or less it shall not be used for entry into an IDLH atmosphere but it may be used for escape purposes. The auxiliary air supply may be used for entry into an IDLH atmosphere only when the service life of the unit exceeds fifteen minutes and when not more than twenty percent of the noted air supply will be used during entry.

(b) The maximum length of hose for supplied air respirators is 300 feet (91 meters). Such hose shall be heavy duty nonkinking and NIOSH approved.

(12) Respirators shall be provided for, and shall be used by, all personnel working in areas where:

(a) The atmosphere is hazardous;

(b) The atmosphere is suspected of being hazardous; or

(c) The atmosphere may rapidly become hazardous;

(13) Anytime fire fighters are working inside a confined space, such persons shall be provided with SCBA or air line respirator with escape bottle, and shall use the equipment unless the safety of the atmosphere can be established by testing and continuous monitoring.

(14) Fire fighters using a properly functioning SCBA shall not compromise the protective integrity of the SCBA by removing the facepiece for any reason in hazardous atmospheres or in atmospheres where the quality of air is unknown.

(15) Fire fighters shall receive training for each type and manufacturer of respiratory equipment available for their use, the step-by-step procedure for donning the respirator and checking it for proper function. Required training shall include:

(a) Recognizing hazards that may be encountered;

(b) Understanding the components of the respirator;

(c) Understanding the safety features and limitations of the respirator; and

(d) Donning and doffing the respirator.

(16) After completing such training, each fire fighter shall practice at least quarterly, for each type and manufacturer of respirator available for use, the step-by-step procedure for donning the respirator and checking it for proper function.

(17) Members shall be tested at least annually on the knowledge of respiratory protection equipment operation, safety, organizational policies and procedures, and facepiece seals, to the fire department's standard. Such records shall remain part of the member training file.

(18) Members shall be allowed to use only the make, model, and size respirator for which they have passed a fit test within the last twelve months.

(19) In cases where there is a reported failure of a respirator, it shall be removed from service, tagged and recorded as such, and tested before being returned to service.

(20) Fire fighters shall be thoroughly trained in accordance with the manufacturer's instructions on emergency procedures such as use of regulator bypass valve, corrective action for facepiece and breathing tube damage, and breathing directly from the regulator (where applicable).

(21) Compressed gaseous breathing air in the SCBA cylinder shall meet the requirements of ANSI/CGA G7.1 - Commodity Specification for Air, with a minimum air quality of grade D, as well as meeting a water vapor level of 24 ppm or less.

(22) SCBA cylinders shall be hydrostatically tested within the periods specified by the manufacturer and the applicable governmental agencies.

Additional reference: Chapter 296-62 WAC, Part E.

AMENDATORY SECTION (Amending WSR 96-11-067, filed 5/10/96, effective 1/1/97)

WAC 296-305-05003 Confined space rescue operations. (1) Fire departments shall comply with chapter 296-62 WAC, Part M for their own confined spaces.

(2) Fire departments which have been contracted as an outside rescue service provider shall also comply with Part M and in particular the specific provisions of WAC ((296-62-14519(1))) 296-62-14150(2) which requires authorized entrant training and rescue practices from the host's actual permit spaces or representative permit spaces.

(3) Fire departments which have responded or will respond to calls to perform rescue from a noncontracted permit-required confined space are required to have each member of a rescue team practice making permit space rescues at least every 12 months by means of simulated rescue operations in which they remove dummies, mannequins or actual persons from permit space. A permit is required for the practice permit space entry.

(4) During an actual rescue response, written and/or verbally recorded hazard sizeup will be allowed in lieu of the written permit requirements in WAC 296-62-14507 and 296-62-14509 and shall be completed prior to any entry. This sizeup shall include at a minimum:

(a) Recognition and declaration of the situation as a confined space incident.

(b) Denial of entry to unprotected persons.

(c) Assessment of all readily available confined space documentation, e.g., MSDSs, any existing permit, plans or blueprints of the space.

(d) Assessment of number of victim(s), locations and injury conditions.

(e) Discussion with witnesses, supervisor, etc.

(f) Assessment of any current or potential space hazards, in particular, any hazard(s) which lead to the necessary rescue.

(g) Determination and declaration if body recovery or victim rescue.

(5) At confined space incidents, at least two people outside shall be equipped with appropriate breathing apparatus to act as the back-up team, which shall remain free of the contaminated area in order to rescue disabled fire fighters.

(6) Written documentation of the rescue team's training on the fire department's confined space operating procedures, authorized entrant training, if applicable, the contracted host's confined space program. A record of each of the hazard sizeups shall be maintained for at least one year.

WSR 02-05-003
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

(Medical Assistance Administration)

[Filed February 7, 2002, 3:41 p.m.]

Date of Adoption: February 4, 2002.

Purpose: This proposed amendment clarifies income and resource allocations for the COPEs waived services program, including court-ordered guardianship and attorney fees.

Citation of Existing Rules Affected by this Order: Amending WAC 388-515-1505 Community options program entry system (COPEs).

Statutory Authority for Adoption: RCW 74.04.050, 74.04.057, 74.08.090, and 74.09.575.

Adopted under notice filed as WSR 01-20-112 on October 3, 2001.

Changes Other than Editing from Proposed to Adopted Version: Added new subsection (4)(b)(i), "An earned income deduction of the first sixty-five dollars plus one-half of the remaining earned income." The originally proposed subsection (4)(b)(i) and (ii) are now listed as subsection (4)(b)(ii) and (iii). The proposed rule was changed because of requirements in federal regulations.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 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.

February 4, 2002

Brian H. Lindgren, Manager
 Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 01-02-052, filed 12/28/00, effective 1/28/01)

WAC 388-515-1505 Community options program entry system (COPEs). This section describes the financial eligibility requirements for ~~((waivered))~~ waiver services under the community options program entry system (COPEs ((program))) and the rules used to determine a client's participation in the total cost of care.

(1) ~~((The department establishes eligibility))~~ To be eligible for COPEs ((for)) a client ((who)) must:

(a) ~~((Is))~~ Be eighteen years of age or older;

(b) Meet~~((s))~~ the disability criteria of the Supplemental Security Income (SSI) program as described in WAC 388-503-0510(1);

(c) Require~~((s))~~ the level of care provided in a nursing facility as described in WAC 388-71-0700;

(d) ~~((Is))~~ Be residing in a medical facility as defined in WAC 388-513-1301, or ~~((with))~~ likely be placed in one within the next thirty days in the absence of waived services described in WAC 388-71-0410 and 388-71-0415;

(e) ~~((Has))~~ Have attained institutional status as described in WAC 388-513-1320;

(f) ~~((Has-been))~~ Be determined ~~((to-be))~~ in need of waived services and ~~((is))~~ be approved for a plan of care as described in WAC 388-71-0435;

(g) ~~((Is))~~ Be able to live at home with community support services and chooses to ~~((do-so))~~ remain at home, or live in a department-contracted:

(i) ~~((Adult residential care (ARC) facility;~~

~~((ii)))~~ Enhanced adult residential care (EARC) facility;

~~((iii)))~~ (ii) Licensed adult family home (AFH); or

~~((iv)))~~ (iii) Assisted living (AL) facility.

(h) ~~((Is))~~ Not be subject to a penalty period of ineligibility for the transfer of an asset as described in WAC 388-513-1365 and 388-513-1366; and

(i) Meet~~((s))~~ the resource and income ((and resource)) requirements described in subsections (2), (3) and (4).

(2) ~~((The department allows a client to have nonexcluded resources in excess of the standard described in WAC 388-513-1350(1) during the month of either an application or eligibility review if, when excess resources are added to nonexcluded income, the combined total does not exceed the special income level (SIL).))~~ Refer to WAC 388-513-1315 for rules used to determine nonexcluded resources and income ((and resources)). ((During other months, financial requirements include the following:))

(3) Nonexcluded resources above the standard described in WAC 388-513-1350(1):

(a) Are allowed during the month of an application or eligibility review if, when excess resources are added to nonexcluded income, the combined total is not over the special income level (SIL).

(b) Are reduced by incurred medical expenses (for definition, see WAC 388-519-0110(10)) that are not subject to third-party payment and for which the client is liable, including:

(i) Health insurance and Medicare premiums, deductions, and co-insurance charges; and

(ii) Necessary medical care recognized under state law, but not covered under the state's Medicaid plan.

(c) Not allocated to participation must be at or below the resource standard.

(4) Nonexcluded income:

(a) Must be at or below the SIL; ((and))

(b) ((Nonexcluded resources not allocated to participation in a prior month must be at or below the resource standard-

(3))) Is allocated in the following order:

(i) An earned income deduction of the first sixty-five dollars plus one-half of the remaining earned income;

(ii) Maintenance and personal needs allowances as described in subsection (6), (7), and (8) of this section;

(iii) Guardianship fees and administrative costs including any attorney fees paid by the guardian only as allowed by chapter 388-079 WAC;

(iv) Income garnisheed for child support or withheld pursuant to a child support order:

(A) For the time period covered by the maintenance amount; and

(B) Not deducted under another provision in the post-eligibility process.

(v) Monthly maintenance needs allowance for the community spouse not to exceed that in WAC 388-513-1380 (6)(b) unless a greater amount is allocated as described in subsection (5) of this section. This amount:

(A) Is allowed only to the extent that the client's income is made available to the community spouse; and

(B) Consists of a combined total of both:

(I) An amount added to the community spouse's gross income to provide a total equal to the amount allocated in WAC 388-513-1380 (6)(b); and

(II) Excess shelter expenses. For the purposes of this section, excess shelter expenses are the actual required maintenance expenses for the community spouse's principal residence of:

- Rent;
- Mortgage;
- Taxes and insurance;
- Any maintenance care for a condominium or cooperative; and

• The food assistance standard utility allowance (for LTC services this is set at the standard utility allowance (SUA) for a four-person household), provided the utilities are not included in the maintenance charges for a condominium or cooperative;

• LESS the standard shelter allocation listed in WAC 388-513-1380 (7)(a).

(III) A monthly maintenance needs amount for each minor or dependent child, dependent parent or dependent sibling of the community or institutionalized spouse based on the living arrangement of the dependent. If the dependent:

• Resides with the community spouse, the amount is equal to one-third of the community spouse income allocation as described in WAC 388-513-1380 (6)(b)(I)(A) that exceeds the dependent family member's income;

• Does not reside with the community spouse, the amount is equal to the MNIL for the number of dependent family members in the home less the income of the dependent family members. Child support received from an absent parent is the child's income;

• Incurred medical expenses described in subsection (3)(b) not used to reduce excess resources.

(5) The amount allocated to the community spouse may be greater than the amount in subsection (4)(b)(iv) only when:

(a) A court enters an order against the client for the support of the community spouse; or

(b) A hearings officer determines a greater amount is needed because of exceptional circumstances resulting in extreme financial duress.

(6) A client who ~~((is eligible for))~~ receives SSI does not use income to participate in the cost of personal care, but does use SSI income to participate in paying costs of board and room. Other income an SSI client receives is used to participate in the cost of personal care. Such a client who ~~((is))~~ lives:

(a) ~~((Living))~~ At home, retains a maintenance needs amount ~~((as described in subsection (5)); or~~

~~((b) Living in an ARC, EARC, AFH, or AL:))~~ equal to the following:

(i) Up to one hundred percent of the one-person Federal Poverty Level (FPL), if the client is:

(A) Single; or

(B) Married, and is:

(I) Not living with the community spouse; or

(II) Whose spouse is receiving long-term care (LTC) services outside of the home.

(ii) Up to one hundred percent of the one-person FPL for each client, if both are receiving COPES services;

(iii) Up to the one-person MNIL if the client is living with a community spouse who is not receiving LTC services.

(b) In an EARC, AFH, or AL:

(i) Retains a personal needs allowance (PNA) of fifty-eight dollars and eighty-four cents; and

(ii) Pays remaining SSI income to the facility for the cost of board and room.

~~((4) A client who is eligible for the general assistance expedited Medicaid disability (GAX) program does not participate in the cost of care. Such a client who is:~~

~~((a) Living))~~

~~((7) An SSI-related client living:~~

~~((a) At home, retains a maintenance needs amount ((as described in subsection (5)); or~~

~~((b) Living in an ARC, EARC, AFH, or AL:))~~

~~((i) Retains a PNA of thirty-eight dollars and eighty-four cents; and~~

~~((ii) Pays remaining income and GAX grant to the facility for the cost of board and room.~~

~~((5) An SSI-related client living at home retains a maintenance needs amount equal to the following:~~

~~((a))~~ equal to the following:

~~((i) Up to one hundred percent of the one-person Federal Poverty Level (FPL), if the client is:~~

~~((i))~~ (A) Single; or

~~((ii))~~ (B) Married, and is:

~~((A))~~ (I) Not living with the community spouse; or

~~((B))~~ (II) Whose spouse is receiving long-term care (LTC) services outside of the home.

~~((b))~~ (ii) Up to one hundred percent of the one-person FPL for each client, if both are receiving COPES services;

~~((e))~~ (iii) Up to the one-person medically needy income level (MNIL) for a married client who is living with a community spouse who is not receiving COPES.

~~((6) An SSI-related client living))~~

~~((b) In an ARC, EARC, AFH, or AL ((receives))~~ retains a maintenance needs amount equal to the one-person MNIL and:

~~((a))~~ (i) Retains a PNA taken from the MNIL of fifty-eight dollars and eighty-four cents; and

~~((b))~~ (ii) Pays the remainder of the MNIL to the facility for the cost of board and room.

~~((7) The client's income that remains:~~

~~(a) After allocations described in subsection (5) or (6) is allocated as described in WAC 388-513-1380 (7)(a) through (d), (8) and (9); and~~

~~(b) After allocations described in subsection (7)(a) is the client's participation in the cost of care))~~

(8) A client who is eligible for the general assistance expedited Medicaid disability (GAX) program does not participate in the cost of personal care. Such a client who lives:

(a) At home, retains the cash grant amount authorized under the general assistance program; or

(b) In an AFH, EARC, or AL, retains a PNA of thirty-eight dollars and eighty-four cents, and pays remaining income and GAX grant to the facility for the cost of board and room.

(9) The client's remaining income after the allocations described in subsections (4) through (8) is the client's participation in the total cost of care.

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 02-05-004
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Medical Assistance Administration)
[Filed February 7, 2002, 3:49 p.m.]

Date of Adoption: February 4, 2002.

Purpose: This action repeals WAC 388-478-0026. It was originally incorrectly numbered and duplicates WAC 388-470-0026.

Citation of Existing Rules Affected by this Order: Repealing WAC 388-478-0026.

Statutory Authority for Adoption: RCW 74.08.090.

Adopted under notice filed as WSR 02-01-132 on December 19, 2001.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 1.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 1.

Effective Date of Rule: Thirty-one days after filing.

February 4, 2002

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 388-478-0026

Excluded resources for family medical programs.

WSR 02-05-006
PERMANENT RULES
HIGHER EDUCATION
COORDINATING BOARD
[Filed February 8, 2002, 8:55 a.m.]

Date of Adoption: February 6, 2002.

Purpose: Establishes the parameters and procedures in which the Higher Education Coordinating Board shall seek additional nominations in order to fully award three Washington scholars and one Washington scholars-alternate in each of the state's forty-nine legislative districts.

Citation of Existing Rules Affected by this Order: Amending WAC 250-66-030 Washington scholars.

Statutory Authority for Adoption: Chapter 28B.80 RCW.

Adopted under notice filed as WSR 01-18-069 on September 4, 2001; and WSR 01-24-031 on November 27, 2001.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

February 7, 2002

John Klacik
Associate Director

AMENDATORY SECTION (Amending WSR 00-08-081, filed 4/4/00, effective 5/5/00)

WAC 250-66-030 Nomination and selection of Washington state scholars. (1) Number of students to be nominated.

(a) Each principal of a public or private approved Washington high school is encouraged to nominate one percent of the senior class (twelfth grade) based on the October 1 enrollment count of the previous year.

(b) In the event that fewer than four nominations are anticipated in any one legislative district, the board shall seek additional nominations of students meeting eligibility criteria for that district from the high schools located in, and/or in legislative districts adjacent to, that legislative district.

(2) Selection committee.

(a) Following the receipt of ((aH)) the nomination forms, the higher education coordinating board shall convene a selection committee which shall have members representing public and private secondary and postsecondary education institutions, state agencies, and private sector associations. This selection committee shall review all nominations based upon selection criteria that shall include, but not be limited to, academic excellence, leadership ability, and community contributions.

(b) Conditioned upon when the anticipated nomination shortfall is recognized, as defined in subsection (1)(b) of this section, the additional nominations received may undergo review with the general nomination pool or, separately, as soon thereafter as practicable and in a manner consistent with regular committee procedure and selection criteria.

(3) Selection. The Washington scholars selection committee shall designate three Washington scholars and one Washington scholars-alternate in each legislative district from among the population of graduating high school seniors nominated for the award.

Recipients shall be identified by a ranking of nominees within each legislative district in descending order according to the final, aggregate numeric scores assigned to each individual in the review process. The three individuals achieving the highest scores in each legislative district shall be named to the Washington scholars award, and the individual receiving the fourth highest score in each legislative district shall be named to the Washington scholars-alternate award.

(4) Notification. After the final selections have been made, the higher education coordinating board shall notify the students so designated, their high school principals, the legislators of their respective districts, and the governor.

(5) Certificates and awards ceremony.

(a) The board, in conjunction with the governor's office, shall prepare appropriate certificates of recognition to be presented to the Washington state scholars recipients and Washington scholars-alternate recipients.

(b) An awards ceremony on behalf of the three students named to the Washington state scholars award in each legislative district shall be planned annually, at an appropriate time and place, by the board in cooperation with the Washington association of secondary school principals.

(6) Receipt of award. Washington state scholars and Washington scholars-alternates shall be deemed to have received their awards effective the date of notification. This is in contrast to the receipt of award benefits which may accrue to Washington state scholars and Washington scholars-alternates recipients in the form of tuition and fee waivers and grants, and which shall be deemed to be received by the

individual recipients on a term-by-term basis at the time the award benefit is used for undergraduate coursework.

WSR 01-05-009
PERMANENT RULES
DEPARTMENT OF HEALTH
[Filed February 8, 2002, 2:34 p.m.]

Date of Adoption: January 10, 2002.

Purpose: These rules will clarify fees for individuals going from a limited postgraduate license to a full license and clarify the applicability of the impaired monitoring surcharge.

Citation of Existing Rules Affected by this Order: Amending WAC 246-919-990 and 246-918-990.

Statutory Authority for Adoption: RCW 18.71.017 and 18.71A.020.

Other Authority: RCW 43.70.280.

Adopted under notice filed as WSR 01-24-105 on December 5, 2001.

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.

February 7, 2002

Mary C. Selecky
Secretary

AMENDATORY SECTION (Amending WSR 99-23-090, filed 11/16/99, effective 1/1/00)

WAC 246-918-990 Fees and renewal cycle. (1) Licenses must be renewed every two years on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2.

(2) The applicant or licensee must pay the following nonrefundable fees ((will be charged)):

Title of Fee	Fee
Physician assistants, certified physician assistants, physician assistant-surgical assistants, acupuncture physician assistants:	
Application*	\$50.00
((One-year renewal	70.00))

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Title of Fee	Fee
Two-year renewal*	70.00
((Substance abuse monitoring surcharge (assessed at \$25.00 each year as stipulated in RCW 18.71A.020(3))))	50.00
Expired license reissuance	35.00
Duplicate license	15.00
<u>Impaired physician program surcharge</u> <u>*(assessed at \$25.00 on each application and for each year of the renewal period as required in RCW 18.71.310(2))</u>	<u>25.00</u>

Title of Fee	Fee
<u>Impaired physician program *(assessed at \$25.00 on each application and for each year of the renewal period as required in RCW 18.71.310(2))</u>	<u>25.00</u>

WSR 02-05-012
PERMANENT RULES
DEPARTMENT OF COMMUNITY,
TRADE AND ECONOMIC DEVELOPMENT
 [Filed February 8, 2002, 3:35 p.m.]

AMENDATORY SECTION (Amending WSR 99-23-090, filed 11/16/99, effective 1/1/00)

WAC 246-919-990 Physician and surgeon fees and renewal cycle. (1) Licenses must be renewed every two years on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2, except postgraduate training limited licenses and retired active physician licenses.

(2) Postgraduate training limited licenses must be renewed every year to correspond to program date.

(3) Retired active physician licenses shall be renewed every year.

(4) The applicants and licensees must pay the following nonrefundable fees ((will be charged)):

Title of Fee	Fee
Physicians and surgeons: Chapter 18.71 RCW	
Application*	\$300.00
Retired active physician license renewal ((which is the \$100.00 renewal fee plus \$25.00 substance abuse monitoring surcharge))*	((125.00)) <u>100.00</u>
Retired active late renewal penalty ((One-year renewal	50.00 200.00))
Two-year renewal*	400.00
Late renewal penalty	100.00
Expired license reissuance	200.00
((Substance abuse monitoring surcharge (assessed at \$25.00 each year as stipulated in RCW 18.71.310(2))))	50.00
Certification of license	50.00
Duplicate license	15.00
Temporary permit	50.00
<u>Application fee for transitioning from a postgraduate training limited license*</u>	<u>100.00</u>
Postgraduate limited license fees: RCW 18.71.095	
Limited license application*	200.00
Limited license renewal*	200.00
((Substance abuse monitoring surcharge	25.00))
Limited duplicate license	15.00

Date of Adoption: February 8, 2002.

Purpose: To amend WAC 365-120-080 for the transitional housing, operating and rent program for homeless families with children, to raise the income eligibility limit for operating subsidies to 50% of the area median income and the operating subsidy limit to 50% of the project's core operating budget. This amendment has no impact on funding allocations.

Citation of Existing Rules Affected by this Order: Amending WAC 365-120-080.

Statutory Authority for Adoption: Chapter 43.63A RCW, RCW 43.63A.650, E2SHBa 1493 (chapter 267, Laws of 1999).

Adopted under notice filed as WSR 01-24-101 on December 5, 2001.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 1, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 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 31, 2002
 Martha Choe
 Director

AMENDATORY SECTION (Amending WSR 00-05-020, filed 2/8/00, effective 3/10/00)

WAC 365-120-080 Eligibility for operating assistance for transitional housing. (1) Projects must provide transitional housing in a structure designed for the targeted population of homeless families with children whose incomes are at or below ~~((thirty))~~ fifty percent of the area median income.

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(2) Operating subsidies shall not exceed thirty percent of the project's core operating budget for the year.

(3) Rents shall not exceed ((thirty)) fifty percent of the income of the targeted population.

WSR 02-05-021
PERMANENT RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 01-289—Filed February 11, 2002, 10:45 a.m.]

Date of Adoption: December 8, 2001.

Purpose: Adopt hunting management boundary.

Statutory Authority for Adoption: RCW 77.12.047.

Adopted under notice filed as WSR 01-21-115 on October 23, 2001.

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: Thirty-one days after filing.

February 11, 2002

Russ Cahill, Chair

Fish and Wildlife Commission

NEW SECTION

WAC 232-12-253 Tribal hunting—Medicine Creek Treaty hunters. (1) It is lawful for individuals authorized by the Puyallup, Nisqually, Squaxin Island and Muckleshoot Indian tribes to exercise treaty hunting rights reserved by the Treaty of Medicine Creek, 10 Stat. 1132, within the lands ceded in the Medicine Creek Treaty lying north of the following line:

From the main stem of the Skookumchuck River up the drainage divide to the central point between the Skookumchuck and the North Fork of the Tilton River; thence south along the drainage divide to the point where the Skookumchuck, Newaukum, and North Fork of the Tilton rivers meet just north of Newaukum Lake; thence southerly along the drainage divide to Rooster Rock; thence along the top of Bremer Mountain to the confluence of the North Fork of the Tilton River with the Tilton River; thence south to the top of peak (el. 2,960); thence south along the divide between the Cowlitz and Tilton rivers and along the summit of the ridge known as Cottler's Rock, staying on the divide to encompass

all of Sand Creek; thence across the valley and up the northern drainage boundary of Landers Creek to Vanson Peak (el. 4,935); thence along the drainage divide between the Cowlitz and Green rivers, along the eastern shore of Deadman Lake to the summit of Goat Mountain; thence dropping through the pass along the drainage divide at Ryan Lake; thence along the drainage divide between the Cispus and Green rivers, and Clearwater Creek of the Lewis River and continuing southeasterly along the divide between the Cispus and Lewis rivers to Badger Peak; thence continuing along the divide to an unnamed peak (el. 5,295) located north of Dark Mountain; thence along the drainage divide between McKoy Creek and Dark Creek to Surprise Peak; thence along the drainage divide to the top of Spud Hill; thence down and across the Cispus River and up the face of Blue Lake Ridge to the divide between Mouse Creek and Blue Lake tributaries; thence along the divide between Timonium Creek and Cat Creek to Hamilton Buttes; thence along the divide between the North Fork of the Cispus River and the Cispus River to Elk Peak; thence continuing northeasterly along the same divide, and the divide between Johnson Creek and the Cispus River, passing through Buckhorn Camp (el. 6,240), honoring the divide between the Cowlitz and Cispus rivers, to the summit of Old Snowy Mountain; thence north along the crest of the Cascade range to Naches Peak; thence west through Chinook Pass along the divide of the Cowlitz River and the White River to the summit of Mt. Rainier.

(2) This rule is intended to address the limited issue of the geographic scope of the treaty hunting right and is not intended to change or alter the rights or legal status of either the state of Washington or any Indian tribe or tribal member.

WSR 02-05-036
PERMANENT RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION

[Filed February 12, 2002, 4:39 p.m., effective February 13, 2002]

Date of Adoption: January 9, 2002.

Purpose: The purpose is to reflect policy changes by the State Safety Net Oversight for 2001-02 school year regarding special education safety net procedure for school districts and educational service districts.

Citation of Existing Rules Affected by this Order: Amending WAC 392-140-605, 392-140-609, 392-140-613, 392-140-616, 392-140-625, 392-140-630, 392-140-650, and 392-140-680.

Statutory Authority for Adoption: RCW 28A.150.290.

Adopted under notice filed as WSR 01-24-022 on November 27, 2001.

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 7, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: These rules need to be in place by the Safety Net Oversight Committee meeting on February 13, 2002.

Effective Date of Rule: February 13, 2002.

February 7, 2002
Dr. Terry Bergeson
Superintendent of
Public Instruction

AMENDATORY SECTION (Amending WSR 01-04-023, filed 1/30/01, effective 1/30/01)

WAC 392-140-605 Special education safety net—Application types, certification, worksheets. Application for safety net funding shall be made on Form SPI 1381 - Maintenance or Form SPI 1381 - Certification published by the superintendent of public instruction as follows:

(1) School districts may make application for safety net funding on one or more of the four application types described below. Applications will be considered and awards made in the order shown until the district's eligibility is exhausted.

(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) Students above the funded percentage hereafter referred to as percentage. State safety net funding may be requested if district's actual resident special education enrollment exceeds the district's funded resident special education enrollment, the district is implementing ((a)) an ongoing 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. State safety net funding may be requested by a school district with unfunded special education costs due to factors beyond the district's control and not attributable to district philosophy or service delivery style. The applicant district must meet the standards of WAC 392-140-613 and 392-140-625.

(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.

(d) Factors other than students above the funded level or high-cost individual students hereafter referred to as other factors. State safety net funding may be requested by a school

district with unfunded special education costs due to factors beyond the district's control and not attributable to district philosophy or service delivery style. The applicant district must meet standards of WAC 392-140-613 and 392-140-625.

(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, and federal Medicaid has been billed for all services to eligible students.

(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. Applications for MOESR shall include certification of standards and criteria described in WAC 392-140-610.

(b) Percentage applications pursuant to subsection (1)(b) of this section require completion of worksheet "A" described in WAC 392-140-625, certification of standards and criteria pursuant to WAC 392-140-613 and percentage application ((narrative)) plan.

(c) High-cost individual student applications shall include worksheets "A" and "C" and summary published in the safety net application, and certification of standards and criteria pursuant to WAC 392-140-616.

(d) Other factors applications pursuant to subsection (1)(d) of this section require completion of application narrative, worksheet "A" described in WAC 392-140-625, and certification of standards and criteria described in WAC 392-140-613.

AMENDATORY SECTION (Amending WSR 01-04-023, filed 1/30/01, effective 1/30/01)

WAC 392-140-609 Special education safety net—Standards and criteria—Appropriate and properly and efficiently prepared and formulated IEPs. Individualized education programs (IEPs) which are appropriate, properly and efficiently prepared and formulated are those IEPs that meet all of the following criteria:

(1) The IEPs comply with federal and state procedural requirements.

(2) The delivery of specially designed instruction complies with state standards (regularly scheduled teaching or training activities provided or designed by special education qualified staff).

(3) Areas for the provision of special education services conform with areas of need identified in the students evaluation made pursuant to WAC 392-172-111.

(4) The state oversight committee determines:

(a) There are no unresolved state audit examination ((findings)) issues related to special education which are material in nature;

(b) There are no unresolved state child count verification ((findings)) issues which are material in nature; and

(c) All corrections to state enrollment reporting, required for resolution of (a) and (b) of this subsection, are completed.

AMENDATORY SECTION (Amending WSR 01-04-023, filed 1/30/01, effective 1/30/01)

WAC 392-140-613 Special education safety net—Standards and criteria—Percentage and other factors applications. For a school district requesting state safety net funding due to students above the funded percentage or other factors, 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 state and 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 WSR 01-04-023, filed 1/30/01, effective 1/30/01)

WAC 392-140-616 Special education safety net—Standards—High-cost individual student applications. For districts requesting safety net funding to meet the extraordinary needs of an eligible high-cost individual special education student, the district shall demonstrate at a minimum that:

(1) The IEP for the eligible special education student is appropriate, and properly and efficiently prepared and formulated.

(2) All of the following criteria apply to the high-cost individual student:

(a) Costs eligible for safety net consideration must be direct expenditures for services required in the IEP.

(b) In order to deliver appropriate special education to the student, the district must be providing services which incur additional costs which exceed available district annual average per-pupil revenues, including state, federal and local revenues, by seven thousand three hundred fifty-eight dollars for the 2001-02 school year. The threshold amount shall be adjusted annually thereafter based upon the increase in base salary and NERCs as budgeted in the Biennial Operating Appropriations Act and published in the Safety Net application. This threshold amount shall be adjusted pro rata for students not counted or expected to be counted for special education services on all eight enrollment count dates (October through May). For example, for a student served and reported for only six of the eight count dates, the threshold amount shall be reduced to three-quarters of the full amount. The state safety net oversight committee may set a lower threshold for small school districts.

(c) The total cost of educational services must exceed any carryover of federal flow-through special education funding as of August 31 of the prior school year.

(d) The cost of providing special education services, as directed in the IEP, for this student would be detrimental to the school district's ability to provide necessary services to the other students being provided special education in the district.

(3) The state safety net oversight committee shall adapt the high cost individual student application as appropriate for applications prepared by the Washington state school for the blind and the Washington state school for the deaf.

AMENDATORY SECTION (Amending WSR 01-04-023, filed 1/30/01, effective 1/30/01)

WAC 392-140-625 Special education safety net—Demonstration of percentage and other factors. Applications for percentage or other factors shall demonstrate need for safety net funding as follows:

(1) Applications from districts with actual enrollment greater than funded enrollment pursuant to WAC 392-140-605 (1)(b) must demonstrate, through the application narrative, that the district is implementing ((a)) an ongoing 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.

(a) The application narrative completed by the school district shall provide any information and explanations related to students above the funded percentage 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.

(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 worksheet "A" and other information available to the state oversight committee.

(2) Applications for other factors pursuant to WAC 392-140-605 (1)(d) must demonstrate, through application narrative and on application worksheet "A," financial need caused by factors other than the presence of students above the funded percentage or high-cost individual student(s).

(a) The narrative shall identify causal factors beyond the district's control and not attributable to the district philosophy or service delivery style, and:

(i) Outline each causal factor asserted in the application;
(ii) Provide a clear explanation of the impact of each factor to the district in terms of number and/or severity of students;

(iii) Quantify the safety net funding need due to the factor. Show the assumptions and calculations used to arrive at the dollar amount of unfunded costs attributable to each factor.

(b) Provide a copy or explanation of any action plan the district has adopted to contain or eliminate any unnecessary, duplicative, or inefficient practices pursuant to WAC 392-140-613.

(c) If the district received an award in a prior year, describe the program, prior year costs, and compare and contrast to the current year program and costs.

AMENDATORY SECTION (Amending WSR 00-03-015, filed 1/7/00, effective 2/7/00)

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))~~ assist the special education safety net committee when requested. 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 shall be considered by the oversight committee in determining, adjusting, or recovering safety net awards.

AMENDATORY SECTION (Amending Order 96-15, filed 9/18/96, effective 10/19/96)

WAC 392-140-650 Special education safety net—Withdrawal of application. If at any time a school district wishes to withdraw a submitted application, the school district superintendent ~~((should))~~ or designee must submit a let-

ter requesting withdrawal to the state oversight committee prior to the published meeting date.

AMENDATORY SECTION (Amending WSR 00-03-015, filed 1/7/00, effective 2/7/00)

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 application contains a falsification or deliberate misrepresentation, including omission of a material fact.

(e) The state auditor's financial and legal compliance audit includes ~~((findings which))~~ issues that 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.

WSR 02-05-043
PERMANENT RULES
DEPARTMENT OF REVENUE
[Filed February 13, 2002, 10:21 a.m.]

Date of Adoption: February 13, 2002.

Purpose: WAC 458-30-700 Designated forest land—Removal—Change in status—Compensating tax, is a new rule containing guidance and procedures for when land is removed from designated forest land status. This rule also provides guidance for calculating and collecting the compensating tax when designated forest land is removed.

Statutory Authority for Adoption: RCW 82.32.300 and 84.33.096.

Other Authority: RCW 84.33.140.

Adopted under notice filed as WSR 01-22-091 on November 6, 2001.

Changes Other than Editing from Proposed to Adopted Version: In subsection (2), we have moved the two events

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triggering the removal of designated forest land status described in subsections (2)(c)(i) and (ii) of the proposed rule to subsections (2)(d) and (e) as reflected below and renumbered the subsequent subsections accordingly.

(2)(c) The assessor determines that the land is no longer primarily devoted to and used for growing and harvesting timber;

~~((i)d ((A determination that))~~ The owner has failed to comply with a final administrative or judicial order made because of the violation of the restocking, forest management, fire protection, insect and disease control and forest debris provisions of Title 76 RCW or the rules that implement Title 76 RCW; ~~((and))~~

~~((ii)e ((A determination that r))~~ Restocking has not occurred to the extent or within the time specified in the application for designation of the land; or

In **subsection (3)**, the word "attached" was added to the second sentence of this subsection. This change clarifies that, when the assessor uses a separate notice of continuance form with the REET affidavit, the separate notice of continuance must be attached to the REET affidavit.

(3) ... The notice of continuance may be signed as part of the real estate excise tax (REET) affidavit or as a separate form if the county has decided it will require owners to submit both the REET affidavit and an attached separate notice of continuance.

In **subsection (3)(b)(iii)**, the requirements for a timber management plan were rewritten to better parallel the statutory language of what must be provided in the plan.

(3)(b)(iii) The assessor is allowed up to fifteen days to confirm that the information upon the notice is complete and accurate. The assessor may use this time to confirm that the timber management plan provides:

(A) The correct legal description for the forest land;

(B) The new owner's ~~((goals for the land and how these goals are consistent with maintaining it as forest land, including))~~ statement~~((s))~~ that the forest land is owned by the same person, consists of twenty or more contiguous acres, and is primarily devoted to and used to grow and harvest timber;

(C) A statement about whether the land is used to graze livestock;

(D) A brief description of the timber stands located on the land;

~~((E))~~ ~~((The correct soil productivity information for the land;~~

~~((F))~~ A statement about whether the land has been used in compliance with the restocking, forest management, fire protection, insect and disease control, and forest debris provisions of Title 76 RCW; and

~~((G))~~ ~~((A reasonable summary of the plan for stand maintenance, harvest, and restocking, including a plan for restocking within three years any land that has been recently harvested or supports a growth of brush and noncommercial type timber; and~~

~~((H))~~ ~~((A reasonable outline of how issues of environmental concern will be addressed.))~~

(F) If the land has been recently harvested or supports a growth of brush and noncommercial type timber, a descrip-

tion of the owner's plan to restock the forest land within three years.

A timber management plan may contain, but is not required to contain, any other information that the harvester needs for its own business purposes (i.e., a statement of goals for managing the land or identifying resource protection areas on the land (like riparian buffer areas along a stream or an unstable slope) that limit harvesting activities).

In **subsection (3)(d)**, the phrase "use the land as designated forest land" was revised to "meet the requirements of designated forest land." This more clearly states what is expected of the new owner.

(3)(d) A notice of continuance is not required when the transfer of the forest land is to a new owner who is an heir or devisee, however, the new owner must continue to ~~((use the land as))~~ meet the requirements of designated forest land to avoid removal from designation.

In **subsection (4)(b)**, the removal event triggering when an owner can be required to provide a legal description of the removal area was clarified.

(4)(b) The assessor may require the owner to provide a legal description of the land area intended for removal when the landowner requests removal of owner's land from designated forest land status.

In **subsection (4)(e)**, the second sentence was rewritten and moved up to the beginning of the paragraph. This sentence was rewritten to focus upon the assessor's duties when land is subdivided.

(4)(e) An assessor may not remove forest land merely because an owner subdivides the land into separate parcels, if contiguous parcels of the subdivided land still add up to at least twenty contiguous acres, remain in the same ownership, and continue to be primarily devoted to and used for growing and harvesting timber. An assessor may ask an owner of designated forest land if the use of the land has changed when the owner subdivides a tract of designated forest land into separate parcels. ~~((An assessor may not remove forest land when the owner demonstrates that contiguous parcels of the subdivided land still add up to at least twenty contiguous acres, remain in the same ownership, and continue to be primarily devoted to and used for growing and harvesting timber.))~~

In **subsection (5)**, the reference to the notice(s) in the first sentence is clarified with statutory cites.

(5) **Removal proceedings.** After determining that a triggering event causing removal has occurred, the assessor must provide timely written notice(s) to the taxpayer. RCW 84.33.140(5)(d) (written notice and opportunity to be heard), RCW 84.33.140(9) (notice of removal).

In **subsection (5)(b)(i)(C)**, the requirement that an assessor consider a landowner's timely response to a notice of that assessor's intent to remove the land was clarified. In order to remove the land, the assessor must conclude that the property no longer qualifies.

(5)(b)(i) ... When the assessor determines that the property still does not qualify as designated forest land after the first notice is sent, the assessor mails the owner the second notice, the notice of removal, but only after:

(A) The owner declines the opportunity to be heard;

(B) The owner fails to timely respond to the first notice;
or

(C) The assessor has received and considered the owner's timely response to the notice of intent to remove and nevertheless concludes that the property is no longer primarily devoted to growing and harvesting timber.

In **subsection (7)(d)**, the instructions for appealing the value of the land was clarified. An appeal may be made concerning land value for either the current year's taxes, the compensating taxes, or both.

(7)(d) An owner may appeal the true and fair value of the land used to calculate the increase in the remaining current year's taxes or the compensating taxes within thirty days of the notice (or up to sixty days if such time limit has been adopted by the county legislative authority) or on or before July 1st, whichever is later. RCW 84.40.038.

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 1, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

February 13, 2002

Russell W. Brubaker

Assistant Director

Legislation and Policy Division

NEW SECTION

WAC 458-30-700 Designated forest land—Removal—Change in status—Compensating tax. (1) **Introduction.** This rule describes what events trigger the removal of land from designated forest land status under chapter 84.33 RCW, the procedures followed for removal, and the resulting compensating tax.

(2) **Events triggering the removal of designated forest land status.** The assessor must remove forest land from its designated forest land status when:

(a) The owner submits a written request to remove the owner's land from designated forest land status;

(b) The owner sells or transfers the land to an individual or entity exempt from property tax because of that individual's or entity's ownership;

(c) The assessor determines that the land is no longer primarily devoted to and used for growing and harvesting timber;

(d) The owner has failed to comply with a final administrative or judicial order made because of the violation of the

restocking, forest management, fire protection, insect and disease control and forest debris provisions of Title 76 RCW or the rules that implement Title 76 RCW;

(e) Restocking has not occurred to the extent or within the time specified in the application for designation of the land; or

(f) The owner sells or transfers forest land to a new owner who has not signed a notice of continuance, except when the new owner is the heir or devisee of a deceased owner. RCW 84.33.140(5).

(3) **How to retain designated forest land status when the land is sold or transferred.** When designated forest land is sold or transferred, the new owner may retain designated forest land status by filing a signed notice of continuance with the deed. The notice of continuance may be signed as part of the real estate excise tax (REET) affidavit or as a separate form if the county has decided it will require owners to submit both the REET affidavit and an attached separate notice of continuance. If multiple owners own the land, all owners or their agent(s) must sign the notice of continuance. A notice of continuance is not required for a new owner to retain designated forest land status when the new owner inherits the property.

(a) The owner may obtain the notice of continuance form and a real estate excise tax (REET) affidavit from the county. The county assessor's office has the notice of continuance form and the county treasurer's office has the REET affidavit.

The notice of continuance may also be obtained on the Internet at <http://dor.wa.gov> under property tax, "forms."

(b) After the new owner signs the notice of continuance as part of the REET affidavit and, if required, the separate notice, the REET affidavit and notice must be submitted to the assessor for approval. The assessor may also require the owner to submit a timber management plan before approving the notice of continuance.

(i) The assessor signs the REET affidavit and indicates whether the land will or will not qualify to continue as designated forest land.

(ii) An assessor signs the REET affidavit and approves the land for continued classification if:

(A) The owner provides a complete and accurate notice of continuance signed by the new owner demonstrating that the forest land will continue to qualify as designated forest land; and

(B) At the assessor's option, the new owner provides a timber management plan for the property.

(iii) The assessor is allowed up to fifteen days to confirm that the information upon the notice is complete and accurate. The assessor may use this time to confirm that the timber management plan provides:

(A) The correct legal description for the forest land;

(B) The new owner's statement that the forest land is owned by the same person, consists of twenty or more contiguous acres, and is primarily devoted to and used to grow and harvest timber;

(C) A statement about whether the land is used to graze livestock;

(D) A brief description of the timber stands located on the land;

(E) A statement about whether the land has been used in compliance with the restocking, forest management, fire protection, insect and disease control, and forest debris provisions of Title 76 RCW; and

(F) If the land has been recently harvested or supports a growth of brush and noncommercial type timber, a description of the owner's plan to restock the forest land within three years.

A timber management plan may contain, but is not required to contain, any other information that the harvester needs for its own business purposes (i.e., a statement of goals for managing the land or identifying resource protection areas on the land (like riparian buffer areas along a stream or an unstable slope) that limit harvesting activities).

(iv) If the assessor determines that the notice of continuance or the timber management plan is not accurate or complete, the owner may resubmit the corrected information to the assessor.

(v) If the assessor determines that the land does not qualify to continue as designated forest land, the assessor removes the land upon the date of the conveyance and provides the owner with a notice of removal containing reason(s) for the removal and the amount of compensating taxes owed.

(c) Once the assessor signs the notice of continuance as part of the REET affidavit and the separate notice of continuance, if required, the notice(s) are then submitted to the treasurer. Before the treasurer can stamp the REET affidavit as approved for recording, the treasurer collects any REET due because of the transfer, and collects all compensating tax if the land does not qualify for continuance as designated forest land because it was denied continuance by the assessor. The county recording clerk must not accept any deeds or other transfer documents unless the treasurer has stamped the REET affidavit.

(d) A notice of continuance is not required when the transfer of the forest land is to a new owner who is an heir or devisee, however, the new owner must continue to meet the requirements of designated forest land to avoid removal from designation. The treasurer determines that a transfer is by inheritance because the claim for the inheritance exemption is filled out on the REET affidavit with supporting documentation. The treasurer should notify the assessor when forest land has been transferred by inheritance without a notice of continuance.

(4) Assessor decisions and procedures. Before removing the land from its designated forest land status, the assessor follows certain procedures and takes into account circumstances that may delay or prevent removal.

(a) The assessor must determine:

(i) The actual area of land to be removed from forest land status;

(ii) Whether the land has been exempted from an unretired special benefit assessment;

(iii) The true and fair value of the area being removed as of January 1st of the year of removal from designation;

(iv) Forest land value for the area to be removed;

(v) The last levy rate that applied for that area; and

(vi) The amount of time the land has been designated and classified as forest land, including the number of days up to the date of removal for the current year of removal.

(b) The assessor may require the owner to provide a legal description of the land area intended for removal when the landowner requests removal of owner's land from designated forest land status.

(c) The remaining land outside of the affected removal area continues to be designated as forest land if the owner retains twenty or more contiguous acres primarily devoted to and used for growing and harvesting timber. If the remaining land fails to meet the forest land definition because there are less than twenty contiguous acres primarily devoted to and used for growing and harvesting timber, the owner may request reclassification as timber land under the open space program in chapter 84.34 RCW.

(d) The assessor must provide the owner with a written notice and an opportunity to be heard by the assessor, or the assessor's deputy, when the assessor intends to remove the land because it is no longer primarily devoted to and used for growing and harvesting timber. RCW 84.33.140 (5)(d). Each county assessor may set his or her own procedure for giving a landowner this notice and opportunity to be heard so long as it is done in a reasonable and consistent manner that ensures due process for each owner.

(e) An assessor may not remove forest land merely because an owner subdivides the land into separate parcels, if contiguous parcels of the subdivided land still add up to at least twenty contiguous acres, remain in the same ownership, and continue to be primarily devoted to and used for growing and harvesting timber. An assessor may ask an owner of designated forest land if the use of the land has changed when the owner subdivides a tract of designated forest land into separate parcels.

(f) If the assessor determines the land is no longer primarily devoted to and used for growing and harvesting timber, but there is a pending acquisition by an entity that would qualify for exemption from compensating tax under subsection (6)(e) of this rule, the assessor must not remove the land from its designated forest land status. RCW 84.33.140 (5)(d)(i). In order to prevent removal, the government entity or other qualified recipient must provide written proof to the assessor of its intent to acquire the land or documentation that demonstrates the transaction will qualify for an exemption from compensating tax under subsection (6)(e) of this rule. The entity acquiring the land must provide this written proof within sixty days of a request by the assessor. Thereafter, once a year, the governmental entity or other recipient must provide the assessor of the county in which the land is located written evidence of its intent to acquire the land. This written evidence must be provided on or before December 31st of each year or at an earlier date if the assessor makes a written request for such information. RCW 84.33.140 (5)(d)(i). Upon the assessor's written request, the information must be provided within sixty days from the date the assessor mails or hands the request to the owner or the postmark date of the request, if later.

(g) The assessor must not remove forest land from its designation if a governmental restriction is imposed on the

land that prohibits, in whole or in part, the harvesting of timber.

(i) If only a portion of the forest land is impacted by the governmental restriction, the assessor cannot use the restriction as a basis to remove the remainder of the land from its designated forest land status.

(ii) A governmental restriction includes:

(A) Any law, regulation, rule, ordinance, program, or other action adopted or taken by a federal, state, county, city, or other governmental entity; or

(B) The land's zoning or its presence within an urban growth area designated under RCW 36.7A.110.

(5) **Removal proceedings.** After determining that a triggering event causing removal has occurred, the assessor must provide timely written notice(s) to the taxpayer. RCW 84.33.140 (5)(d) (written notice and opportunity to be heard), RCW 84.33.140(9) (notice of removal). Upon receiving the notice of removal, the landowner may appeal the removal or apply for reclassification of the land to the open space program under chapter 84.34 RCW. If the owner chooses to appeal the removal, the appeal must be filed within thirty days of the postmark date for the notice or by July 1st of the year of removal, whichever is later. If the owner chooses to apply for reclassification, they must do so within thirty days of the postmark date of the notice.

(a) **When does the land get removed from the designated forest land status?** If the removal is a result of a sale or transfer, the assessor removes the land on the date of sale or transfer provided in the legal conveyance. If the removal is based upon a determination made about the land by the assessor or at the request of the owner, the assessor removes the land on the date shown on the notice of removal mailed to the owner.

(b) **Notice of removal.** The assessor uses the notice of removal to notify the owner that the land has been removed from designated forest land status. Within thirty days of removing land from designated forest land status, the assessor must mail a notice of removal to the owner with the reasons for the removal. The owner, seller, or transferor may appeal the removal to the county board of equalization.

(i) If the property is being removed because the assessor has determined the land is no longer primarily devoted to and used for growing and harvesting timber, the assessor provides two notices. First, the assessor must notify the taxpayer of his or her intent to remove the property and give the owner an opportunity to be heard. The assessor may require the owner to provide pertinent information about the land and its use in the response to the assessor's first notice. When the assessor determines that the property still does not qualify as designated forest land after the first notice is sent, the assessor mails the owner the second notice, the notice of removal, but only after:

(A) The owner declines the opportunity to be heard;

(B) The owner fails to timely respond to the first notice;

or

(C) The assessor has received and considered the owner's timely response to the notice of intent to remove and nevertheless concludes that the property is no longer primarily devoted to growing and harvesting timber.

(ii) If the removal is based upon an owner's request for removal, upon receipt of a request for removal from an owner, the assessor sends the notice of removal to the owner showing the compensating tax and recording fee due.

(iii) The notice provides the reason(s) for removing the land from designation and the date of the removal. RCW 84.33.140(9). The notice includes the compensating tax calculated in rule section (6) and the necessary recording fees to be paid. It also includes the due date for payment, along with the landowner's rights to appeal the removal or the true and fair value at the time of removal, and the owner's right to apply for the land to be reclassified under chapter 84.34 RCW. The county must use the notice of removal form prepared by the department.

(iv) The assessor must also provide written notice of the removal to any local government filing a notice regarding a special benefit assessment under RCW 84.33.210 within a reasonable time after the assessor's decision to remove the land. The assessor may provide a simple statement with the legal description of the land, the name of the landowner, and the date of removal, if he or she includes a copy of the notice sent to the landowner. RCW 84.33.230.

(c) **What happens when an owner chooses to appeal the removal?** Unless the removal is reversed upon appeal, the assessor continues the process to remove the property from designated forest land status. The assessor may choose to delay collection of the compensating tax and recording fee until the appeal is decided. However, if the assessor postpones the collection of the compensating tax and recording fee, the assessor must notify the treasurer to temporarily delay collection. The assessor must also notify the owner that if the determination to remove is upheld, then interest will be due from the date the compensating tax and recording fee were due.

(i) If the removal is reversed upon appeal, the assessor shall reinstate the land as designated forest land, discharge any lien placed against the land, revise any assessments made against the property during the interim, refund the recording fee paid, and refund or cancel any compensating taxes and interest paid or owing.

(ii) If the removal is upheld upon an appeal in which the assessor has delayed collection, the compensating tax and recording fee are due immediately with interest accrued from the date the tax and fee were originally due. Upon receiving notice of the decision upholding the removal, the assessor must immediately notify the treasurer to collect any unpaid compensating taxes, fees, and interest on the land.

(d) **What happens when an owner applies to have the land reclassified under chapter 84.34 RCW?** If an application for reclassification is submitted by the owner within thirty days after the notice of removal has been mailed, the forest land is not removed from classification until the application for reclassification under chapter 84.34 RCW is denied or later removed from classification under RCW 84.34.108. RCW 84.33.145(1). When the owner sells or transfers land (or a portion of the land) while an application for reclassification is pending, an assessor may accept a notice of continuation, and allow the owner to revise the application for reclas-

sification to reflect the name of the new owner of the property.

(i) If the application for reclassification under chapter 84.34 RCW is approved, the assessor shall transfer the property to its new classification.

(ii) If the application for reclassification under chapter 84.34 RCW is denied, the assessor must record the removal notice and inform the treasurer's office to immediately begin collection of the compensating tax and the recording fee.

(6) **Compensating tax.** Compensating tax is imposed when land is removed from its forest land status. This tax recaptures taxes that would have been paid on the land if it had been assessed and taxed at its true and fair value instead of the forest land value.

(a) **Calculating the compensating tax.** The assessor uses the current year's levy rate, the forest land value, and the true and fair value for the area to be removed from forest land status to calculate the compensating tax. The compensating tax consists of two parts: The recapture of taxes for previous years that the land was classified or designated as forest land,

up to a maximum of nine years; and the recapture of taxes for the portion of the current year up to the date of removal in the year the land is removed from designation. RCW 84.33.140(11).

(i) The compensating tax for the previous years is calculated by determining the difference between the amount of taxes assessed at the forest land value for the removal area and the amount of taxes that would have been paid if the land had been valued at its true and fair value in the year of removal. That difference is multiplied by the number of years the land was classified or designated as forest land up to a maximum of nine years.

(ii) The compensating tax for the portion of the year of removal from January 1st to the date of removal is calculated by determining the difference between the amount of taxes assessed at the forest land value and the taxes that would have been paid if the land had been valued at its true and fair value for the portion of the year up to the removal date.

(b) Formulas for calculating taxes after removal:

(i) Calculation of prior year's compensating tax:

True and Fair Value of Land (Jan 1st of year removed)	Less	Forest Land Value at time of removal	Multiplied by	Last levy Rate Extended Against Land	Multiplied by	Years (not to exceed 9)	Equals	Compensating Tax
\$-----	-	\$-----	x	\$-----	x		=	\$-----

(ii) Calculation of current year's taxes to date of removal:

	÷		365	=	
No. of days designated as forest land		No. of days in year			Proration factor (To items (A) and (B))
(A) \$_____ Market value	x	_____ Levy rate	x	_____ Proration factor	= \$_____
(B) \$_____ Forest land value	x	_____ Levy rate	x	_____ Proration factor	= \$_____
(C) Amount of compensating tax for current year ((A) minus (B))					= \$_____

(c) The assessor notifies the treasurer of the amount of compensating tax and the due date for the tax by providing the treasurer a copy of the removal notice. Compensating tax is due and payable to the county treasurer thirty days after the assessor mails to the owner the notice of removal informing the owner of the reasons for removal and the amount of compensating tax due. RCW 84.33.140(11). However, when property is sold or transferred, any compensating tax owed must be paid to the county treasurer before recording the conveyance. The county recording authority will not accept any instrument transferring the land, unless the compensating tax was paid or was not owed.

(d) **What happens if the compensating tax is not paid on the due date?** If the compensating tax is not paid by the due date, the tax is considered delinquent. Interest, set at the statutory rate for delinquent property taxes specified in RCW

84.56.020, will accrue against the amount of the outstanding taxes from the due date until the entire amount owing is paid. Unpaid compensating tax and interest becomes a lien on the land. RCW 84.60.020.

(i) This lien attaches at the time the forest land is removed from designation.

(ii) The lien has priority over any recognizance, mortgage, judgment, debt, obligation, or responsibility against the land.

(iii) This lien must be fully paid before any other recognizance, mortgage, judgment, debt, obligation, or responsibility may be charged against the land.

(iv) The lien can be foreclosed upon expiration of the same period after delinquency and in the same manner as liens for delinquent real property taxes are foreclosed under RCW 84.64.050. RCW 84.33.140(12).

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(e) Compensating tax is not imposed on land removed from the forest land designation if the removal resulted solely from any of the following:

(i) A transfer to a government entity in exchange for other forest land within Washington state;

(ii) A transfer under either the power of eminent domain or upon the threat of eminent domain by an entity with the power of eminent domain that intends to exercise this power. The entity must threaten to exercise eminent domain in writing or demonstrate this threat by some other official action;

(iii) A donation of fee title, development rights, or the right to harvest timber in order to protect, preserve, maintain, improve, restore, limit the future use, or conserve the property for public use or enjoyment (see RCW 84.34.210 and 64.04.130). Provided, this donation is made to a:

(A) State agency;

(B) Federal agency;

(C) County;

(D) City;

(E) Town;

(F) Metropolitan park district (see RCW 35.61.010);

(G) Metropolitan municipal corporation (see RCW 35.58.020);

(H) Nonprofit historic preservation corporation as defined in RCW 64.04.130; or

(I) Nonprofit nature conservancy corporation or association as defined in RCW 84.34.250.

However, when the land is no longer being used for one of the purposes listed above, compensating tax will be imposed on the owner of the land at that time;

(iv) The sale or transfer of fee title to a government entity (see the governmental entities listed above in clause (iii) of this rule section) or a nonprofit nature conservancy corporation as defined in RCW 64.04.130 exclusively for the protection and conservation of lands recommended for state natural area preserve purposes by the natural heritage advisory council under its established natural heritage plan as defined in chapter 79.70 RCW (natural area preserves). However, if the land is no longer used to protect and conserve the area for state natural area preserve purposes, or fails to comply with the terms of a natural heritage plan, compensating tax will be imposed on the owner of the land at that time;

(v) A sale or transfer of fee title to the state's parks and recreations commission for park and recreation purposes;

(vi) An official action of an agency of the state of Washington or the county or city in which the land is located disallowing the current use of the land. "Official action" includes city ordinances, zoning restrictions, the Growth Management Act, the Shoreline Management Act, and the Environmental Policy Act;

(vii) The creation, sale, or transfer of forestry riparian easements under RCW 76.13.120;

(viii) The creation, sale, or transfer of a fee interest or a conservation easement for the riparian open space program under RCW 76.09.040;

(ix) In a county with a population of more than one million (i.e., King County), a transfer of a property interest to a government entity, or to a nonprofit historic preservation corporation or nonprofit nature conservancy corporation (as

these corporations are defined in RCW 64.04.130) and the property interest being transferred is to:

(A) Protect or enhance public resources; or

(B) Preserve, maintain, improve, restore, limit the future use of, or otherwise to conserve for public use or enjoyment. When the land is no longer being used for any of these purposes, the owner of the land at the time will be required to pay compensating tax. RCW 84.33.140 (12) and (13);

(x) The sale or transfer of forest land within two years after the death of an owner who held at least a fifty percent interest in the land if:

(A) The individual(s) or entity(s) who received the land from the deceased owner is selling or transferring the land; and

(B) The land has been continuously assessed and valued as classified or designated forest land under chapter 84.33 RCW or classified under chapter 84.34 RCW since 1993. The date of death shown on the death certificate begins the two-year period for sale or transfer; or

(xi) The sale or transfer of forest land between July 22, 2001, and July 22, 2003, if:

(A) An owner who held at least a fifty percent interest in the land died after January 1, 1991;

(B) The individual(s) or entity(s) who received the land from the deceased owner is selling or transferring the land; and

(C) The land has been continuously assessed and valued as classified or designated forest land under chapter 84.33 RCW or classified under chapter 84.34 RCW continuously since 1993. The date of death shown on the death certificate is the date used to determine the owner's date of death.

(7) When will the land be assessed at its true and fair value and the taxes become payable? The land will be assessed at its true and fair value on the date it is removed from forest land status. The assessor revalues the land removed from forest land status with reference to its true and fair value on January 1st in the year of removal. RCW 84.33.140(10). The property tax for the remainder of the year following the date of removal is based on land's true and fair value.

(a) To calculate the increase the assessor must determine the number of days remaining in the year from the date of removal. The increase in property tax is due on the same due date as all other property taxes are due for the year (generally, April 30th and October 1st of the current year. See RCW 84.56.020).

(b) Formula for calculating the increase in property taxes for the remainder of the year in which the land is being removed:

		÷		365		=	
(i)	No. of days from date of removal to the end of the year		No. of days in year				Proration factor for true and fair land value
(ii)	\$ _____ Market value	x	_____	x	_____	=	\$ _____
			Levy rate		Proration factor		
(iii)	\$ _____ Forest land value	x	_____	x	_____	=	\$ _____
			Levy rate		Proration factor		
(iv)	Total amount of increased taxes for current year ((ii) minus (iii))					=	\$ _____

(c) If the taxes for the year of removal have not yet been billed, the tax should be recalculated based on the true and fair value of the land removed for the portion of the year following the date of removal.

(d) An owner may appeal the true and fair value of the land used to calculate the increase in the remaining current year's taxes or the compensating taxes within thirty days of the notice (or up to sixty days if such time limit has been adopted by the county legislative authority) or on or before July 1st, whichever is later. RCW 84.40.038.

(8) What happens when forest land reclassified under chapter 84.34 RCW is later removed from that classification before ten years have passed? If reclassified forest land is later removed, a combination of compensating tax and additional tax will be imposed unless the basis for removal is one of the circumstances listed as exempt from additional tax under RCW 84.34.108(6).

(a) The amount of compensating tax is equal to the difference, if any, between the amount of property tax last levied on the land as forest land and an amount equal to the new true and fair value of the land when removed from classification under RCW 84.34.108 multiplied by the dollar rate of the last property tax levy extended against the land, multiplied by

(b) A number equal to:

(i) The number of years the land was classified or designated as forest land under chapter 84.33 RCW, if the total number of years the land was classified or designated under chapter 84.33 RCW and classified under chapter 84.34 RCW is less than ten; or

(ii) Ten minus the number of years the land was classified under chapter 84.34 RCW, if the total number of years the land was classified or designated under chapter 84.33 RCW and under chapter 84.34 RCW is at least ten.

Adopted under notice filed as WSR 02-02-057 on December 27, 2001.

Changes Other than Editing from Proposed to Adopted Version: In subsections (2)(f) and (3)(c) after "fifteen days" was inserted, "from the mailing date of the notice of dishonored instrument."

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

February 13, 2002

Debbie Nelson

for Russ Cahill, Chair

Fish and Wildlife Commission

NEW SECTION

WAC 220-20-075 License sales—Dishonored check and credit card transaction penalties. All license sales by the department, and by department contract vendors in the case of nonsalmon delivery licenses, are subject to the following provisions.

(1) Definitions. The following definitions apply to this section:

(a) "Collection procedures" means sending a payment on demand notice thirty, sixty, and ninety days after the notice of dishonored instrument has been sent, during which period the person who issued the check or used the credit card will accrue a one percent per month interest fee in addition to the dishonored instrument fee. If the accrued fees have not been paid within thirty days after the mailing of the ninety-day notice, the account will be turned over for collection.

WSR 02-05-046

PERMANENT RULES

DEPARTMENT OF

FISH AND WILDLIFE

[Order 02-32—Filed February 14, 2002, 9:05 a.m.]

Date of Adoption: February 8, 2002.

Purpose: Establish procedures to handle dishonored instruments.

Statutory Authority for Adoption: RCW 77.12.047.

(b) "Dishonored instrument" means a check issued to the department for purchase of a license that has been returned for any reason, including, but not limited to, insufficient funds or closed account, or a credit card transaction with the department for purchase of a license that is not approved by the entity that issued the credit card.

(c) "Dishonored instrument fee" means the additional fee required to be paid for a license that was paid for with a dishonored instrument. The dishonored instrument fee is thirty dollars.

(d) "Notice of dishonored instrument" means the notice sent to a person who attempted purchase of a license with a dishonored instrument. This notice will be mailed to the person at the address given at the time of the license transaction.

(2) Commercial license sales:

(a) All commercial license sales will be made through the Olympia licensing office, except for nonsalmon delivery licenses, which will also be sold through department-approved contract vendors at selected ports.

(b) Commercial licensees who tender a dishonored instrument to the department will not be issued another commercial license of any kind until the license fee, dishonored instrument fee, and, if applicable, interest and collection fees, have been paid.

(c) Commercial licensees who have tendered a dishonored instrument may only replace the dishonored instrument and pay the dishonored instrument fee, and any future license purchases, by cash, certified check or money order for the subsequent two licensing years after the licensing year in which the dishonored instrument was issued.

(d) Except for commercial fishing licenses which require annual renewal in order to purchase subsequent year licenses, commercial licensees who have tendered a dishonored instrument have fifteen days from the mailing date of the notice of dishonored instrument to pay the license and dishonored instrument fee, during which period the license will remain valid if the payment is received by the department by 5:00 p.m. on the fifteenth day, or by 5:00 p.m. on the next working day if the fifteenth day falls on a weekend or holiday. If the fees are not presented within fifteen days, the license will be voided as of the date of issuance, and any deliveries that have been made under the license will be treated as deliveries without a valid license.

(e) Commercial fishing licensees who are renewing a license which requires annual renewal in order to be renewed in a subsequent year, and who tender a dishonored instrument, must pay the license fee and the dishonored instrument fee by December 31st in order to have a valid license for purposes of subsequent renewal.

(f) Commercial licensees who do not replace a dishonored instrument within fifteen days from the mailing date of the notice of dishonored instrument are subject to collection procedures.

(g) Fishers who deliver shellfish or food fish other than salmon on a nonsalmon delivery license, which license has been paid for with a dishonored check from the contract vendor, are not subject to the penalties of this section.

(3) Recreational license sales:

(a) Recreational licensees who have tendered a dishonored instrument have fifteen days from the mailing date of the

notice of dishonored instrument to pay the license and dishonored instrument fee, during which period the license will remain valid if the payment is received by the department by 5:00 p.m. on the fifteenth day, or by 5:00 p.m. on the next working day if the fifteenth day falls on a weekend or holiday. If the fees are not presented within fifteen days, the license will be voided as of the date of issuance, and any recreational activities that occurred within the fifteen days will be treated as having occurred without having a valid license, tag or permit.

(b) Recreational licensees who have tendered a dishonored instrument may only replace the dishonored instrument and pay the dishonored instrument fee, and, if applicable, interest, by cash, certified check or money order.

(c) Recreational licensees who do not replace a dishonored instrument within fifteen days from the mailing date of the notice of dishonored instrument are subject to collection procedures.

WSR 02-05-050

PERMANENT RULES

**SALMON RECOVERY
FUNDING BOARD**

[Filed February 15, 2002, 8:00 a.m.]

Date of Adoption: February 8, 2002.

Purpose: Under RCW 77.85.140, to further define the meaning of "*approved for funding*" and "*project completion*" and thereby create a clear expectation among project sponsors regarding when to expect reimbursement.

Citation of Existing Rules Affected by this Order: Amending WAC 420-12-060 Disbursement of funds.

Statutory Authority for Adoption: RCW 77.85.120 [(1)](b).

Adopted under notice filed as WSR 01-24-059 on November 30, 2001.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

February 12, 2002

Greg Lovelady

Rules Coordinator

PERMANENT

AMENDATORY SECTION (Amending WSR 01-04-052, filed 2/2/01, effective 3/5/01)

WAC 420-12-060 Disbursement of funds. Except as otherwise provided in this rule, the director will authorize disbursement of project funds only on a reimbursable basis, after the project sponsor has spent its own funds and has presented a billing showing satisfactory evidence of property rights acquired and/or compliance with partial or all provisions of the project agreement.

(1) Reimbursement method. Reimbursement shall be requested on voucher forms authorized by the director. Requests must include all documentation as detailed in the manual in effect at the time reimbursement is requested.

(2) Reimbursement level. The amount of reimbursement may never exceed the cash spent on the project by the sponsor.

(3) Partial payment. Partial reimbursements may be made during the course of a project on presentation of billings showing satisfactory evidence of partial acquisition or development by the project sponsor. The director may require written assurance that full project completion is scheduled by a specific date. In the event of appropriation reductions or terminations, the project agreement shall allow the board to suspend or terminate future obligations and payments.

(4) Direct payment. Direct payment to escrow of the board's share of the approved cost of real property may be made following board approval of an acquisition project when the project sponsor indicates a temporary lack of funds to purchase the property. Prior to release of the board's share of escrow funds, the project sponsor must provide the director with a copy of a binding sale agreement between the project sponsor and the seller and evidence of deposit of the project sponsor's share (if any) into an escrow account.

(5) Advance payments may be made in limited circumstances only, pursuant to the policy outlined in the adopted reimbursement manual.

(6) Payment deadline. As required by RCW 77.85.140, sponsors who complete salmon habitat projects approved for funding from habitat project lists will be paid by the board within thirty days of project completion. This means the board will issue a reimbursement within thirty days of the sponsor's completion of the billing requirements described in the board's reimbursement policy manual.

WSR 02-05-055

PERMANENT RULES

DEPARTMENT OF ECOLOGY

[Order 01-08—Filed February 15, 2002, 10:56 a.m.]

Date of Adoption: February 15, 2002.

Purpose: This rule making will adopt amendments to the state waste discharge permit program, chapter 173-216 WAC; the national pollutant discharge elimination system permit program, WAC 173-220-210; and the waste discharge general permit program, WAC 173-226-090. It will add "turbidity" to the list of parameters that do not require lab accred-

itation for analysis and reporting unless the laboratory is already registered or accredited.

Citation of Existing Rules Affected by this Order: Amending the state waste discharge permit program, WAC 173-216-125 Monitoring; the national pollutant discharge elimination system permit program, WAC 173-220-210 Monitoring, recording, and reporting; and the waste discharge general permit program, WAC 173-226-090 Monitoring, recording and reporting.

Statutory Authority for Adoption: RCW 90.48.035.

Adopted under notice filed as WSR 01-24-100 on December 4, 2001.

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 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

February 15, 2002

Tom Fitzsimmons

Director

AMENDATORY SECTION (Amending Order 92-53, filed 9/22/93, effective 10/23/93)

WAC 173-216-125 Monitoring. Use of registered or accredited laboratories:

(1) Except as established in subsection (3) of this section, monitoring data submitted to the department in accordance with this chapter shall be prepared by a laboratory accredited under the provisions of chapter 173-50 WAC no later than July 1, 1993, for all state permittees with a permitted average flow rate greater than five million gallons per day.

These requirements are effective and binding on all permittees under the authority of rule, regardless of whether they have been included as conditions of a permit.

(2) Except as established in subsection (3) of this section, monitoring data submitted to the department in accordance with this chapter shall be prepared by a laboratory registered or accredited under the provisions of chapter 173-50 WAC no later than July 1, 1994, for all state permittees not covered under subsection (1) of this section.

These requirements are effective and binding on all permittees under the authority of rule, regardless of whether they have been included as conditions of a permit.

(3) The following parameters need not be accredited or registered:

(a) Flow;

- (b) Temperature;
- (c) Settleable solids;
- (d) Conductivity, except that conductivity shall be accredited if the laboratory must otherwise be registered or accredited;
- (e) pH, except that pH shall be accredited if the laboratory must otherwise be registered or accredited; (~~and~~)
- (f) Turbidity, except that turbidity shall be accredited if the laboratory must otherwise be registered or accredited; and
- (g) Parameters which are used solely for internal process control.

AMENDATORY SECTION (Amending Order 92-53, filed 9/22/93, effective 10/23/93)

WAC 173-220-210 Monitoring, recording and reporting. (1) Monitoring.

(a) Any discharge authorized by a permit may be subject to such monitoring requirements as may be reasonably required by the department, including the installation, use, and maintenance of monitoring equipment or methods (including, where appropriate, biological monitoring methods). These monitoring requirements would normally include:

- (i) Flow (in gallons per day);
- (ii) Pollutants (either directly or indirectly through the use of accepted correlation coefficients or equivalent measurements) which are subject to reduction or elimination under the terms and conditions of the permit;
- (iii) Pollutants which the department finds could have a significant impact on the quality of surface waters; and
- (iv) Pollutants specified by the administrator, in regulations issued pursuant to the FWPCA, as subject to monitoring.

(b) Each effluent flow or pollutant required to be monitored pursuant to (a) of this subsection shall be monitored at intervals sufficiently frequent to yield data which reasonably characterizes the nature of the discharge of the monitored effluent flow or pollutant.

Variable effluent flows and pollutant levels may be monitored at more frequent intervals than relatively constant effluent flows and pollutant levels which may be monitored at less frequent intervals.

(c) Monitoring of intake water, influent to treatment facilities, internal waste streams, and/or receiving waters may be required when determined necessary by the department to verify compliance with net discharge limitations or removal requirements, to verify that proper waste treatment or control practices are being maintained, or to determine the effects of the discharge on the surface waters of the state.

(2) Recording of monitoring activities and results. Any permit which requires monitoring of the authorized discharge shall require that:

- (a) The permittee shall maintain records of all information resulting from any monitoring activities required of him in his permit;
- (b) Any records of monitoring activities and results shall include for all samples:
 - (i) The date, exact place, and time of sampling;
 - (ii) The dates analyses were performed;

- (iii) Who performed the analyses;
 - (iv) The analytical techniques/methods used; and
 - (v) The results of such analyses; and
- (c) The permittee shall be required to retain for a minimum of three years any records of monitoring activities and results including all original strip chart recording for continuous monitoring instrumentation and calibration and maintenance records. This period of retention shall be extended during the course of any unresolved litigation regarding the discharge of pollutants by the permittee or when requested by the department or regional administrator.

(3) Reporting of monitoring results.

(a) The permittee shall periodically report (at a frequency of not less than once per year) on the proper reporting form, the monitoring results obtained pursuant to monitoring requirements in a permit. In addition to the required reporting form, the department at its discretion may require submission of such other results as it determines to be necessary.

(b) Monitoring reports shall be signed by:

- (i) In the case of corporations, by a responsible corporate officer or his duly authorized representative, if such representative is responsible for the overall operation of the facility from which the discharge originates.
- (ii) In the case of a partnership, by a general partner.
- (iii) In the case of a sole proprietorship, by the proprietor.

(iv) In the case of a municipal, state or other public facility, by either a principal executive officer, ranking elected official, or other duly authorized employee.

(4) Use of registered or accredited laboratories:

(a) Except as established in (c) of this subsection, monitoring data submitted to the department in accordance with this chapter shall be prepared by a laboratory accredited under the provisions of chapter 173-50 WAC no later than indicated by the appropriate date below:

July 1, 1992, major dischargers;

July 1, 1993, all permittees with a permitted average flow rate greater than five million gallons per day.

These requirements are effective and binding on all permittees under the authority of rule, regardless of whether they have been included as conditions of a permit.

(b) Except as established in (c) of this subsection, monitoring data submitted to the department in accordance with this chapter shall be prepared by a laboratory registered or accredited under the provisions of chapter 173-50 WAC no later than July 1, 1994, for all NPDES permittees not covered under (a) of this subsection.

These requirements are effective and binding on all permittees under the authority of rule, regardless of whether they have been included as conditions of a permit.

(c) The following parameters need not be accredited or registered:

- (i) Flow;
- (ii) Temperature;
- (iii) Settleable solids;
- (iv) Conductivity, except that conductivity shall be accredited if the laboratory must otherwise be registered or accredited;
- (v) pH, except that pH shall be accredited if the laboratory must otherwise be registered or accredited; (~~and~~)

(vi) Turbidity, except that turbidity shall be accredited if the laboratory must otherwise be registered or accredited; and
 (vii) Parameters which are used solely for internal process control.

AMENDATORY SECTION (Amending Order 92-53, filed 9/22/93, effective 10/23/93)

WAC 173-226-090 Monitoring, recording, and reporting. (1) Monitoring.

(a) Any discharge authorized by a general permit may be subject to such monitoring requirements as may be reasonably required by the department, including the installation, use, and maintenance of monitoring equipment or methods (including, where appropriate, biological monitoring methods). These monitoring requirements would normally include but are not limited to:

- (i) Flow (in gallons per day or other appropriate units);
- (ii) All pollutants on which limitations have been placed pursuant to WAC 173-226-070;
- (iii) Pollutants (either directly or indirectly through the use of accepted correlation coefficients or equivalent measurements) that are subject to reduction or elimination under the terms and conditions of the permit;
- (iv) Pollutants that the department finds could have a significant impact on the quality of waters and sediments of the state; and
- (v) Pollutants specified by the administrator, in regulations issued pursuant to the FWPCA, as subject to monitoring.

(b) Each effluent flow or pollutant required to be monitored pursuant to (a) of this subsection shall be monitored at intervals sufficiently frequent to yield data that reasonably characterizes the nature of the discharge of the monitored effluent flow or pollutant.

(c) Monitoring for compliance with limitations imposed pursuant to WAC 173-226-070 shall be no less than once per year.

(d) Variable effluent flows and pollutant levels may be monitored at more frequent intervals than relatively constant effluent flows and pollutant levels, which may be monitored at less frequent intervals.

(e) Monitoring of intake water, influent to treatment facilities, internal waste streams, and/or receiving waters may be required by the department, to verify compliance with net discharge limitations or removal requirements, to verify that proper waste treatment or control practices are being maintained, or to determine the effects of the discharge on the waters and sediments of the state.

(2) Recording of monitoring activities and results. Any general permit which requires monitoring of an authorized discharge shall require that:

(a) The permittee maintain records of all information resulting from any monitoring activities required as a condition of the application for, or as a condition of coverage under a general permit;

(b) Any records of monitoring activities and results shall include for all samples:

- (i) The date, exact place, and time of sampling;
- (ii) The dates analyses were performed;

- (iii) Who performed the analyses;
- (iv) The analytical techniques/methods used; and
- (v) The results of such analyses; and
- (c) The permittee retain for a minimum of five years any records of monitoring activities and all results of those activities including all original strip chart recording for continuous monitoring instrumentation and calibration and maintenance records. This period of retention shall be extended during the course of any unresolved litigation regarding the discharge of pollutants by the permittee, or when requested by the department or regional administrator.

(3) Reporting of monitoring results.

(a) The department may require the permittee to periodically report on the proper reporting form, the monitoring results obtained pursuant to monitoring requirements in a general permit. In addition to the required reporting form, the department may require submission of such other reports as it determines to be necessary.

(b) Monitoring reports shall be signed by:

- (i) In the case of corporations, a responsible corporate officer or duly authorized representative, if such representative is responsible for the overall operation of the facility from which the discharge originates.
- (ii) In the case of a partnership, a general partner.
- (iii) In the case of a sole proprietorship, the proprietor.
- (iv) In the case of a municipal, state, or other public facility, either a principal executive officer, ranking elected official, or other duly authorized employee.

(4) Except as provided in subsection (5) of this section, all monitoring data required as a condition of a general permit, or required as part of an application for coverage under a general permit shall be prepared by a laboratory registered or accredited under the provisions of chapter 173-50 WAC within one year of first being covered under a general permit or by July 1, 1995, whichever is later.

(5) The following parameters need not be accredited or registered:

- (a) Flow;
- (b) Temperature;
- (c) Settleable solids;
- (d) Conductivity, except that conductivity shall be accredited if the laboratory must otherwise be registered or accredited;
- (e) pH, except that pH shall be accredited if the laboratory must otherwise be registered or accredited; (~~and~~)
- (f) Turbidity, except that turbidity shall be accredited if the laboratory must otherwise be registered or accredited; and
- (g) Parameters which are used solely for internal process control.

PERMANENT

WSR 02-05-058

PERMANENT RULES

DEPARTMENT OF LICENSING

[Filed February 15, 2002, 2:36 p.m.]

Date of Adoption: February 15, 2002.

Purpose: Meet criteria supporting Governor Locke's Executive Order 97-02.

Citation of Existing Rules Affected by this Order: Amending WAC 308-93-700, 308-93-710, 308-93-720, 308-93-730, 308-93-740, 308-93-750, 308-93-760, and 308-93-770.

Statutory Authority for Adoption: RCW 88.02.100.

Adopted under notice filed as WSR 01-24-085 on December 4, 2001.

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 8, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 8, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

February 15, 2002

Fred Stephens

Director

AMENDATORY SECTION (Amending WSR 96-16-038, filed 8/1/96, effective 9/1/96)

WAC 308-93-700 ((Purpose)) Indian tribe vessels.
What is the purpose of WAC 308-93-700 through 308-93-770? WAC 308-93-700 through 308-93-770 are adopted to implement the Consent Decree entered in *United States v. Washington*, Civ. No. 9213 - Phase I - Sub. 88-1 entered on November 28, 1994, and signed by the United States, the signatory tribes, and the state of Washington. These rules do not repeat all of the sections of the Consent Decree and are not intended to ~~((set out))~~ include all of the requirements and provisions of the Consent Decree. ~~((Nothing in these rules is intended to enact any rules inconsistent with the Consent Decree or to alter in any way the state of Washington's obligations under the Consent Decree.))~~ However, the tribes and the state have agreed to an intergovernmental cooperative registration procedure. In the event of conflicting provisions, interpretations, or applications between these rules and the Consent Decree, resolution shall give precedence to the Consent Decree.

AMENDATORY SECTION (Amending WSR 96-16-038, filed 8/1/96, effective 9/1/96)

WAC 308-93-710 Definitions. The following terms used in WAC 308-93-700 through 308-93-770 ~~((shall))~~ have the meaning given to them in this section unless the context clearly indicates otherwise:

(1) "Indian tribe" and "tribal" means the Indian tribes which are signatory to the Consent Decree entered in *United*

State v. Washington, Civ. No. 9213 - Phase I - Sub. 88-1 entered on November 28, 1994, including: Lower Elwha S'Klallam Tribe, Hoh Tribe, Jamestown S'Klallam Tribe, Lummi Nation, Makah Tribe, Muckleshoot Tribe, Nisqually Tribe, Nooksack Tribe, Port Gamble S'Klallam Tribe, Puyallup Tribe, Quileute Tribe, Quinault Indian Nation, Sauk-Suiattle Tribe, Skokomish Tribe, Squaxin Island Tribe, Stillaquamish Tribe, Suquamish Tribe, Swinomish Indian Tribal Community, Tulalip Tribes, Upper Skagit Tribe, and Yakama Nation.

(2) "Tribal member(s)" means those persons duly enrolled in the Indian tribes identified in subsection (1) of this section.

(3) The terms "vessels" or "boats" are synonymous and mean watercraft used in connection with the exercise of federally secured fishing rights.

(4) All other terms have the same meaning as used in chapter 88.02 RCW and chapter 308-93 WAC.

AMENDATORY SECTION (Amending WSR 96-16-038, filed 8/1/96, effective 9/1/96)

WAC 308-93-720 Indian tribe exempt vessels. (1) **What is an Indian tribe exempt vessel under the Consent Decree entered in *United States v. Washington*, Civ. No. 9213 - Phase I - Sub. 88-1 entered on November 28, 1994?** State ad valorem property (personal property) and watercraft excise taxes ~~((shall))~~ will not be imposed upon any vessel owned by a tribal member(s) and used in connection with the exercise of federally secured fishing rights, so long as the member's tribe imposes a treaty, fishing rights-related tax. The taxes also ~~((shall))~~ will not apply to tribally owned boats used in connection with or in activities related to the exercise of tribal fishing rights, including but not limited to, management, regulation or enforcement thereof.

(2) **Are state registration numbering and fee requirements applied to vessels recognized under Consent Decree entered in *United States v. Washington*, Civ. No. 9213 - Phase I - Sub. 88-1 entered on November 28, 1994?** State registration, numbering, and fee requirements otherwise applicable to a nontreaty vessel, ~~((shall))~~ will not be applied to any tribally owned vessel or vessel owned by a tribal member(s) which is used in the exercise of treaty fishing rights and is tribally registered.

AMENDATORY SECTION (Amending WSR 96-16-038, filed 8/1/96, effective 9/1/96)

WAC 308-93-730 Indian tribe vessel numbering system. (1) **What are the specifications for an Indian tribe vessel registration number?** A tribal vessel number conforming to the specifications of 33 C.F.R. sections 173.27 and 174.23 and a certificate of number conforming to 33 C.F.R. section 174.19, ~~((shall))~~ must be assigned, and a "decal" ~~((shall))~~ must be issued for each Indian tribe and tribal member vessel and displayed thereon. Upon agreement of the Coast Guard and Indian tribes, different specification may be established for treaty fishing vessels.

(2) **How are Indian tribe vessel registration numbers dispersed?** Each tribe ~~((shall be))~~ is entitled to a block of numbers with a unique tribal suffix. Each tribe may select a unique, three-letter suffix for its state or tribally produced vessel number, unless otherwise agreed upon by the Coast Guard. The vessel numbers ~~((shall otherwise))~~ must be of the same size and placed in the same location as specified for those vessels registered ~~((pursuant to))~~ under chapter 88.02 RCW. The department ~~((shall))~~ will not issue a plaque, sticker, or other form of number ~~((or annual registration))~~ to affix to a numbered vessel.

(3) **Are Indian tribe vessel registration number decals unique to the tribe?** The decal may be unique to each tribe, ~~((so))~~ as long as ~~((otherwise conforming))~~ the decal conforms to the Coast Guard specifications regarding size and color. A tribe may choose to use decals provided by the department ~~((issued decals))~~.

(4) **When will the department supply the Indian tribe with a list of vessel numbers and decals?** By June 1st of each year, the department will provide each Indian tribe a list of vessel numbers, and state decals if the Indian tribe so requests, in the quantity, and with any particular three-letter suffix specified by the Indian tribe. Such quantity ~~((shall))~~ must be sufficient to enable each Indian tribe to issue a vessel number to each of its tribal fishers for the vessels they use in the treaty fishery. ~~((Notwithstanding the foregoing, the department need not))~~ The department has thirty days to provide an Indian tribe the list of vessel numbers and decals ~~((sooner than thirty days))~~ after the Indian tribe has advised the department of its number and decal requirement.

(5) **What happens if the department fails to provide a list of vessel numbers requested by an Indian tribe in the time frame outlined in subsection (4) of this section?** Failure ~~((of))~~ by the department to provide a list of vessel numbers requested by an Indian tribe in the time frames outlined in this section ~~((shall))~~ will not ~~((preclude))~~ prohibit the Indian tribe or tribal fishermen from lawfully fishing ~~((pursuant to))~~ under the treaty fishing right, and ~~((shall))~~ will be a complete defense in any action by the state to enforce its tax or vessel registration laws until the state complies with the terms of this section.

AMENDATORY SECTION (Amending WSR 96-16-038, filed 8/1/96, effective 9/1/96)

WAC 308-93-740 Indian tribe vessel registration. What registration conditions must be met to satisfy the state and the Coast Guard?

Tribal and ~~((treaty fishing))~~ tribal member vessels ~~((shall))~~ will be deemed by the state and the Coast Guard to be properly registered ~~((so long as))~~ provided the following conditions are met:

(1) The ~~((individual))~~ tribal member has provided information listed in subsection (3) of this section to the Indian tribe of which ~~((he or she is))~~ they are a member, on forms satisfactory to the ~~((Indian))~~ tribe and the state ~~((information listed in subsection (3) of this section))~~; and

(2) The ~~((appropriate Indian))~~ tribe to which the individual member belongs has approved registration of the vessel

and ~~((so advised))~~ has notified the department, ~~((on agreed to forms, containing all the))~~ using forms satisfactory to the tribe and the state which contain information ~~((about the vessel and its owner which the Indian tribe is required to collect pursuant to))~~ listed in subsection (3) of this section;

(3) ~~((Contents of))~~ Information required on the form for registration of ~~((Indian tribe))~~ a tribal vessel:

(a) Name and address of the owner, including zip code;
(b) State in which vessel is or will be principally used;
(c) The hull identification number previously issued by an issuing authority for the vessel, if any;

(d) Whether the application is for a new ~~((number))~~ registration, renewal ~~((of a number))~~, or transfer of ownership;

(e) Whether the vessel is used for pleasure, rent or lease, dealer or manufacturer demonstration, commercial passenger carrying, commercial fishing, or other commercial use;

(f) Make of vessel;

(g) Year vessel was manufactured or model year;

(h) Manufacturer's or department assigned hull identification number, if any;

(i) Overall length of vessel;

(j) Type of vessel ~~((of))~~, i.e., open, cabin, house, or other~~((s))~~;

(k) ~~((Whether the hull is))~~ Hull building material, i.e., wood, steel, aluminum, fiberglass, plastic, or other;

(l) ~~((Whether))~~ The propulsion ~~((is))~~, i.e., inboard, outboard, inboard-outdrive, sail, or other;

(m) ~~((Whether))~~ The fuel ~~((is))~~, i.e., gasoline, diesel, or other;

(n) The signature of the owner;

~~((Application made by a manufacturer or dealer for a number that is to be temporarily affixed to a vessel for demonstration or test purposes may omit (f) through (m) of this subsection. An application made by a person who intends to lease or rent the vessel without propulsion machinery may omit (l) and (m) of this subsection;))~~

(4) The registering ~~((Indian))~~ tribe may issue a vessel number from the list obtained from the department, upon tribal approval of a ~~((tribal))~~ member's registration application~~((; and such))~~. The registration~~((, which shall be))~~;

(a) Will be valid for a term of one year~~((, shall be in immediate effect and))~~;

(b) Will be effective immediately; and

(c) Will remain in effect until suspended or revoked by the tribe in accordance with the procedure set forth in WAC 308-93-750, or for any other reason the tribe determines appropriate.

AMENDATORY SECTION (Amending WSR 96-16-038, filed 8/1/96, effective 9/1/96)

WAC 308-93-750 Improper Indian tribe registration. (1) May the department either object to or seek revocation of tribal issuance of a registration contained in the tribal vessel registration maintained with the department? Yes. The department may object to and ~~((or))~~ seek revocation of tribal issuance of a registration contained in the tribal vessel registration program maintained with the department only if it ~~((appears))~~ is determined that:

(a) Inaccurate or false information has been submitted;
or
(b) Information required pursuant to WAC 308-93-740(3) is omitted; or

(c) The department obtains information that the vessel is stolen or (~~otherwise~~) is not (~~beneficially~~) owned by the registrant.

(2) **Is the department required to notify the tribe that the registration appears to be improper?** Yes, the department (~~shall serve notice upon~~) must notify the (~~Indian~~) tribe that the registration appears to be improper (~~and~~). The department's objection (~~thereto~~) must be made either in person or by certified mail, return receipt requested. (~~The Indian tribe shall~~) Within thirty days of receipt of the notice, the tribe must provide the information requested, take the requested action, clarify any misunderstanding, or inform the department that the tribe does not intend to take the action requested or provide the requested information.

(3) **Does the department have the right to request revocation of a tribally issued registration and number?** Yes, the department may request a tribally issued registration and number be revoked at any time should it be determined that the information (~~demonstrate the information~~) originally submitted was false(~~;~~) or inaccurate, the vessel is stolen or not (~~beneficially~~) owned by the registrant. The registrant and (~~Indian~~) tribe (~~shall have~~) must be given a reasonable opportunity to correct inaccurate information.

(4) (~~Nothing herein shall act to revoke~~) **Is the revocation of a tribal vessel registration request effective immediately?** No, nor (~~shall~~) will any (~~Indian~~) tribe be required to revoke, the registration, number, (~~and~~) or vessel decal issued by the (~~Indian~~) tribe to the tribal member until all dispute resolution procedures have been exhausted. If the state establishes the registration is improper, the (~~Indian~~) tribe (~~shall~~) must revoke the registration(~~, plaque,~~) number and decal.

AMENDATORY SECTION (Amending WSR 96-16-038, filed 8/1/96, effective 9/1/96)

WAC 308-93-760 Indian tribe vessel computer data base. (1) **When must the tribe notify the department of a vessel registration?** Each (~~Indian~~) tribe (~~shall~~) must forward the proper forms and documentation to the department(~~, attention: Vehicle licensing,~~) within five working days after approval of the registration. The mailing address is:

Department of Licensing
Title and Registration Services
Post Office Box 9909
Olympia, Washington 98507-9909

The department (~~shall~~) will store the registration data in a computer system, with twenty-four-hour availability, and have procedures (~~which~~) that will limit access to civil or criminal law enforcement entities seeking information for law enforcement purposes.

(2) (~~If an Indian~~) **Shall the tribe notify the department if they find information that is not correct or is incomplete on a tribal vessel registration?** Yes, if a tribe

becomes aware that information regarding a vessel authorized by that tribe to participate in the treaty fishery, and contained in the department vessel identification system, or the vessel identification system of another (~~Indian~~) tribe, may be erroneous or incomplete and should be corrected, the tribe will promptly notify the department or the tribe which operates the identification system. The notice to the department and the other (~~Indian~~) tribe (~~shall~~) must state the reasons why it is believed the system information is incorrect or incomplete. The notifying tribe (~~shall~~) must also identify the correct or additional information the tribe believes should be entered into the system. The department (~~shall~~) will respond promptly to each (~~such~~) notice regarding inaccurate or incomplete information, explaining what, if any, changes or corrections have been made.

AMENDATORY SECTION (Amending WSR 96-16-038, filed 8/1/96, effective 9/1/96)

WAC 308-93-770 Disclosure of Indian tribal vessel data. (1) **Who has access to tribal vessel data?** Indian tribes and tribal member vessel registration data (~~shall~~) will be stored in the department's computer system, (~~with~~) which has twenty-four-hour availability(~~, and~~). The department has procedures (~~which will limit~~) limiting access to civil or criminal law enforcement entities seeking information for law enforcement purposes. Unless ordered by a court of competent jurisdiction, no access by business persons or other private individual (~~shall~~) will be permitted unless the treaty fisher or tribe has authorized such release of information in writing. Release of information may be made to other persons or groups when specifically authorized in writing by all persons identified in the information to be released.

(2) **How is access to tribal vessel information obtained?** Access to Indian tribe vessel information (~~shall~~) must be available via a modem, or other suitable electronic format, to all state, tribal, federal, and foreign law enforcement agencies. Information available by computer (~~shall~~) will not be considered in the possession or control of any other (~~party~~) entity. On-line access is authorized between and among all parties' vessel registration information systems to permit state, tribal, and federal enforcement personnel to directly obtain vessel registration information from the various governments' vessel information systems, regarding treaty and nontreaty vessels. No altering of another party's information (~~shall~~) will be made without that party's consent.

(3) The state shall defend against any private (~~party's~~) entity's attempt to establish a legal right to obtain tribal registration data(~~, shall~~). The department must notify the affected (~~Indian~~) tribe of any such private party's claim at the time the claim is made, and (~~shall~~) must keep the (~~Indian~~) tribe informed as to the status of the matter.

WSR 02-05-059
PERMANENT RULES
DEPARTMENT OF LICENSING
[Filed February 15, 2002, 2:38 p.m.]

Date of Adoption: February 15, 2002.

Purpose: Meet criteria supporting Governor Locke's Executive Order 97-02.

Citation of Existing Rules Affected by this Order: Amending WAC 308-93-520, 308-93-530, and 308-93-540.

Statutory Authority for Adoption: RCW 88.02.070.

Other Authority: RCW 88.02.100.

Adopted under notice filed as WSR 01-24-096 on December 4, 2001.

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 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.

February 15, 2002

Fred Stephens

Director

AMENDATORY SECTION (Amending WSR 99-07-041, filed 3/15/99, effective 4/15/99)

WAC 308-93-520 Owner deceased(~~(—Release of interest by personal representative)~~). (1) (~~What is a personal representative?~~)

A personal representative is an individual named in the last will and testament or appointed and confirmed by the court to manage the estate of a deceased person.

(2) ~~How is the interest of the owner of record released on a vessel ownership document if an owner is deceased?~~

Interest is released by the signature of the personal representative on vessel ownership documents. ~~Any unreleased registered or legal owners shall remain as such on the new certificate of ownership issued by the department.~~

(3) ~~What do I need as proof of legal authority to release interest in a vessel acquired from an estate of a deceased person?~~

If the estate is:

- (a) Administered:
 - (i) Certified letters of testamentary; or
 - (ii) Letter of administration; or
 - (iii) Certificate of county clerk.
- (b) Joint tenants with rights of survivorship:

~~Certified copy of death certificate.~~

~~(e) Community property:~~

~~(i) Certified copy of the death certificate; and~~

~~(ii) A copy of the community property agreement; or~~

~~(iii) Affidavit of inheritance.~~

~~(d) Estate not administered:~~

~~(i) Certified copy of death certificate; and~~

~~(ii) Affidavit of inheritance; or~~

~~(iii) Affidavit of succession.) **What titling options are**~~

available when a vessel owner is deceased?

(a) The vessel ownership may be released by a personal representative or beneficiary and transferred into the name of a new owner; or

(b) The surviving owner may transfer into their name if joint tenancy was indicated on the certificate of ownership; or

(c) The surviving owner, heir, or personal representative may transfer ownership into their name if proper documentation is provided as in subsection (4) of this section; or

(d) The vessel can be titled into the name of the estate of the deceased.

(2) How can a vessel be titled in the name of the estate of the deceased?

The signature of a personal representative as described in RCW 11.02.005(1) is required to release interest for the deceased owner. The vessel may then be titled and registered in the name of the estate of the deceased pending final settlement of the estate. A certificate of county clerk or a copy of the court order appointing or confirming the personal representative must be attached to the application for certificate of ownership.

(3) How will the name of the estate be shown on the certificate of ownership? The name will be shown as "estate of (deceased name)."

(4) What documentation is required to remove the name of the deceased from the certificate of ownership or registration? In addition to any other documents or releases required by law or rule you will need:

(a) If the estate is administered:

(i) Letters of testamentary; or

(ii) Letter of administration; or

(iii) Certificate of county clerk.

(b) If there are joint tenants with rights of survivorship: Copy of death certificate.

(c) If there is a community property agreement:

(i) Copy of the death certificate; and

(ii) A copy of the community property agreement.

(d) If the estate was not administered:

(i) Copy of the death certificate; and

(ii) Affidavit of inheritance; or

(iii) Affidavit of succession.

(5) If the vessel was last registered in another jurisdiction and the owner is deceased, what documents do I need when applying for a Washington certificate of ownership in my name? The requirements are the same as those provided in subsections (1) through (4) of this section. Equivalent documentation issued by the foreign jurisdiction may be acceptable.

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AMENDATORY SECTION (Amending WSR 99-07-041, filed 3/15/99, effective 4/15/99)

WAC 308-93-530 Owner incompetent—Release of interest. Who is eligible to release interest on a vessel ownership document if the owner is declared incompetent?

~~((Only the court appointed guardian may release interest in a vessel owned by an individual who has been declared incompetent. The release of interest must be accompanied by a certified copy of the court order appointing the guardian.))~~
The release of interest may be signed by either:

(1) The court appointed guardian, if one has been appointed by the court, may release interest in a vessel owned by an individual who has been declared incompetent.

(2) Durable power of attorney as provided in Title 11 RCW. A copy of the court order or the durable power of attorney appointing the guardian must accompany the release of interest.

AMENDATORY SECTION (Amending WSR 99-07-041, filed 3/15/99, effective 4/15/99)

WAC 308-93-540 Owner bankrupt—Release of interest. Who has the authority to release interest in a vessel when an owner has been declared bankrupt?

A trustee appointed by the court has the authority to release interest on a vessel for the owner who has been declared bankrupt. The release of interest ~~((shall))~~ must be accompanied by a ~~((certified))~~ copy of the court order appointing the trustee.

WSR 02-05-070

PERMANENT RULES

DEPARTMENT OF ECOLOGY

[Order 01-11—Filed February 19, 2002, 11:45 a.m.]

Date of Adoption: February 15, 2002.

Purpose: The purpose of this rule is to provide the administrative structure to distribute grant funds to local government for the purpose of implementing local solid and hazardous waste plans and programs. These rule amendments are to clean up existing language that is no longer applicable, streamline the administrative process, and specifically identify local matching requirements for CPG grants.

Citation of Existing Rules Affected by this Order: Amending WAC 173-312-010 through 173-312-100.

Statutory Authority for Adoption: Chapter 70.105D RCW, Model Toxics Control Act.

Other Authority: Chapter 43.21 RCW.

Adopted under notice filed as WSR 01-24-088 on December 4, 2001.

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 9, 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.

February 15, 2002

Tom Fitzsimmons

Director

AMENDATORY SECTION (Amending Order 00-19, filed 9/8/00, effective 10/9/00)

WAC 173-312-010 Purpose and authority. (1) The purpose of this chapter is to set forth requirements for the conduct of a financial assistance program to provide grants to local governments for local hazardous waste plans and programs and solid waste plans and programs, under the Model Toxics Control Act, RCW 70.105D.070(3). The plans and programs referenced in RCW 70.105D.070(3) are designed to prevent or minimize environmental contamination. Therefore, the grants are designated "coordinated prevention grants" under this chapter.

(2) A further purpose of this chapter is to establish a structure for the administration of coordinated prevention grants funded from the local toxics control account authorized by RCW 82.21.030. The administrative structure may be extended to other waste management grant programs using other funding sources including ~~((the 1972 waste disposal facilities bonds authorized by chapter 43.83A RCW, the 1980 waste disposal facilities bonds authorized by chapter 43.99 RCW,))~~ the litter control account authorized by chapter 70.93 RCW, ~~((the vehicle tire recycling account authorized by chapter 70.95 RCW, the solid waste management account authorized by chapter 70.95 RCW,))~~ the hazardous waste assistance account authorized by chapter 70.95E RCW, and other waste management funding sources that may be established in the future by the legislature.

(3) The purposes of the coordinated prevention grants program are to:

(a) Consolidate all grant programs funded from the local toxics control account, and other programs in subsection (2) of this section that may be selected, into a single program, except for remedial action, public participation, and citizen proponent negotiations grants.

(b) Promote regional solutions and intergovernmental cooperation.

(c) Prevent or minimize environmental contamination by providing financial assistance to local governments to help them comply with state solid and hazardous waste laws and rules.

(d) Provide funding assistance for local solid and hazardous waste planning and for implementation of some programs and projects in those plans.

(e) Encourage local responsibility for solid and hazardous waste management.

(f) Improve efficiency, consistency, reliability, and accountability of grant administration.

Note: Copies of all cited statutes, rules, and guidelines are available at the Department of Ecology, Records Management, P.O. Box 47600, Olympia, Washington 98504-7600.

AMENDATORY SECTION (Amending Order 00-19, filed 9/8/00, effective 10/9/00)

WAC 173-312-020 Definitions. "Cash expenditure" means any cash outlay by the recipient, regardless of the source of funds, for direct costs of goods and/or services; salaries and benefits of recipient employees, including force account; overhead cash; and payments made to contractors.

~~("Class one areas" means the counties of Spokane, Snohomish, King, Pierce, and Kitsap and all the cities therein.~~

~~"Class two areas" means the counties located west of the crest of the Cascade Mountains and all the cities therein, except Snohomish, King, Pierce, and Kitsap counties.~~

~~"Class three areas" means the counties east of the crest of the Cascade Mountains and all the cities therein, except Spokane County.)~~

"Department" means the department of ecology.

"Grant" means the portion of the project costs borne by the department.

"In-kind contributions" are property or services that benefit a project and that are contributed by a third party, without direct monetary compensation, to the recipient (or to any contractor under the agreement). In-kind contributions include donated or loaned real or personal property, volunteer services, and employee services donated by a third party.

"Incineration" means a process of reducing the volume of solid waste by use of an enclosed device using controlled flame combustion, operating under federal and state environmental laws and rules.

"Interlocal costs" are in-kind contributions made to a project by another local government under a valid written agreement between the recipient and the other government that details the work to be accomplished, the goods and services to be provided, and the value thereof. If the recipient reimburses another governmental entity for any portion of its contributions, the amount paid to the other entity is not an interlocal cost. It is a cash expenditure on the part of the recipient. Only the nonreimbursed portion of the other governmental entity's contributions is an interlocal cost.

"Landfill" means a disposal facility or part of a facility at which solid waste is permanently placed in or on land and which is not a landspreading disposal facility.

"Lead implementation agency" means the agency designated in the adopted local solid or hazardous waste plan as having the principal responsibility for the execution of all or most of the plan, and/or the coordinating agency that delegates responsibility to other agencies to execute portions of the plan.

"Local government" means any political subdivision, regional governmental unit, district, municipal or public corporation, including cities, towns, and counties. The term encompasses but does not refer specifically to the departments within a city, town, or county.

"Local hazardous waste plan" means the plan to manage moderate-risk waste that a local government is required to prepare under RCW 70.105.220.

"Match" means that portion of the cash expenditures borne by recipient funds and interlocal costs.

"Moderate-risk waste" means (a) any waste that exhibits any of the properties of hazardous waste but is exempt from regulation under chapter 70.105 RCW solely because the waste is generated in quantities below the threshold for regulation, and (b) any household wastes that are generated from the disposal of substances identified by the department as hazardous household substances or substances that exhibit any of the properties of hazardous waste.

"Recipient" means the entity to which the funding is awarded and that is accountable for the use of the funds provided. The recipient is the entire legal entity even if only one component or department is designated in the agreement document.

"Recyclable materials" means those solid wastes separated for recycling or reuse, such as papers, metals and glass, that are identified as recyclable material under a local comprehensive solid waste plan.

"Recycling" means transforming or remanufacturing waste materials into usable or marketable materials for use other than landfill disposal or incineration.

"Solid waste" or "wastes" means all putrescible and non-putrescible solid and semisolid wastes including, but not limited to, garbage, rubbish, ashes, industrial wastes, swill, demolition and construction wastes, abandoned vehicles or parts thereof, and recyclable materials.

AMENDATORY SECTION (Amending Order 00-19, filed 9/8/00, effective 10/9/00)

WAC 173-312-040 Applicant eligibility. (1) Eligibility for solid waste planning grants. Counties that are required by chapter 70.95 RCW to adopt or update local solid waste plans are eligible to apply for coordinated prevention grants to help pay for those plans. This eligibility extends to cities that have submitted an independent city plan, a joint city plan, or joint city-county plan to the department by the effective date of this rule. This eligibility also extends to any city subsequently requesting funding for the preparation of an independent plan, if the city provides for disposal sites wholly within its jurisdiction.

(2) Eligibility for solid waste enforcement grants. Jurisdictional health departments/districts are eligible to apply for coordinated prevention grants to pay for the enforcement of rules adopted under chapter 70.95 RCW.

(3) Eligibility for solid waste implementation grants. Counties whose solid waste plans are adopted ~~(and)~~ and approved ~~(, and updated)~~ by the department as required by chapter 70.95 RCW are eligible to apply for coordinated prevention grants to help pay for the implementation of waste reduction and recycling projects in the most recently

approved and adopted plan: Provided, That those projects are eligible as defined in WAC 173-312-050. This eligibility also extends to cities that are eligible for funding to do local solid waste plans or updates as provided by subsection (1) of this section.

If the adopted plans designate lead implementation agencies to implement the plans, those agencies are also eligible to apply for coordinated prevention grants.

~~((Solid waste plan updates must be submitted to the department no later than July 1, 1991, for class one areas; July 1, 1992, for class two areas; and July 1, 1994, for class three areas; unless an extension is granted by the department. Local governments that do not comply will not be eligible for coordinated prevention grant funding for solid waste project implementation until the required plan updates are submitted to the department.))~~

(4) Eligibility for hazardous waste planning grants. Local governments that are required by chapter 70.105 RCW to adopt or update local hazardous waste plans are eligible to apply for coordinated prevention grants to help pay for those plans.

(5) Eligibility for hazardous waste plan implementation grants. Local governments with department-approved local hazardous waste plans as required by chapter 70.105 RCW are eligible to apply for coordinated prevention grants to help pay for the implementation of projects in the plan. If the plans designate lead implementation agencies to implement the plans, those agencies are also eligible to apply for coordinated prevention grants.

(6) Any grant-eligible entities as defined in this section may submit their requests in a ~~((unified))~~ coordinated application as described in WAC 173-312-060 (4)(a), or may submit separate applications ~~((in a package application))~~ as provided in WAC 173-312-060 (4)(b).

AMENDATORY SECTION (Amending Order 00-19, filed 9/8/00, effective 10/9/00)

WAC 173-312-050 Project eligibility. (1) Eligible project costs are those costs which are necessary and reasonable to fund required local planning and the implementation of some projects and programs contained in those plans, including innovative approaches implementing policies of the plan. These are:

(a) Local hazardous waste planning as required by chapter 70.105 RCW.

(b) Local solid waste planning as required by chapter 70.95 RCW.

(c) Local hazardous waste plan implementation projects.

(d) Local solid waste enforcement by the jurisdictional health departments and districts.

(e) Local solid waste plan implementation projects, which are limited to:

~~((i) Projects that implement the requirements of chapter 173-304 WAC for closure of publicly owned municipal solid waste landfills will be eligible for grant funding if all of the following criteria are met:~~

~~((A) The jurisdictional health department/district has required the landfill to reach post closure no later than September 30, 1995;~~

~~((B) Financial assurance accounts for closure and post closure have been established and maintained as required by chapter 173-304 WAC for landfills closed after November 27, 1989;~~

~~((C) The landfill has an approved closure plan as required by chapter 173-304 WAC;~~

~~((D) Local governments that have disposed of significant quantities of waste at the landfill make reasonable financial contribution to the costs of closure and post closure; and~~

~~((E) The landfill is not eligible for remedial action grants under chapter 173-322 WAC or identified by the department as potentially requiring remedial action.~~

The total amount expended from the local toxics control account for solid waste landfill closure may not exceed fifteen million dollars and no funds may be expended for this purpose after December 31, 1995. No single landfill closure project may receive more than five hundred thousand dollars from the local toxics control account.

~~((i) Ground water monitoring well projects to meet the requirements of WAC 173-304-490.~~

~~((iii))~~ waste reduction and recycling projects and programs.

(2) Eligible project costs do not include:

(a) Solid waste incinerator feasibility studies, construction, maintenance, or operation.

~~((b) ((Landfill closure as required by chapter 173-304 WAC, except for ground water monitoring wells or projects that meet the requirements of subsection (1)(e)(i) of this section.~~

~~((e))~~ New landfill construction or landfill expansion, or landfill upgrading at an operating facility to meet the requirements of chapters ~~((173-304))~~ 173-350 and 173-351 WAC.

(c) Landfill closure as required by chapters 173-350 and 173-351 WAC.

(d) Garbage collection and disposal, except start-up and operational costs for waste reduction and recycling programs.

(e) Solid and hazardous waste expenses not directly related to compliance with state solid and hazardous waste laws and rules.

AMENDATORY SECTION (Amending Order 00-19, filed 9/8/00, effective 10/9/00)

WAC 173-312-060 Application process. (1) The department shall set forth in its grant guidelines the base funding levels estimated to be available for each county for coordinated prevention grants and the process by which applications will be submitted.

(2) The application must be submitted by the county agency or department having responsibility for solid waste, unless the county executive department selects another agency or department to submit the application.

(3) Coordinated prevention grant applications must:

(a) Include a commitment by the applicants to use local funds to match grant funds according to the requirements of WAC 173-312-090.

(b) Be for eligible projects as defined in WAC 173-312-050.

(c) Include a scope of work that is sufficiently detailed for the department to monitor grant performance.

(d) Include documentation that all cities in the county and lead implementation agencies that have approved the adopted local hazardous waste plan or solid waste plan have had the opportunity to request that projects that meet the requirements of WAC 173-312-050 be included in the application.

(4) To obtain coordinated prevention grant funding, a county shall submit ~~((either a unified))~~ an application ~~((or a package application))~~, as defined herein:

(a) A ~~((unified))~~ coordinated grant application means that the county, the health department or district and any other grant eligible entities as defined in WAC 173-312-040 have reached agreement regarding the requested projects and funding allocations for both local solid and local hazardous waste plans and projects. ~~((The submittal will consist of a single county application with specific projects identified to be executed by the county and other local governments. Unified))~~ Coordinated applications will receive financial incentives for administrative coordination set forth in WAC ~~((173-312-099))~~ 173-312-080.

The ~~((unified))~~ coordinated application shall include a maximum grant request for no more than the base funding level for the county, plus the ~~((selected))~~ financial incentive.

(b) In the event a county fails to submit a coordinated application, indicating grant eligible entities have not reached agreement regarding projects and funding allocations, they will lose the incentive as set forth in WAC 173-312-080. This money shall be made available for supplemental funding as specified in WAC 173-312-080.

(5) The application must be signed, indicating approval by responsible officials from the county, local health department or district and any other grant-eligible entities as defined in WAC 173-312-040.

~~((b) A package application means that the county, the local health department or district and any other grant eligible entities as defined in WAC 173-312-040 have not reached agreement regarding the requested projects and funding allocations, or choose to submit individual applications. The maximum grant request may exceed the base funding level. A package application is not eligible for the financial incentives for administrative coordination set forth in WAC 173-312-090. A package application must be submitted by the county. A package application may consist of individual signed applications from the county, the health department or district and other grant eligible entities as defined in WAC 173-312-040; requests from other cities will be submitted as part of the county application.))~~

AMENDATORY SECTION (Amending Order 90-65, filed 5/21/91, effective 6/21/91)

WAC 173-312-070 Application evaluation. (1) In evaluating coordinated prevention grant applications, the department may require that funding of certain projects take precedence over other projects. The department will refer to the following priority order in evaluating projects:

(a) Required hazardous waste planning under chapter 70.105 RCW and required solid waste planning under chapter 70.95 RCW.

(b) Programs and projects to implement adopted local hazardous waste plans, including waste reduction and recycling.

(c) Solid waste enforcement programs.

~~((ground water monitoring wells meeting the requirements of WAC 173-304-490, and publicly owned municipal solid waste landfill closure meeting the requirements of WAC 173-312-050 (1)(e)(i)))~~
(d) Programs and projects to implement adopted local solid waste plans, including waste reduction and recycling.

(2) The department will evaluate each application according to the extent to which it:

(a) Conforms to the adopted local hazardous waste and solid waste plans.

(b) Advances regional solutions and intergovernmental cooperation.

(c) Supports the state's goal to achieve a fifty percent recycling rate ~~((by 1995))~~.

(d) Confers broad benefit on residents of the county, whether they reside in incorporated areas or unincorporated areas.

(e) Meets the needs of local government for projects that prevent environmental contamination from solid and hazardous waste.

(f) Uses the state's resources efficiently.

(g) For solid waste enforcement funding, takes into account the number of disposal sites and the geographic area requiring enforcement activity.

(3) The department may fund all or portions of a coordinated prevention grant application.

(4) The department may award grants to any local government in order to execute all or portions of a coordinated prevention grant program.

AMENDATORY SECTION (Amending Order 00-19, filed 9/8/00, effective 10/9/00)

WAC 173-312-080 Allocation of grant funding. (1) The department shall consider the following factors in calculating base funding levels, supplemental grant levels, and ~~((maximum))~~ grant amounts for recipients:

(a) Projected and actual revenue to the local toxics control account, and other funding sources cited in WAC 173-312-010(2), as determined by the department.

(b) The number of people served by a local government.

(2) Grants that may be awarded to eligible cities under WAC 173-312-040 may not exceed a city's proportionate share, based on population, of a county's base funding level as defined in subsection (3)(a) of this section, unless the department, the county, the health department or district and the grant-eligible entities as defined in WAC 173-312-040 agree otherwise.

(3) Projected revenues to the local toxics control account that are available each biennium for coordinated prevention grant purposes must be divided into two portions, one for solid waste enforcement grants, and one for solid and hazardous waste implementation grants. ~~((After administrative costs have been deducted,))~~ Allocations will be calculated as follows:

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~~(a) ((The base funding level must be calculated for each county)) For solid waste enforcement grants, an amount sufficient to provide each single-county jurisdictional health department with one hundred thousand dollars and each multi-county jurisdictional health department with one hundred fifty thousand dollars will be set aside. In future biennia the amount set aside for solid waste enforcement will be twenty percent of the total coordinated prevention grant allocation, and the single-county and multi-county solid waste enforcement grant allocation will be increased or decreased proportionately.~~

~~(b) For solid and hazardous waste implementation grants, the remaining eighty percent is divided among counties by means of a formula that shall consist of two elements:~~

~~(i) A fixed amount for each county, regardless of size; and~~

~~(ii) A per capita amount based on county population size as determined by the United States census data or by the official estimates of the state office of financial management.~~

~~((b) The smaller portion, as well as unused funds in (a) of this subsection;)) (c) Counties that submit a coordinated application as defined in WAC 173-312-060 shall receive a ten percent increase if base level funding as defined in (b) of this subsection is an incentive.~~

~~(d) After initial grant amounts have been determined for both categories of coordinated prevention grants based upon the applications, the unallocated funds shall become supplemental funds ((and must be)) used ((for the following purposes:~~

~~(i) Financial incentives to local governments for administrative centralization and efficiency;~~

~~(ii) Remedial action grants issued under chapter 173-322 WAC, if the need exceeds administrative allocations;~~

~~(iii) Landfill closure projects that meet the requirements of WAC 173-312-050 (1)(e)(i);~~

~~(iv) Reserve funds for grants to deal with unanticipated or immediate threats to human health and the environment; and~~

~~(v) Supplemental grants, to be awarded based on the criteria set forth in WAC 173-312-070(2)) to promote strategic initiatives that meet needs defined by the state solid waste planning process. Supplemental funds for solid and hazardous waste implementation grants will first be awarded within the initial solid and hazardous waste implementation coordinated prevention grant portion. Supplemental funds for solid waste enforcement grants will first be awarded within the initial solid waste enforcement coordinated prevention grant portion. Only when supplemental funds still remain in either category after the initial supplemental awards have been given shall the funds be awarded to the other portion.~~

~~(4) Applicants must meet the requirements of this chapter to the satisfaction of the department in order to secure grant awards.~~

AMENDATORY SECTION (Amending Order 00-19, filed 9/8/00, effective 10/9/00)

WAC 173-312-090 State assistance share and local cash match. (1) Costs eligible under WAC 173-312-050 will be considered for grant funding ~~((of up to sixty))~~ at a level of

~~seventy-five percent. ((At least forty)) Twenty-five percent of eligible costs must be provided as local cash match. ((Counties that submit unified applications as defined in WAC 173-312-060 (4)(a) either will be considered for grant funding of up to sixty five percent if at least thirty five percent of eligible costs is provided as local cash match, or will be eligible for a grant amount level ten percent greater than the base funding level.~~

~~(2) Counties, and grant eligible jurisdictions within counties, that are determined to be economically disadvantaged will be eligible for an increased state share and a reduced local cash match. For projects proposed by those jurisdictions, costs eligible under WAC 173-312-050 will be considered for grant funding of up to seventy five percent. At least twenty five percent of eligible costs must be provided as local cash match.~~

~~Economically disadvantaged counties that submit unified grant applications as defined in WAC 173-312-060 (4)(a) will be eligible for a grant amount ten percent greater than the base funding level.~~

~~(3) A county is considered economically disadvantaged if it meets both of the following criteria:~~

~~(a) Per capita income, as measured by the latest official estimate of the state office of financial management, is in the lower twenty counties in the state; and~~

~~(b) Economic distress exists as defined by chapter 43-165 RCW.~~

~~(4) The department will include a list of economically disadvantaged counties as defined in this section in the guidelines for coordinated prevention grants.~~

~~(5)) (2) Local cash match may be met by cash expenditures and interlocal costs. Interlocal costs are the only type of in-kind contributions that may be used for local cash match.~~

AMENDATORY SECTION (Amending Order 00-19, filed 9/8/00, effective 10/9/00)

WAC 173-312-100 Grant administration. (1) The department shall prepare guidelines to facilitate compliance with and interpretation of this rule.

~~(2) ((The))~~ Coordinated prevention grants shall operate on a biennial funding cycle. ~~((That cycle will consist of:~~

~~(a) A base grant phase, during which eligible applicant governments apply for grant funds up to the base funding level set forth in WAC 173-312-080 (3)(a) plus the selected administrative incentives; and~~

~~(b) A supplemental grant phase, during which grant recipients request grant amendments including supplemental funding requests for additional funds to assist ongoing or new projects. The supplemental grant phase will be contingent on the availability of funds to the local toxics control account.))~~ Applications will be due in the first quarter of the biennium. Eligible applicant governments will apply for grant funds up to the base funding level set forth in WAC 173-312-080 plus the incentive, and at the same time shall submit requests for additional funds to assist ongoing or new projects. Supplemental funds, if awarded, shall be supplied as part of the new grant. New grants will begin in the third quarter of the biennium, and will run for two calendar years.

(3) The department will obligate coordinated prevention grant funds to a recipient for a maximum period of two years. If the recipient has not accomplished the scope of work in the time period set forth in the agreement, the recipient must use a portion of its next biennial base funding level to complete the project(s).

(4) No costs incurred before the effective date of a grant agreement are eligible unless specific provision is made in the grant agreement for those costs.

(5) All grants under this chapter must be consistent with Administrative Requirements for Ecology Grants and Loans WDOE #91-18 (Revised October 2000).

WSR 02-05-073
PERMANENT RULES
DEPARTMENT OF LICENSING

[Filed February 20, 2002, 8:37 a.m.]

Date of Adoption: February 20, 2002.

Purpose: Further review of current vessel dealer rules to ensure necessity, effectiveness, efficiency, clarity, intent, coordination with other jurisdictions and agencies, cost benefits and fairness in accordance with Governor Gary Locke's Executive Order 97-02.

Citation of Existing Rules Affected by this Order: Amending WAC 308-90-040, 308-90-070, 308-90-080, 308-90-090, 308-90-100, 308-90-110, 308-90-130, 308-90-140, 308-90-150, and 308-90-160.

Statutory Authority for Adoption: RCW 88.02.100.

Adopted under notice filed as WSR 02-02-078 on December 31, 2001.

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 10, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 10, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

February 20, 2002

Fred Stephens
Director

AMENDATORY SECTION (Amending Order DLR-162, filed 1/19/88)

WAC 308-90-040 Dealer registration application form. How do I apply for a vessel dealer registration?

(1) Any firm making application for registration as a vessel dealer under chapter 88.02 RCW shall, on a form provided by the department, provide the following information:

(a) The name and business address of the firm and a list of additional business addresses of the firm, if any.

(b) The name of all owners of ten percent or more of the assets of the firm and title(s) of office held, if any.

(c) The firm's business structure and place of organization.

(d) The ~~((business registration))~~ uniform business identification number issued by the department of ~~((revenue))~~ licensing.

AMENDATORY SECTION (Amending WSR 96-24-042, filed 11/27/96, effective 12/28/96)

WAC 308-90-070 Dealer registration numbers. How do I use my dealer registration number and my registration card?

(1) The department shall assign a registration number to each firm registered as a dealer. In addition, the department shall issue a registration card, as ordered by the dealer, indicating the dealer number and separate suffix letters. The registration number shall be consistent with the standard numbering system for vessels set forth in volume 33, part 174, of the Code of Federal Regulations. (Example: WN 7XXX —)

(2) Dealer registration numbers may be displayed on vessels owned by the dealer when being operated on the water pursuant to RCW 88.02.023. No two vessels may display the same dealer registration number at the same time. The dealer registration card corresponding to the displayed registration number must be kept inside the vessel during such operation.

(3) Dealer registration numbers shall be displayed in three inch block numbers/letters on both sides of the forward one-half of the vessel. Dealer registration numbers may be affixed to a removable display fixture. The numbers/letters shall be displayed in a single line.

AMENDATORY SECTION (Amending WSR 89-18-028, filed 8/29/89, effective 9/29/89)

WAC 308-90-080 Registration fee—Renewal. What fees do I pay for the vessel dealer registration, its renewal and dealer decals?

(1) Any firm desiring to be a dealer must include with the application the required registration fee of one hundred twenty dollars.

(2) Vessel dealers ~~((will))~~ must reapply for a registration on or before the expiration of their registration.

(3) The annual registration renewal fee of sixty dollars must be paid on or before each renewal date. If an application for renewal is not received by the department on or before the last day of the expiration month the registration is expired. The registration may be reinstated at any time within the next succeeding thirty days if renewal application and payment of the annual renewal fee, then in default ~~((is)),~~ are received by the department. Registrations not renewed within thirty days of the renewal date ~~((then in default))~~ shall be cancelled. A

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new registration may be obtained by satisfying the procedures and qualifications for initial registration.

(4) If no department denial action is pending, the department shall issue a vessel dealer registration and renewal decals depicting the expiration of the registration upon receipt of a dealer's renewal fee and renewal application. The dealer shall affix the decal as a prefix to the dealer registration number on any vessels operated on the waters pursuant to RCW 88.02.023. The fee for the initial decal shall be forty dollars. Additional decals may be issued for a fee of twenty dollars for each set.

AMENDATORY SECTION (Amending Order DLR-162, filed 1/19/88)

WAC 308-90-090 Change of business location. What must I do to change business locations?

The dealer (~~shall~~) must notify the department of any change of the firm's business location or mailing address prior to engaging in business at the new location. Notification shall be made by filing a change of address application on a form provided by the department (~~accompanied by the return of the registration issued to the former location or address~~). The vessel dealer will be required to provide a list of all business locations of the firm when changing the business address of the firm's office.

AMENDATORY SECTION (Amending Order 722 DOL, filed 7/1/83)

WAC 308-90-100 Termination of business. What do I do with the dealer registration upon termination of business?

The registration (~~shall~~) must be retained at all times by the dealer. When the dealer ceases to do business in the name or at the location (~~set forth~~) indicated on the registration the dealer (~~shall~~) must immediately notify the director of the termination and return the registration to the department; attention Dealer/Manufacturer Services.

AMENDATORY SECTION (Amending Order DLR-162, filed 1/19/88)

WAC 308-90-110 Statement of change in business structure, ownership interest or control. What if the business structure or ownership changes?

Any person, firm, association, limited liability company (L.L.C.), corporation or trust registered as a dealer must, within ten days following any change in its business or ownership structure, file with the department a statement describing with particularity the change (~~effected~~) in its business structure or the change in its ownership interest. In addition, persons newly assuming executive or control functions, including but not limited to new L.L.C. members, corporate officers, directors, majority stockholders, managing partners, or managing trustees, must file within ten days of assuming such function.

AMENDATORY SECTION (Amending WSR 96-24-042, filed 11/27/96, effective 12/28/96)

WAC 308-90-130 Consignment. How do I handle consignment sales?

(1) All (~~purchase~~) funds received from purchasers, including deposits (~~or~~), payments, or proceeds from the sale of trade-in vessels on a consignment sale, shall be placed in the vessel dealers trust account as required in RCW 88.02.-220, and (~~said~~) those funds shall remain in such trust account until the consignor's and the legal owner's interest, if any, have been fully satisfied.

(2) If the sale of a consigned vessel (~~by a vessel dealer~~) is a retail sale (~~and~~) the vessel dealer is required to transfer title as (~~found in section 8, chapter 149, Laws of 1987~~) required by RCW 88.02.125.

AMENDATORY SECTION (Amending Order DLR-162, filed 1/19/88)

WAC 308-90-140 Listing. How would I handle the trust account relative to listed vessels?

(1) All (~~purchase~~) funds received from purchasers, including deposits (~~or~~), payments, or proceeds from the sale of trade-in vessels on a listing sale shall be placed in the vessel dealer's trust account as required (~~in section 11, chapter 149, Laws of 1987~~) by RCW 88.02.220, and (~~said~~) those funds shall remain in such trust account until the listed vessel sale is completed.

(2) At the time the sale (~~eloses~~) is completed, and at vessel delivery, the listing dealer shall pay any outstanding liens from trust funds in order to obtain title for transfer.

(3) If the sale of a listed vessel (~~by a vessel dealer~~) is a retail sale (~~and~~) the vessel dealer is required to transfer title as provided (~~in section 8, chapter 149, Laws of 1987~~) by RCW 88.02.125.

AMENDATORY SECTION (Amending WSR 92-06-009, filed 2/24/92, effective 3/26/92)

WAC 308-90-150 Title transfer. How must I handle the title in a retail sale?

(1) The vessel dealer is required to make application for title in the purchaser's name within thirty days following the retail sale of the vessel.

(2) The vessel dealer or the dealer's authorized agent shall sign or type (~~his/her~~) their firm name and vessel dealer number on the purchaser's application for title. (~~If~~) An authorized agent (~~signs for the dealer the agent shall~~) must give their title.

AMENDATORY SECTION (Amending WSR 96-24-042, filed 11/27/96, effective 12/28/96)

WAC 308-90-160 Bond exemption. How can I be exempt from the requirement for a surety bond?

(1) Applicants or registered vessel dealers desiring to be exempt from the bonding requirement must provide a statement to the department that they sell fifteen or fewer vessels

per year (~~having~~) none of which has a retail value of (~~not~~) more than two thousand dollars each.

(2) Registered vessel dealers who have stated that they qualify for the exemption shall immediately file the required surety bond with the department at the time their sales exceed the statutory exemption number or value. Failure to file the bond will subject the vessel dealer to penalties prescribed in RCW 88.02.188.

WSR 02-05-081

PERMANENT RULES

DEPARTMENT OF AGRICULTURE

[Filed February 20, 2002, 10:23 a.m.]

Date of Adoption: February 20, 2002.

Purpose: Increase certification fees for forest reproductive material.

Citation of Existing Rules Affected by this Order: Amending WAC 16-319-041.

Statutory Authority for Adoption: RCW 15.49.995, 15.49.310, and 15.49.370(3).

Other Authority: Chapter 34.05 RCW.

Adopted under notice filed as WSR 02-01-126 on December 19, 2001.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 1, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: Fee increase is within fiscal growth rate factor for 2002.

Effective Date of Rule: Thirty-one days after filing.

February 20, 2002

William E. Brookreson
Acting Director

AMENDATORY SECTION (Amending WSR 99-24-043, filed 11/24/99, effective 12/25/99)

WAC 16-319-041 Application for certification of forest reproductive material. (1) The conditions of applicant's submittal and of certifying agency's acceptance of application are:

(a) The application should show all classes for which certification services are requested.

(b) All reproductive material acquired or distributed by applicant of a type for which certification is requested is subject to audit.

(c) Applicant shall be responsible for payment of fees for certification services.

(d) Applicant is responsible for developing a record keeping system and labels available and satisfactory to the certifying agency.

(e) Certifying agency reserves the right to refuse certification service to applicant.

(f) Application for audit certification reproductive material shall be filed with certifying agency of the state in which warehouse, nursery, etc., is located with a copy to the certifying agency in the state where the reproductive material is collected.

(2) Timing of application requests for certification services:

(a) Application requests for source identified subclass B and lower classes for the current year's production of reproductive material shall be received by certifying agency from applicant not later than three days prior to initiation of collection, production, or propagation of forest reproductive material.

(b) For source identified subclass A and higher certification class, the applicant shall make application for service, and present a written plan to the certifying agency two weeks prior to the beginning of the collection season. The written plan will include the following:

(i) For subzone collection, areas shall be defined by legal description.

(ii) Details of the collection organization including names of buyers and field supervisors, estimated harvest volume, receiving station location(s), and other pertinent information.

(c) Application requests for all other services shall be received by certifying agency from applicant not later than seven days before need.

(3) The certifying agency establishes the fee schedule for certification services. These may be adjusted at the beginning of a crop year if certifying agency determines that costs are significantly more or less than anticipated: Provided, That increases shall not exceed twenty-five percent.

(a) Cones and seed:

(i) Tested and selected - the service includes review of test plans, audit of pertinent records and field inspection at the hourly job time rate shown in current fee schedule.

(ii) Source identified classes - the fee includes field inspection at the per bushel rate shown in the current fee schedule and audit of conditioning at the hourly rate also shown in the current fee schedule.

The fee for each lot containing less than sixty bushels shall be a maximum of thirty-six dollars: Provided, That the certifying agency, due to specific circumstances, may waive this maximum fee or a part thereof.

(iii) Audit class - the fee includes audit of applicant's field and conditioning records at the hourly rate shown in the current fee schedule.

(b) Trees: The fee includes the verification of the source of the trees from the seed source, stratification, sowing, bed

identification, lifting, sorting, package identification, storing and/or transplanting.

(c) Not entered for certification: The fee for audit of reproductive material not entered for certification service is performed as required by and satisfactory to certifying agency to exercise said audit simultaneously with audit of reproductive material which applicant has requested certification service.

(d) The fee for certification classes applied for shall be charged whether or not offered material qualifies.

(e) The certifying agency may provide other services, such as training to comply with these standards, advising on the development of recordkeeping systems directly connected with certification needs if requested by the applicant.

(4) Fee schedule:

(a) Tree cones and seed -

Certification Classes	Field		Fee Due
	Inspection	Audit	
Tested and Selected	((24.12)) \$24.79/hr.	((24.12)) \$24.79/hr.	When billed
Source Identified Classes:			
Lots 11 bu. and more	((0.80)) \$0.82/bu.	((24.12)) \$24.79/hr.	
Lots 6-10 bu.	((19.41)) \$19.95/lot	((24.12)) \$24.79/hr.	
Lots 0-5 bu.	((11.75)) \$12.07/lot	((24.12)) \$24.79/hr.	
Audit	None	((24.12)) \$24.79/hr.	When billed

(b) Tree certification - ~~((24.12))~~ \$24.79/hr.

Seedling certification - experience has shown that seedling certification normally requires a minimum of five nursery visits totalling approximately thirty-two hours. Plantation certification procedures shall be billed at the hourly rate.

(c) Other services including education to comply with the standards, development of record system, verification of source of pollen, cuttings, audit of forest reproductive material not offered for certification by applicant or other services requested, etc. at ~~((24.12))~~ \$24.79/hr. payable when billed.

(d) OECD certification (certificates of provenance) - ~~((0.57))~~ \$0.58 per certificate plus the hourly audit rate. (Auditors shall issue certificates.)

WSR 02-05-082

PERMANENT RULES

DEPARTMENT OF AGRICULTURE

[Filed February 20, 2002, 10:25 a.m.]

Date of Adoption: February 20, 2002.

Purpose: Increase seed certification fees for buckwheat, chickpea, field pea, lentil, millet, soybean, sorghum and small grains.

Citation of Existing Rules Affected by this Order: Amending WAC 16-303-340.

Statutory Authority for Adoption: RCW 15.49.310 and 15.49.370(3).

Other Authority: Chapter 34.05 RCW.

Adopted under notice filed as WSR 02-01-127 on December 19, 2001.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 1, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

February 20, 2002

William E. Brookreson

Acting Director

AMENDATORY SECTION (Amending WSR 01-01-015, filed 12/6/00, effective 1/6/01)

WAC 16-303-340 Seed certification fees for buckwheat, chickpea, field pea, lentil, millet, soybean, sorghum and small grains. (1) Seed certification fees for buckwheat, chickpea, field pea, lentil, millet, soybean, sorghum and small grains are as follows:

- (a) Application fee per variety per grower ~~((18.87))~~
\$19.39
- (b) Field inspection fee per acre except millet and hybrid sorghum ~~((2.63))~~
\$2.70
- (c) Millet - first acre ~~((28.06))~~
\$28.84
..... - each additional acre ~~((5.61))~~
\$5.76
- (d) Hybrid sorghum - first acre ~~((28.06))~~
\$28.84
..... - each additional acre ~~((11.22))~~
\$11.53
- (e) Special field inspection fee per acre ~~((2.24))~~
\$2.30
- (f) Late application fee ~~((17.68))~~
\$18.17
- (g) Reinspection fee ~~((35.39))~~
\$36.37

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minimum for each field which did not pass field inspection plus \$ 0.40 for each acre over twenty-five. The reinspection fee for isolation requirements only for a field of any size is ((~~\$35.39~~)) \$36.37.

(h) Final certification fee ((~~\$0.225~~)) \$0.23

per cwt. of clean seed sampled, which is charged to conditioning plant, or production fee \$0.105

per cwt. of production from fields inspected which is utilized for seed, which is charged to the grower or the final seller prior to brokerage, retail sale, sale to plant not approved for conditioning certified seed, or transshipment out-of-state.

(i) Sampling fee \$0.105

per cwt. of clean seed sampled, with minimum charge of ten dollars per sample, which is charged to conditioning plant in lieu of mechanical sampling.

(2) A field may be withdrawn upon notification by the applicant to the certifying agency's office before field inspection. In such case, the field inspection fee is refunded upon request until June 30 of the year following harvest.

(3) Harvest before field inspection causes forfeitures of both the application and field inspection fees, and completion of certification.

WSR 02-05-084
PERMANENT RULES
FOREST PRACTICES BOARD

[Filed February 20, 2002, 10:39 a.m.]

Date of Adoption: February 13, 2002.

Purpose: These changes are being made to chapter 222-21 WAC to make the small forest landowner forest riparian easement program consistent with SHB 2105.

Citation of Existing Rules Affected by this Order: Amending chapter 222-21 WAC.

Statutory Authority for Adoption: RCW 76.09.040, chapters 76.13, 34.05 RCW.

Adopted under notice filed as WSR 01-23-087 on November 21, 2001.

Changes Other than Editing from Proposed to Adopted Version: Changes include only minor corrections to references: WAC 222-21-020 (12)(a)(iii) and (6): Changed RCW 84.33.073(1) to 84.33.035(14).

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 5, 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 5, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

February 19, 2002

Pat McElroy

Chair

AMENDATORY SECTION (Amending WSR 01-12-042, filed 5/30/01, effective 7/1/01)

WAC 222-21-010 Definitions. The following definitions apply to this chapter:

(1) "**Commercially reasonable harvest unit**" means a harvest area that meets the requirements of WAC 222-21-060.

(2) "**Completion of harvest**" means that the trees have been harvested from an area under an approved forest practices application and that further entry into that area by any type of logging or slash treating equipment or method is not expected.

(3) "**Compliance costs**" includes the cost of preparing and recording the easement, and any business and occupation tax and real estate excise tax imposed because of entering into the easement.

(4) "**Danger tree**" means any qualifying timber reasonably perceived to pose an imminent danger to life or improved property.

((4)) (5) "**Easement premises**" means the geographic area designated in a forestry riparian easement, including the areas in which qualifying timber is located. Easement premises may be categorized as follows:

(a) **Riparian area easement premises** means riparian areas and areas upon which qualifying timber associated with riparian areas are located.

(b) **Other easement premises** means areas of land required to be left unharvested under rules adopted under RCW 76.09.055 or 76.09.370 including areas upon which other qualifying timber outside riparian areas is located and areas of land upon which uneconomic qualifying timber is located.

((5)) (6) "**Forestry riparian easement**" means an easement covering qualifying timber granted voluntarily to the state by a small forest landowner.

((6)) (7) "**Hazardous substances**" means hazardous substances as defined in RCW 70.102.010(5), and 70.105D.-020(7), and solid waste as defined in RCW 70.95.030(22).

((7)) (8) "**High impact regulatory threshold**" means the threshold where the value of qualifying timber is greater than 19.1% (for timber in Western Washington) or 12.2% (for timber in Eastern Washington) of the value of the har-

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vested timber and qualifying timber under the approved forest practices application covering the qualifying timber.

~~((8))~~ (9) "Qualifying timber" means those trees covered by a forest practices application that the small forest landowner is required to leave unharvested under rules adopted under RCW 76.09.055 or 76.09.370 or that are made uneconomic to harvest by those rules, and for which the small forest landowner is willing to grant the state a forestry riparian easement. Qualifying timber is timber within or bordering a commercially reasonable harvest unit, or timber for which an approved forest practices application for timber harvest cannot be obtained because of restrictions under these rules. Qualifying timber is categorized as follows:

(a) **Permanent qualifying timber** includes trees that shall not be harvested or damaged or removed from the easement premises during the term of the easement.

(i) Where permanent qualifying timber is in areas in which no harvest may take place, the easement shall describe the boundaries of the areas. No harvest of any tree within this area shall take place during the term of the easement.

(ii) Where permanent qualifying timber is located in areas in which selective harvest may take place, the permanent qualifying timber must be tagged for the duration of the easement.

(b) **Reserve qualifying timber** includes trees that may be harvested and removed but only in compliance with the terms of the easement. Reserve qualifying timber shall be identified separately from the permanent qualifying timber.

(c) **Replacement qualifying timber** includes trees which, in the future, will be substituted for the reserve qualifying timber before the reserve qualifying timber may be harvested or removed from the property. Replacement qualifying timber will be selected from time to time pursuant to the provisions of the easement and will be subject to the terms and protections of the easement.

(d) **Uneconomic qualifying timber** includes trees made uneconomical to harvest. The trees are considered permanent qualifying timber and may not be harvested or otherwise damaged during the term of the easement.

(e) **Other qualifying timber outside riparian areas** includes trees that may not be harvested under forest practices rules adopted under RCW 76.09.055 or 76.09.370 for reasons other than protection of riparian functions. It includes without limitation trees that are unharvestable because of public safety concerns. The trees are considered permanent qualifying timber and may not be harvested or otherwise damaged during the term of the easement.

~~((9))~~ (10) "Riparian areas" include the areas designated in a forestry riparian easement. Riparian areas include without limitation all riparian and other special management zones required by the forest practices rules for protection of aquatic resources and includes associated qualifying timber.

~~((10))~~ (11) "Riparian function" includes bank stability, recruitment of woody debris, leaf litter fall, nutrients, sediment filtering, shade, and other riparian features that are important to both riparian forest and aquatic systems conditions.

~~((11))~~ (12) "Small forest landowner" means:

(a) A forest landowner meeting all of the following characteristics ((in (a) of this subsection unless any of the exceptions in (b) of this subsection are met:

(a)) as of the date a forest practices application is received (see WAC 222-20-010(8)), or the date the landowner provides written notification to the small forest landowner office that the harvest is to begin, for which the forestry riparian easement is associated((, the forest landowner)):

(i) Is an individual, partnership, corporate, or other non-governmental legal entity. If a landowner grants timber rights to another entity for less than five years, the landowner may still qualify as a small forest landowner under this section;

(ii) Has a fee interest in the land and timber or has rights to harvest the timber to be included in the forestry riparian easement that extend at least fifty years from the date the forest practices application associated with the easement is received;

(iii) Has harvested from its own lands in this state during the three years prior to the year of application an average timber volume that would qualify the forest landowner as a small timber harvester under RCW ~~((84.33.073(1)))~~ 84.33.035(14); and

(iv) Certifies at the time the forest practices application is received that it does not expect to harvest from its own lands more than the volume allowed by RCW ~~((84.33.073(1)))~~ 84.33.035(14) during the ten years following receipt of the application.

(b) ~~((At the time the forest practices application is received,))~~ A forest landowner whose prior three-year average harvest exceeds the limit of RCW ~~((84.33.073(1)))~~ 84.33.035(14), or who expects to exceed this limit during the ten years following receipt of the forest practices application, may still qualify as a small forest landowner if that landowner establishes to the small forest landowner office reasonable satisfaction that the harvest limits were or will be exceeded to raise funds to pay estate taxes or equally compelling and unexpected obligations such as court-ordered judgments or extraordinary medical expenses. (Note: The small forest landowner office will establish a board manual governing these exceptions.)

~~((12))~~ (c) A landowner may still qualify as a small forest landowner if the landowner is unable to obtain an approved forest practices application for timber harvest for any of his or her land because of restrictions under the forest practices rules adopted under RCW 76.09.055 or 76.09.370.

(13) "Small forest landowner office" is an office within the department described in RCW 76.13.110, and it shall be a resource and focal point for small landowner concerns and policies and shall have significant expertise regarding the management of small forest holdings and government programs applicable to such holdings, and the forestry riparian easement program.

~~((13))~~ (14) "Uneconomic to harvest" means that a harvest area meets the requirements of WAC 222-21-065.

AMENDATORY SECTION (Amending WSR 01-12-042, filed 5/30/01, effective 7/1/01)

WAC 222-21-020 Criteria for accepting riparian easement. (1) All of the following criteria must be met before the small forest landowner office may acquire a forestry riparian easement:

(a) The easements must include qualifying timber within riparian areas and may include other qualifying timber;

(b) The small forest landowner must be willing to sell or donate such easements to the state;

(c) The small forest landowner has a final ~~(approved)~~ forest practices application including qualifying timber on the easement premises that has been approved or has been disapproved because of restrictions under the forest practices rules adopted under RCW 76.09.055 or 76.09.370;

(d) The small forest landowner has provided a litigation guarantee or similar report from a title company for the property;

(e) Acceptable documents necessary for creation of the easement have been prepared; and

(f) The easement is not subject to unacceptable liabilities in subsection (3) of this section.

(2) Where more than one person has an interest in property to be covered by a forestry riparian easement, all persons holding rights to control or affect the easement premises, qualifying timber, and the riparian functions provided by the qualifying timber during the term of the easement must execute the easement documents or otherwise subordinate their interest to the easement interest being acquired by the state. This includes tenants in common, joint tenants, holder of reversionary interests, lien holders, and mortgages.

(3) Unacceptable liabilities for the state include, but are not limited to, the following:

(a) Potential liability exposure due to the presence of hazardous substances;

(b) Existing uses of the property that may jeopardize the protection of the easement premises, qualifying timber, and riparian functions;

(c) Any other liability where the liability may jeopardize the protection of the easement premises, qualifying timber, and its riparian functions.

AMENDATORY SECTION (Amending WSR 01-12-042, filed 5/30/01, effective 7/1/01)

WAC 222-21-045 Valuation. (1) **This section is designed to establish methods and standards for valuation** of forestry riparian easements for purposes of establishing the compensation. It applies only to the department, small forest landowners, and the small forest landowner office in connection with the forestry riparian easement program.

(2) **The small forest landowner office will calculate the fair market value** of the forestry riparian easement as of the date of receipt of the forest practices application associated with the qualifying timber, or the date the landowner provides written notification to the small forest landowner office that the harvest is to begin. Data obtained or maintained by the department of revenue under RCW 84.33.074

and 84.33.091 will be used and adjusted to the applicable date ~~((of receipt of the forest practices application associated with the qualifying timber))~~. For easements with an approved forest practices application, the small forest landowner must indicate whether valuation will be calculated using method (a) or (b) of this subsection. Only method (a) of this subsection is available for qualifying timber for which an approved application for timber harvest cannot be obtained because of restrictions under the forest practices rules under WAC 222-21-061. In either method (a) or (b) of this subsection, the time adjustment index will be based on log price changes. The small forest landowner office will determine the specific log species and/or sorts and the log price reporting service to use after consultation with the small forest landowner advisory committee established under RCW 76.13.110(4) and the department of revenue. The small forest landowner office will generate an index that reflects the time adjustments using information and data obtained from a log price reporting service determined by the department in consultation with the small forest landowner committee.

(a) **Stumpage value determination.** The small forest landowner office will create and maintain value tables to determine stumpage value of the qualifying timber. These tables will be created using a method coordinated with the department of revenue. The values will closely approximate the stumpage value for logs that would be sold in the ordinary course of business for the date of receipt of the forest practices application. The landowner must provide the small forest landowner office with:

(i) The reference for the stumpage value table and any other needed information for use of the table (see the board manual section 17 for details); and

(ii) Any information the small forest landowner would like the department to consider in its cruise and valuation of the qualifying timber.

(b) **Small harvester tax return.** The landowner must provide mill or buyer information to the department on the sale breakdown. This includes:

(i) The volume and scaling bureau log grades of each species harvested;

(ii) The amount received for each species; and

(iii) The actual harvesting and marketing costs as defined in the department of revenue small harvester instructions.

The price received for the timber is adjusted to the applicable date ~~((of receipt of the forest practices application))~~ using the time adjustment index and then the average logging and hauling cost per MBF is subtracted to arrive at the stumpage value. The value of the qualifying timber is determined by multiplying the time adjusted stumpage value of each species in the harvest unit by the net volume for each corresponding species in the inventory of qualifying timber. A residual value approach is used to determine the value of species in the easement, which are not present in the harvest area. The prices for species not present in the harvest unit are based on the delivered log price report approved by the small forest landowner office that corresponds closest to the date of the forest practices application, minus the average logging and hauling costs.

(3) **Reduced valuation.**

(a) For an easement that allows one or more harvests of qualifying timber during the term of the easement, a reduced valuation rate will be applied to the values obtained using either method in subsection (2) of this section. The reduced rate adjusts the values for reserve and replacement qualifying timber. The rate is based on the proportionate economic value lost to the small forest landowner from the regulatory requirements and adjusted for future harvest options during the term of the easement.

(b) The value of the qualifying timber that may be harvested during the term of the easement will be reduced based on the following formula. Variables will include:

- (i) The 29 or more trees in the inner zone;
- (ii) The outer zone leave trees;
- (iii) Other regulatory requirements.

$$\text{Reduced valuation rate} = \frac{1 - \left(\frac{1}{(1+I)^N} \right)}{1 - \left(\frac{1}{(1+I)^{50}} \right)}$$

Where:

- I — Is the rate of return on 30 year treasury bills, as reported by the Federal Reserve Statistical Release H15 less the rate of increase in the Consumer Price Index for all urban consumers as published by the U.S. Department of Labor Bureau of Labor Statistics for the previous 12 months less the anticipated rate of growth expected on the portion of the easement subject to reentry, but not less than zero or greater than 6 percent.
- N — The single time limit established by the small forest landowner office.

(c) The reduced rate will not be applied to the department of revenue tax data values if the landowner does not intend to reenter the easement area during the length of the 50 year easement. The harvest at the time of the reentry is not required to meet the requirements in WAC 222-21-060 (5) and (6).

AMENDATORY SECTION (Amending WSR 01-12-042, filed 5/30/01, effective 7/1/01)

WAC 222-21-050 Payment of compensation. (1) The compensation offered to the small forest landowner will be 50% of the fair market value of the qualifying timber established under the process described in WAC 222-21-045, plus the compliance costs, subject to the following exceptions:

(a) If the high impact regulatory threshold is exceeded for an area covered by an approved forest practices application, then the compensation offered will be increased to 100% for the value of the qualifying timber where the high impact regulatory threshold is exceeded. Use the following calculation:

Where:

Vq = value of qualifying timber;

Vh = value of harvested timber;

t = high impact of regulatory threshold (19.1% for Western Washington, 12.2% for Eastern Washington);

TV = total value of all timber covered under FPA = Vq + Vh; and

HIO - high impact override = (Vq/TV)-t;

$$\text{Compensation for easement} = (\text{HIO} * \text{TV}) + \left(\frac{t * \text{TV}}{2} \right)$$

See Section 17 of board manual for example.

~~((2))~~ (b) All compensation is subject to available funding.

~~((3))~~ (2) If funding is not available, the small forest landowner office will maintain a priority list for compensation. Priority will be based on (a) date of receipt of forest practice application and (b) date of receipt of completed ~~((postharvest))~~ harvest status questionnaire.

~~((4))~~ (3) The small forest landowner office will send the small forest landowner a notice of compensation decision within 60 days of completion of the timber cruise.

~~((5))~~ (4) Compensation for a forestry riparian easement associated with an approved forest practices application will not be paid until:

(a) The department has documented completion of harvest;

(b) The department has verified that there has been compliance with the rules requiring leave trees in the easement area;

(c) Any dispute over the amount of compensation or eligibility or other matter involving the forestry riparian easement has been resolved; and

(d) The forestry riparian easement has been executed and delivered to the department.

(5) Compensation for a forestry riparian easement for which an approved forest practices application for timber harvest cannot be obtained because of restrictions under these rules adopted under RCW 76.09.055 or 76.09.370 will not be paid until:

(a) The department has verified that there has been compliance with the rules requiring leave trees in the easement area; and

(b) Any dispute over the amount of compensation or eligibility or other matter involving the forestry riparian easement has been resolved; and

(c) The forestry riparian easement has been executed and delivered to the department.

NEW SECTION

WAC 222-21-061 Criteria when commercially reasonable harvest is not possible. The small forest landowner office will use the following criteria to determine if a forest practices application for harvest may qualify for the forestry

PERMANENT

riparian easement program because it involves an area where a commercially reasonable harvest is not possible and an approved application for harvest cannot be obtained because of restrictions under the forest practices rules. The proposed harvest must meet all of the following requirements:

(1) The application has been disapproved based on rules adopted under RCW 76.09.055 or 76.09.370 that require the area covered by the application to be left unharvested; and

(2) The application is for a Class III or Class IV Special forest practice; and

(3) The harvest is not a Class IV General conversion or covered by a conversion option harvest plan; and

(4) The landowner is not eligible for the 20 acre exemption under WAC 222-30-023; and

(5) The value of the qualifying timber is equal to, or exceeds, the minimum required by the department of revenue for taxing purposes (\$1,000).

PERMANENT

WSR 02-04-030**EMERGENCY RULES****DEPARTMENT OF ECOLOGY**

[Order 0201—Filed January 25, 2002, 3:16 p.m.]

Date of Adoption: January 25, 2002.

Purpose: Law enforcement agencies within the state of Washington confiscate drugs, including controlled substances, during the course of their work. The controlled substances are kept as evidence until the case is adjudicated. When no longer needed as evidence, law enforcement agencies follow their own policies for the destruction of the controlled substances. These policies include incineration, witnessed by a law enforcement officer. There is only one waste-to-energy facility in Washington that is able to take these wastes; however its permit prohibits the burning of dangerous waste. Some controlled substances designate as dangerous wastes in the state of Washington. This conditional exclusion will make it possible for these wastes to be disposed of at the waste-to-energy facility.

Controlled substances collected by law enforcement agencies within the state of Washington must be handled according to law enforcement policy to assure consistency in handling procedures. Deviations from the policy can put the law enforcement agency at risk for liability, loss of accreditation of their evidence rooms, and may impact case development. Law enforcement agencies have limited budgets for evidence disposal and varying disposal needs. The absence of the option for incinerating controlled substances is an impediment to a necessary element of police work.

This conditional exclusion from the dangerous waste regulations applies only to wastes that are regulated as state-only dangerous waste; that is, they are not also regulated under federal hazardous waste regulations. Ecology does not have the authority to exempt from regulation any drug that is a regulated waste under federal law. The drugs that are regulated as state-only dangerous waste are regulated primarily due to their toxicity. Incineration is an appropriate method of disposal for these low volume, low toxicity wastes.

Citation of Existing Rules Affected by this Order: Amending chapter 173-303 WAC.

Statutory Authority for Adoption: Chapter 70.105 RCW.

Other Authority: Chapter 43.21A RCW.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Law enforcement agencies have no in-state options for disposal of confiscated controlled substances that are state-only dangerous wastes. Due to a sudden loss of the last in-state disposal option and an ever increasing backlog in evidence rooms, law enforcement agencies need a safe, acceptable, immediately available option to dispose of these substances. Conditional exclusion from chapter 173-303 WAC will allow for disposal outside of the requirements of dangerous waste regulation.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Immediately.

January 25, 2002

Tom Fitzsimmons

Director

AMENDATORY SECTION (Amending Order 99-01, filed 5/10/00, effective 6/10/00)

WAC 173-303-071 Excluded categories of waste. (1)

Purpose. Certain categories of waste have been excluded from the requirements of chapter 173-303 WAC, except for WAC 173-303-050, because they generally are not dangerous waste, are regulated under other state and federal programs, or are recycled in ways which do not threaten public health or the environment. WAC 173-303-071 describes these excluded categories of waste.

(2) Excluding wastes. Any persons who generate a common class of wastes and who seek to categorically exclude such class of wastes from the requirements of this chapter must comply with the applicable requirements of WAC 173-303-072. No waste class will be excluded if any of the wastes in the class are regulated as hazardous waste under 40 CFR Part 261.

(3) Exclusions. The following categories of waste are excluded from the requirements of chapter 173-303 WAC, except for WAC 173-303-050, 173-303-145, and 173-303-960, and as otherwise specified:

(a)(i) Domestic sewage; and

(ii) Any mixture of domestic sewage and other wastes that passes through a sewer system to a publicly owned treatment works (POTW) for treatment provided:

(A) The generator or owner/operator has obtained a state waste discharge permit issued by the department, a temporary permit obtained pursuant to RCW 90.48.200, or pretreatment permit (or written discharge authorization) from a local sewage utility delegated pretreatment program responsibilities pursuant to RCW 90.48.165;

(B) The waste discharge is specifically authorized in a state waste discharge permit, pretreatment permit or written discharge authorization, or in the case of a temporary permit the waste is accurately described in the permit application;

(C) The waste discharge is not prohibited under 40 CFR Part 403.5; and

(D) The waste prior to mixing with domestic sewage must not exhibit dangerous waste characteristics for ignitability, corrosivity, reactivity, or toxicity as defined in WAC 173-303-090, and must not meet the dangerous waste criteria for toxic dangerous waste or persistent dangerous waste under WAC 173-303-100, unless the waste is treatable in the publicly owned treatment works (POTW) where it will be received. This exclusion does not apply to the generation, treatment, storage, recycling, or other management of dangerous wastes prior to discharge into the sanitary sewage system;

(b) Industrial wastewater discharges that are point-source discharges subject to regulation under Section 402 of the Clean Water Act. This exclusion does not apply to the collection, storage, or treatment of industrial waste-waters prior to discharge, nor to sludges that are generated during industrial wastewater treatment. Owners or operators of certain wastewater treatment facilities managing dangerous wastes may qualify for a permit-by-rule pursuant to WAC 173-303-802(5);

(c) Household wastes, including household waste that has been collected, transported, stored, or disposed. Wastes that are residues from or are generated by the management of household wastes (e.g., leachate, ash from burning of refuse-derived fuel) are not excluded by this provision. "Household wastes" means any waste material (including, but not limited to, garbage, trash, and sanitary wastes in septic tanks) derived from households (including single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas). A resource recovery facility managing municipal solid waste will not be deemed to be treating, storing, disposing of, or otherwise managing dangerous wastes for the purposes of regulation under this chapter, if such facility:

(i) Receives and burns only:

(A) Household waste (from single and multiple dwellings, hotels, motels, and other residential sources); and

(B) Solid waste from commercial or industrial sources that does not contain dangerous waste; and

(ii) Such facility does not accept dangerous wastes and the owner or operator of such facility has established contractual requirements or other appropriate notification or inspection procedures to assure that dangerous wastes are not received at or burned in such facility;

(d) Agricultural crops and animal manures which are returned to the soil as fertilizers;

(e) Asphaltic materials designated only for the presence of PAHs by WAC 173-303-100(6). For the purposes of this exclusion, asphaltic materials means materials that have been used for structural and construction purposes (e.g., roads, dikes, paving) that were produced from mixtures of oil and sand, gravel, ash or similar substances;

(f) Roofing tars and shingles, except that these wastes are not excluded if mixed with wastes listed in WAC 173-303-081 or 173-303-082, or if they exhibit any of the characteristics specified in WAC 173-303-090;

(g) Treated wood waste and wood products including:

(i) Arsenical-treated wood that fails the test for the toxicity characteristic of WAC 173-303-090(8) (dangerous waste numbers D004 through D017 only), or which fails any state

criteria, if the waste is generated by persons who utilize the arsenical-treated wood for the materials' intended end use.

(ii) Wood treated with other preservatives provided such treated wood is, within one hundred eighty days after becoming waste:

(A) Disposed of at a landfill that is permitted in accordance with WAC 173-304-460, minimum functional standards for solid waste handling, or chapter 173-351 WAC, criteria for municipal solid waste landfills, and provided that such wood is neither a listed waste under WAC 173-303-9903 and 173-303-9904 nor a TCLP waste under WAC 173-303-090(8); or

(B) Sent to a facility that will legitimately treat or recycle the treated wood waste, and manage any residue in accordance with that state's dangerous waste regulations; or

(C) Sent off-site to a permitted TSD facility or placed in an on-site facility which is permitted by the department under WAC 173-303-800 through WAC 173-303-845. In addition, creosote-treated wood is excluded when burned for energy recovery in an industrial furnace or boiler that has an order of approval issued pursuant to RCW 70.94.152 by ecology or a local air pollution control authority to burn creosote treated wood.

(h) Irrigation return flows;

(i) Reserve;

(j) Mining overburden returned to the mining site;

(k) Polychlorinated biphenyl (PCB) wastes:

(i) PCB wastes whose disposal is regulated by EPA under 40 CFR 761.60 (Toxic Substances Control Act) and that are dangerous either because:

(A) They fail the test for toxicity characteristic (WAC 173-303-090(8), Dangerous waste codes D018 through D043 only); or

(B) Because they are designated only by this chapter and not designated by 40 CFR Part 261, are exempt from regulation under this chapter except for WAC 173-303-505 through 173-303-525, 173-303-960, those sections specified in subsection (3) of this section, and 40 CFR Part 266;

(ii) Wastes that would be designated as dangerous waste under this chapter solely because they are listed as W001 under WAC 173-303-9904 when such wastes are stored and disposed in a manner equivalent to the requirements of 40 CFR Part 761 Subpart D for PCB concentrations of 50 ppm or greater.

(l) Samples:

(i) Except as provided in (l)(ii) of this subsection, a sample of solid waste or a sample of water, soil, or air, which is collected for the sole purpose of testing to determine its characteristics or composition, is not subject to any requirements of this chapter, when:

(A) The sample is being transported to a lab for testing or being transported to the sample collector after testing; or

(B) The sample is being stored by the sample collector before transport, by the laboratory before testing, or by the laboratory after testing prior to return to the sample collector; or

(C) The sample is being stored temporarily in the laboratory after testing for a specific purpose (for example, until conclusion of a court case or enforcement action).

(ii) In order to qualify for the exemptions in (l)(i) of this subsection, a sample collector shipping samples to a laboratory and a laboratory returning samples to a sample collector must:

(A) Comply with United States Department of Transportation (DOT), United States Postal Service (USPS), or any other applicable shipping requirements; or

(B) Comply with the following requirements if the sample collector determines that DOT or USPS, or other shipping requirements do not apply:

(I) Assure that the following information accompanies the sample:

(AA) The sample collector's name, mailing address, and telephone number;

(BB) The laboratory's name, mailing address, and telephone number;

(CC) The quantity of the sample;

(DD) The date of shipment;

(EE) A description of the sample; and

(II) Package the sample so that it does not leak, spill, or vaporize from its packaging.

(iii) This exemption does not apply if the laboratory determines that the waste is dangerous but the laboratory is no longer meeting any of the conditions stated in (l)(i) of this subsection;

(m) Reserve;

(n) Dangerous waste generated in a product or raw material storage tank, a product or raw material transport vehicle or vessel, a product or raw material pipeline, or in a manufacturing process unit or an associated nonwaste-treatment-manufacturing unit until it exits the unit in which it was generated. This exclusion does not apply to surface impoundments, nor does it apply if the dangerous waste remains in the unit more than ninety days after the unit ceases to be operated for manufacturing, or for storage or transportation of product or raw materials;

(o) Waste pickle liquor sludge generated by lime stabilization of spent pickle liquor from the iron and steel industry (SIC codes 331 and 332), except that these wastes are not excluded if they exhibit one or more of the dangerous waste criteria (WAC 173-303-100) or characteristics (WAC 173-303-090);

(p) Wastes from burning any of the materials exempted from regulation by WAC 173-303-120 (2)(a)(vii) and (viii). These wastes are not excluded if they exhibit one or more of the dangerous waste characteristics or criteria;

(q) As of January 1, 1987, secondary materials that are reclaimed and returned to the original process or processes in which they were generated where they are reused in the production process provided:

(i) Only tank storage is involved, and the entire process through completion of reclamation is closed by being entirely connected with pipes or other comparable enclosed means of conveyance;

(ii) Reclamation does not involve controlled flame combustion (such as occurs in boilers, industrial furnaces, or incinerators);

(iii) The secondary materials are never accumulated in such tanks for over twelve months without being reclaimed;

(iv) The reclaimed material is not used to produce a fuel, or used to produce products that are used in a manner constituting disposal; and

(v) A generator complies with the requirements of chapter 173-303 WAC for any residues (e.g., sludges, filters, etc.) produced from the collection, reclamation, and reuse of the secondary materials.

(r) Treatability study samples.

(i) Except as provided in (r)(ii) of this subsection, persons who generate or collect samples for the purpose of conducting treatability studies as defined in WAC 173-303-040 are not subject to the requirements of WAC 173-303-180, 173-303-190, and 173-303-200 (1)(a), nor are such samples included in the quantity determinations of WAC 173-303-070 (7) and (8) and 173-303-201 when:

(A) The sample is being collected and prepared for transportation by the generator or sample collector; or

(B) The sample is being accumulated or stored by the generator or sample collector prior to transportation to a laboratory or testing facility; or

(C) The sample is being transported to the laboratory or testing facility for the purpose of conducting a treatability study; or

(D) The sample or waste residue is being transported back to the original generator from the laboratory or testing facility.

(ii) The exemption in (r)(i) of this subsection is applicable to samples of dangerous waste being collected and shipped for the purpose of conducting treatability studies provided that:

(A) The generator or sample collector uses (in "treatability studies") no more than 10,000 kg of media contaminated with nonacute dangerous waste, 1000 kg of nonacute dangerous waste other than contaminated media, 1 kg of acutely hazardous waste, 2500 kg of media contaminated with acutely hazardous waste for each process being evaluated for each generated waste stream; and

(B) The mass of each sample shipment does not exceed 10,000 kg; the 10,000 kg quantity may be all media contaminated with nonacute dangerous waste or may include 2500 kg of media contaminated with acute hazardous waste, 1000 kg of dangerous waste, and 1 kg of acutely hazardous waste; and

(C) The sample must be packaged so that it will not leak, spill, or vaporize from its packaging during shipment and the requirements of (r)(ii)(C)(I) or (II) of this subsection are met.

(I) The transportation of each sample shipment complies with United States Department of Transportation (DOT), United States Postal Service (USPS), or any other applicable shipping requirements; or

(II) If the DOT, USPS, or other shipping requirements do not apply to the shipment of the sample, the following information must accompany the sample:

(AA) The name, mailing address, and telephone number of the originator of the sample;

(BB) The name, address, and telephone number of the laboratory or testing facility that will perform the treatability study;

(CC) The quantity of the sample;

(DD) The date of shipment; and

(EE) A description of the sample, including its dangerous waste number.

(D) The sample is shipped, within ninety days of being generated or of being taken from a stream of previously generated waste, to a laboratory or testing facility which is exempt under (s) of this subsection or has an appropriate final facility permit or interim status; and

(E) The generator or sample collector maintains the following records for a period ending three years after completion of the treatability study:

(I) Copies of the shipping documents;

(II) A copy of the contract with the facility conducting the treatability study;

(III) Documentation showing:

(AA) The amount of waste shipped under this exemption;

(BB) The name, address, and EPA/state identification number of the laboratory or testing facility that received the waste;

(CC) The date the shipment was made; and

(DD) Whether or not unused samples and residues were returned to the generator.

(F) The generator reports the information required under (r)(ii)(E)(III) of this subsection in its annual report.

(iii) The department may grant requests, on a case-by-case basis, for up to an additional two years for treatability studies involving bioremediation. The department may grant requests on a case-by-case basis for quantity limits in excess of those specified in (r)(ii)(A) and (B) of this subsection and (s)(iv) of this subsection, for up to an additional 5000 kg of media contaminated with nonacute dangerous waste, 500 kg of nonacute dangerous waste, 1 kg of acute hazardous waste, and 2500 kg of media contaminated with acute hazardous waste or for up to an additional 10,000 kg of wastes regulated only by this chapter and not regulated by 40 CFR Part 261, to conduct further treatability study evaluation:

(A) In response to requests for authorization to ship, store and conduct treatability studies on additional quantities in advance of commencing treatability studies. Factors to be considered in reviewing such requests include the nature of the technology, the type of process, (e.g., batch versus continuous), size of the unit undergoing testing (particularly in relation to scale-up considerations), the time/quantity of material required to reach steady state operating conditions, or test design considerations such as mass balance calculations.

(B) In response to requests for authorization to ship, store, and conduct treatability studies on additional quantities after initiation or completion of initial treatability studies, when:

There has been an equipment or mechanical failure during the conduct of a treatability study; there is a need to verify the results of previously conducted treatability study; there is a need to study and analyze alternative techniques within a previously evaluated treatment process; or there is a need to do further evaluation of an ongoing treatability study to determine final specifications for treatment.

(C) The additional quantities and time frames allowed in (r)(iii)(A) and (B) of this subsection are subject to all the provisions in (r)(i) and (r)(ii)(C) through (F) of this subsection. The generator or sample collector must apply to the depart-

ment where the sample is collected and provide in writing the following information:

(I) The reason the generator or sample collector requires additional time or quantity of sample for the treatability study evaluation and the additional time or quantity needed;

(II) Documentation accounting for all samples of dangerous waste from the waste stream which have been sent for or undergone treatability studies including the date each previous sample from the waste stream was shipped, the quantity of each previous shipment, the laboratory or testing facility to which it was shipped, what treatability study processes were conducted on each sample shipped, and the available results of each treatability study;

(III) A description of the technical modifications or change in specifications which will be evaluated and the expected results;

(IV) If such further study is being required due to equipment or mechanical failure, the applicant must include information regarding the reason for the failure or breakdown and also include what procedures or equipment improvements have been made to protect against further breakdowns; and

(V) Such other information that the department considers necessary.

(s) Samples undergoing treatability studies at laboratories and testing facilities. Samples undergoing treatability studies and the laboratory or testing facility conducting such treatability studies (to the extent such facilities are not otherwise subject to chapter 70.105 RCW) are not subject to the requirements of this chapter, except WAC 173-303-050, 173-303-145, and 173-303-960 provided that the conditions of (s)(i) through (xiii) of this subsection are met. A mobile treatment unit (MTU) may qualify as a testing facility subject to (s)(i) through (xiii) of this subsection. Where a group of MTUs are located at the same site, the limitations specified in (s)(i) through (xiii) of this subsection apply to the entire group of MTUs collectively as if the group were one MTU.

(i) No less than forty-five days before conducting treatability studies the laboratory or testing facility notifies the department in writing that it intends to conduct treatability studies under this subsection.

(ii) The laboratory or testing facility conducting the treatability study has an EPA/state identification number.

(iii) No more than a total of 10,000 kg of "as received" media contaminated with nonacute dangerous waste, 2500 kg of media contaminated with acute hazardous waste or 250 kg of other "as received" dangerous waste is subject to initiation of treatment in all treatability studies in any single day. "As received" waste refers to the waste as received in the shipment from the generator or sample collector.

(iv) The quantity of "as received" dangerous waste stored at the facility for the purpose of evaluation in treatability studies does not exceed 10,000 kg, the total of which can include 10,000 kg of media contaminated with nonacute dangerous waste, 2500 kg of media contaminated with acute hazardous waste, 1000 kg of nonacute dangerous wastes other than contaminated media, and 1 kg of acutely hazardous waste. This quantity limitation does not include treatment materials (including nondangerous solid waste) added to "as received" dangerous waste.

(v) No more than ninety days have elapsed since the treatability study for the sample was completed, or no more than one year (two years for treatability studies involving bioremediation) has elapsed since the generator or sample collector shipped the sample to the laboratory or testing facility, whichever date first occurs. Up to 500 kg of treated material from a particular waste stream from treatability studies may be archived for future evaluation up to five years from the date of initial receipt. Quantities of materials archived are counted against the total storage limit for the facility.

(vi) The treatability study does not involve the placement of dangerous waste on the land or open burning of dangerous waste.

(vii) The laboratory or testing facility maintains records for three years following completion of each study that show compliance with the treatment rate limits and the storage time and quantity limits. The following specific information must be included for each treatability study conducted:

(A) The name, address, and EPA/state identification number of the generator or sample collector of each waste sample;

(B) The date the shipment was received;

(C) The quantity of waste accepted;

(D) The quantity of "as received" waste in storage each day;

(E) The date the treatment study was initiated and the amount of "as received" waste introduced to treatment each day;

(F) The date the treatability study was concluded;

(G) The date any unused sample or residues generated from the treatability study were returned to the generator or sample collector or, if sent to a designated TSD facility, the name of the TSD facility and its EPA/state identification number.

(viii) The laboratory or testing facility keeps, on-site, a copy of the treatability study contract and all shipping papers associated with the transport of treatability study samples to and from the facility for a period ending three years from the completion date of each treatability study.

(ix) The laboratory or testing facility prepares and submits a report to the department by March 15 of each year that estimates the number of studies and the amount of waste expected to be used in treatability studies during the current year, and includes the following information for the previous calendar year:

(A) The name, address, and EPA/state identification number of the laboratory or testing facility conducting the treatability studies;

(B) The types (by process) of treatability studies conducted;

(C) The names and addresses of persons for whom studies have been conducted (including their EPA/state identification numbers);

(D) The total quantity of waste in storage each day;

(E) The quantity and types of waste subjected to treatability studies;

(F) When each treatability study was conducted;

(G) The final disposition of residues and unused sample from each treatability study.

(x) The laboratory or testing facility determines whether any unused sample or residues generated by the treatability study are dangerous waste under WAC 173-303-070 and if so, are subject to the requirements of this chapter, unless the residues and unused samples are returned to the sample originator under the exemption in (r) of this subsection.

(xi) The laboratory or testing facility notifies the department by letter when it is no longer planning to conduct any treatability studies at the site.

(xii) The date the sample was received, or if the treatability study has been completed, the date of the treatability study, is marked and clearly visible for inspection on each container.

(xiii) While being held on site, each container and tank is labeled or marked clearly with the words "dangerous waste" or "hazardous waste." Each container or tank must also be marked with a label or sign which identifies the major risk(s) associated with the waste in the container or tank for employees, emergency response personnel and the public.

Note: If there is already a system in use that performs this function in accordance with local, state, or federal regulations, then such system will be adequate.

(t) Petroleum-contaminated media and debris that fail the test for the toxicity characteristic of WAC 173-303-090(8) (dangerous waste numbers D018 through D043 only) and are subject to the corrective action regulations under 40 CFR Part 280.

(u) Special incinerator ash (as defined in WAC 173-303-040).

(v) Wood ash that would designate solely for corrosivity by WAC 173-303-090 (6)(a)(iii). For the purpose of this exclusion, wood ash means ash residue and emission control dust generated from the combustion of untreated wood, wood treated solely with creosote, and untreated wood fiber materials including, but not limited to, wood chips, saw dust, tree stumps, paper, cardboard, residuals from waste fiber recycling, deinking rejects, and associated wastewater treatment solids. This exclusion allows for the use of auxiliary fuels including, but not limited to, oils, gas, coal, and other fossil fuels in the combustion process.

(w)(i) Spent wood preserving solutions that have been reclaimed and are reused for their original intended purpose; and

(ii) Wastewaters from the wood preserving process that have been reclaimed and are reused to treat wood.

(iii) Prior to reuse, the wood preserving wastewaters and spent wood preserving solutions described in (w)(i) and (ii) of this subsection, so long as they meet all of the following conditions:

(A) The wood preserving wastewaters and spent wood preserving solutions are reused on-site at water borne plants in the production process for their original intended purpose;

(B) Prior to reuse, the wastewaters and spent wood preserving solutions are managed to prevent release to either land or ground water or both;

(C) Any unit used to manage wastewaters and/or spent wood preserving solutions prior to reuse can be visually or otherwise determined to prevent such releases;

(D) Any drip pad used to manage the wastewaters and/or spent wood preserving solutions prior to reuse complies with the standards in Part 265, Subpart W which is incorporated by reference at WAC 173-303-400 (3)(a), regardless of whether the plant generates a total of less than 220 pounds/month of dangerous waste; and

(E) Prior to operating pursuant to this exclusion, the plant owner or operator submits to the department a one-time notification stating that the plant intends to claim the exclusion, giving the date on which the plant intends to begin operating under the exclusion, and containing the following language: "I have read the applicable regulation establishing an exclusion for wood preserving wastewaters and spent wood preserving solutions and understand it requires me to comply at all times with the conditions set out in the regulation." The plant must maintain a copy of that document in its on-site records for a period of no less than three years from the date specified in the notice. The exclusion applies only so long as the plant meets all of the conditions. If the plant goes out of compliance with any condition, it may apply to the department for reinstatement. The department may reinstate the exclusion upon finding that the plant has returned to compliance with all conditions and that violations are not likely to recur.

(F) Additional reports.

(I) Upon determination by the department that the storage of wood preserving wastewaters and spent wood preserving solutions in tanks and/or containers poses a threat to public health or the environment, the department may require the owner/operator to provide additional information regarding the integrity of structures and equipment used to store wood preserving wastewaters and spent wood preserving solutions. This authority applies to tanks and secondary containment systems used to store wood preserving wastewaters and spent wood preserving solutions in tanks and containers. The department's determination of a threat to public health or the environment may be based upon observations of factors that would contribute to spills or releases of wood preserving wastewaters and spent wood preserving solutions or the generation of hazardous by-products. Such observations may include, but are not limited to, leaks, severe corrosion, structural defects or deterioration (cracks, gaps, separation of joints), inability to completely inspect tanks or structures, or concerns about the age or design specification of tanks.

(II) When required by the department, a qualified, independent professional engineer registered to practice in Washington state must perform the assessment of the integrity of tanks or secondary containment systems.

(III) Requirement for facility repairs and improvements. If, upon evaluation of information obtained by the department under (w)(iii)(F)(I) of this subsection, it is determined that repairs or structural improvements are necessary in order to eliminate threats, the department may require the owner/operator to discontinue the use of the tank system or container storage unit and remove the wood preserving wastewaters and spent wood preserving solutions until such repairs or improvements are completed and approved by the department.

(x) Nonwastewater splash condenser dross residue from the treatment of K061 in high temperature metals recovery

units, provided it is shipped in drums (if shipped) and not land disposed before recovery.

(y) Used oil filters that are recycled in accordance with WAC 173-303-120, as used oil and scrap metal.

(z) Used oil re-refining distillation bottoms that are used as feedstock to manufacture asphalt products.

(aa) Wastes that fail the test for the toxicity characteristic in WAC 173-303-090 because chromium is present or are listed in WAC 173-303-081 or 173-303-082 due to the presence of chromium. The waste must not designate for any other characteristic under WAC 173-303-090, for any of the criteria specified in WAC 173-303-100, and must not be listed in WAC 173-303-081 or 173-303-082 due to the presence of any constituent from WAC 173-303-9905 other than chromium. The waste generator must be able to demonstrate that:

(i) The chromium in the waste is exclusively (or nearly exclusively) trivalent chromium; and

(ii) The waste is generated from an industrial process that uses trivalent chromium exclusively (or nearly exclusively) and the process does not generate hexavalent chromium; and

(iii) The waste is typically and frequently managed in nonoxidizing environments.

(bb)(i) Nonwastewater residues, such as slag, resulting from high temperature metals recovery (HTMR) processing of K061, K062 or F006 waste, in units identified as rotary kilns, flame reactors, electric furnaces, plasma arc furnaces, slag reactors, rotary hearth furnace/electric furnace combinations or industrial furnaces (as defined in WAC 173-303-040 - blast furnaces, smelting, melting and refining furnaces, and other devices the department may add to the list - of the definition for "industrial furnace"), that are disposed in subtitle D units, provided that these residues meet the generic exclusion levels identified in the tables in this paragraph for all constituents, and exhibit no characteristics of dangerous waste. Testing requirements must be incorporated in a facility's waste analysis plan or a generator's self-implementing waste analysis plan; at a minimum, composite samples of residues must be collected and analyzed quarterly and/or when the process or operation generating the waste changes. Persons claiming this exclusion in an enforcement action will have the burden of proving by clear and convincing evidence that the material meets all of the exclusion requirements.

Constituent	Maximum for any single composite sample-TCLP (mg/l)
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Generic exclusion levels for K061
and K062 nonwastewater HTMR residues

Antimony	0.10
Arsenic	0.50
Barium	7.6
Beryllium	0.010
Cadmium	0.050
Chromium (total)	0.33
(2) Lead	0.15
Mercury	0.009

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Nickel	1.0
Selenium	0.16
Silver	0.30
Thallium	0.020
Zinc	70

Generic exclusion levels for
F006 nonwastewater HTMR residues

Antimony	0.10
Arsenic	0.50
Barium	7.6
Beryllium	0.010
Cadmium	0.050
Chromium (total)	0.33
Cyanide (total) (mg/kg)	1.8
Lead	0.15
Mercury	0.009
Nickel	1.0
Selenium	0.16
Silver	0.30
Thallium	0.020
Zinc	70

(ii) A one-time notification and certification must be placed in the facility's files and sent to the department for K061, K062 or F006 HTMR residues that meet the generic exclusion levels for all constituents and do not exhibit any characteristics that are sent to subtitle D units. The notification and certification that is placed in the generator's or treater's files must be updated if the process or operation generating the waste changes and/or if the subtitle D unit receiving the waste changes. However, the generator or treater need only notify the department on an annual basis if such changes occur. Such notification and certification should be sent to the department by the end of the calendar year, but no later than December 31. The notification must include the following information: The name and address of the subtitle D unit receiving the waste shipments; the dangerous waste number(s) and treatability group(s) at the initial point of generation; and, the treatment standards applicable to the waste at the initial point of generation. The certification must be signed by an authorized representative and must state as follows: "I certify under penalty of law that the generic exclusion levels for all constituents have been met without impermissible dilution and that no characteristic of dangerous waste is exhibited. I am aware that there are significant penalties for submitting a false certification, including the possibility of fine and imprisonment." These wastes are not excluded if they exhibit one or more of the dangerous waste characteristics (WAC 173-303-090) or criteria (WAC 173-303-100).

(cc)(i) Oil-bearing hazardous secondary materials (that is, sludges, by-products, or spent materials) that are generated at a petroleum refinery (SIC code 2911) and are inserted into the petroleum refining process (SIC code 2911 - including,

but not limited to, distillation, catalytic cracking, fractionation, or thermal cracking units (that is, cokers)) unless the material is placed on the land, or speculatively accumulated before being so recycled. Materials inserted into thermal cracking units are excluded under this paragraph: Provided, That the coke product also does not exhibit a characteristic of hazardous waste. Oil-bearing hazardous secondary materials may be inserted into the same petroleum refinery where they are generated, or sent directly to another petroleum refinery, and still be excluded under this provision. Except as provided in (cc)(ii) of this subsection, oil-bearing hazardous secondary materials generated elsewhere in the petroleum industry (that is, from sources other than petroleum refineries) are not excluded under this section. Residuals generated from processing or recycling materials excluded under this paragraph, where such materials as generated would have otherwise met a listing under WAC 173-303-081 and 173-303-082, are designated as F037 listed wastes when disposed of or intended for disposal.

(ii) Recovered oil that is recycled in the same manner and with the same conditions as described in (cc)(i) of this subsection. Recovered oil is oil that has been reclaimed from secondary materials (including wastewater) generated from normal petroleum industry practices, including refining, exploration and production, bulk storage, and transportation incident thereto (SIC codes 1311, 1321, 1381, 1382, 1389, 2911, 4612, 4613, 4922, 4923, 4789, 5171, and 5172). Recovered oil does not include oil-bearing hazardous wastes listed in WAC 173-303-081 and 173-303-082; however, oil recovered from such wastes may be considered recovered oil. Recovered oil does not include used oil as defined in WAC 173-303-040.

(dd) Dangerous waste Nos. K060, K087, K141, K142, K143, K144, K145, K147, and K148, and any wastes from the coke by-products processes that are dangerous only because they exhibit the Toxicity Characteristic (TC) specified in WAC 173-303-090(8) when, subsequent to generation, these materials are recycled to coke ovens, to the tar recovery process as a feedstock to produce coal tar, or mixed with coal tar prior to the tar's sale or refining. This exclusion is conditioned on there being no land disposal of the wastes from the point they are generated to the point they are recycled to coke ovens or tar recovery or refining processes, or mixed with coal tar.

(ee) Biological treatment sludge from the treatment of one of the following wastes listed in WAC 173-303-9904 - organic waste (including heavy ends, still bottoms, light ends, spent solvents, filtrates, and decantates) from the production of carbamates and carbamoyl oximes (Dangerous Waste No. K156), and wastewaters from the production of carbamates and carbamoyl oximes (Dangerous Waste No. K157) unless it exhibits one or more of the characteristics or criteria of dangerous waste.

(ff) Excluded scrap metal (processed scrap metal, unprocessed home scrap metal, and unprocessed prompt scrap metal) being recycled.

(gg) Shredded circuit boards being recycled: Provided, That they are:

(i) Stored in containers sufficient to prevent a release to the environment prior to recovery; and

(ii) Free of mercury switches, mercury relays and nickel-cadmium batteries and lithium batteries.

(hh) Petrochemical recovered oil from an associated organic chemical manufacturing facility, where the oil is to be inserted into the petroleum refining process (SIC code 2911) along with normal petroleum refinery process streams, provided:

(i) The oil is hazardous only because it exhibits the characteristic of ignitability (as defined in WAC 173-303-090(5) and/or toxicity for benzene (WAC 173-303-090(8), waste code D018); and

(ii) The oil generated by the organic chemical manufacturing facility is not placed on the land, or speculatively accumulated before being recycled into the petroleum refining process.

An "associated organic chemical manufacturing facility" is a facility where the primary SIC code is 2869, but where operations may also include SIC codes 2821, 2822, and 2865; and is physically colocated with a petroleum refinery; and where the petroleum refinery to which the oil being recycled is returned also provides hydrocarbon feedstocks to the organic chemical manufacturing facility. "Petrochemical recovered oil" is oil that has been reclaimed from secondary materials (that is, sludges, by-products, or spent materials, including wastewater) from normal organic chemical manufacturing operations, as well as oil recovered from organic chemical manufacturing processes.

(ii) Spent caustic solutions from petroleum refining liquid treating processes used as a feedstock to produce cresylic or naphthenic acid unless the material is placed on the land, or accumulated speculatively as defined in WAC 173-303-016(5).

(jj) Catalyst inert support media separated from one of the following wastes listed in WAC 173-303-9904 Specific Sources - Spent hydrotreating catalyst (EPA Hazardous Waste No. K171), and Spent hydrorefining catalyst (EPA Hazardous Waste No. K172). These wastes are not excluded if they exhibit one or more of the dangerous waste characteristics or criteria.

(kk) Leachate or gas condensate collected from landfills where certain solid wastes have been disposed: Provided, That:

(i) The solid wastes disposed would meet one or more of the listing descriptions for Hazardous Waste Codes K169, K170, K171, and K172 if these wastes had been generated after the effective date of the listing (February 8, 1999);

(ii) The solid wastes described in (kk)(i) of this subsection were disposed prior to the effective date of the listing;

(iii) The leachate or gas condensate does not exhibit any characteristic or criteria of dangerous waste nor is derived from any other listed hazardous waste;

(iv) Discharge of the leachate or gas condensate, including leachate or gas condensate transferred from the landfill to a POTW by truck, rail, or dedicated pipe, is subject to regulation under sections 307(b) or 402 of the Clean Water Act.

(v) After February 13, 2001, leachate or gas condensate will no longer be exempt if it is stored or managed in a surface impoundment prior to discharge. There is one exception: If the surface impoundment is used to temporarily store leachate or gas condensate in response to an emergency situ-

ation (for example, shutdown of wastewater treatment system): Provided, That the impoundment has a double liner, and: Provided further, That the leachate or gas condensate is removed from the impoundment and continues to be managed in compliance with the conditions of this paragraph after the emergency ends.

(ll) Dredged material. Dredged material as defined in 40 CFR 232.2 that is subject to:

(i) The requirements of a permit that has been issued by the U.S. Army Corps of Engineers or an approved state under section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344);

(ii) The requirements of a permit that has been issued by the U.S. Army Corps of Engineers under section 103 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1413); or

(iii) In the case of a U.S. Army Corps of Engineers civil works project, the administrative equivalent of the permits referred to in (ll)(i) and (ii) of this subsection, as provided for in U.S. Army Corps of Engineers regulations, including, for example, 33 CFR 336.1, 336.2 and 337.3.

(mm) Condensates derived from the overhead gases from kraft mill steam strippers that are used to comply with 40 CFR 63.446(e). The exemption applies only to combustion at the mill generating the condensates.

(nn) Controlled substances that are state-only dangerous wastes. Controlled substances as defined and regulated by Chapter 69.50 RCW, including Schedule I through V drugs that are held in the custody of law enforcement agencies within the state of Washington, and managed for destruction: Provided, That they are disposed of by incineration in a controlled combustion unit permitted to handle solid waste or disposed by other methods approved by Ecology.

WSR 02-05-001
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 02-29—Filed February 6, 2002, 4:27 p.m., effective February 16, 2002, 12:01 a.m.]

Date of Adoption: February 6, 2002.

Purpose: Amend personal use rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-56-33000D; and amending WAC 220-56-330.

Statutory Authority for Adoption: RCW 77.12.047.

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: Marine Areas 8-1, 8-2 and the Hood Canal management area will close to protect soft shelled crab. 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: February 16, 2002, 12:01 a.m.
February 6, 2002
J. P. Koenings
Director
by Larry Peck

NEW SECTION

WAC 220-56-33000E Crab—Areas and seasons. Notwithstanding the provisions of WAC 220-56-330, it is lawful to fish for crab for personal use except as provided herein:

- (1) Effective 12:01 a.m. February 16, 2002 until further notice, it is unlawful to fish for crab for personal use in all waters of Marine Areas 8-1 and 8-2.
- (2) Effective 12:01 a.m. March 1, 2002 until further notice, it is unlawful to fish for crab for personal use in all waters of Marine Area 12, and that portion of Marine Area 9 south and east of a line that extends from Foulweather Bluff to Olele Point.

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. February 16, 2002:

WAC 220-56-33000D Crab—Areas and seasons. (02-08)

**WSR 02-05-007
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 02-28—Filed February 8, 2002, 10:52 a.m., effective March 16, 2002]

Date of Adoption: February 7, 2002.
Purpose: Amend personal use rules.
Citation of Existing Rules Affected by this Order: Amending WAC 232-28-619.
Statutory Authority for Adoption: RCW 77.12.047.

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: Large numbers of adult hatchery origin spring Chinook are expected to return to these systems in 2002. Fishery managers predict 40,400 fish will return to Wind River, 18,500 to Drano Lake and 1,600 to the Klickitat River. The closure on the Cowlitz River addresses an issue of a disorderly fishery. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: March 16, 2002.
February 7, 2002
J. P. Koenings
Director
by Larry Peck

NEW SECTION

WAC 232-28-61900Q Exceptions to statewide rules—Cowlitz River, Little White Salmon River, (Drano Lake), Klickitat River, Wind River. Notwithstanding the provisions of WAC 232-28-619:

- (1) Cowlitz River - effective April 16, 2002 until further notice, those waters of the Cowlitz River from Mill Creek to Barrier Dam fishing from south side of river is prohibited.
- (2) Little White Salmon River (Drano Lake) effective March 16, 2002 until further notice, it is lawful to fish for salmonids in those waters of the Little White Salmon River (Drano Lake) downstream of markers on point of land downstream and across from Little White Salmon National Fish Hatchery and upstream of the Highway 14 Bridge - Special daily limit of two chinook salmon greater than 12 inches in length or two hatchery steelhead greater than 20 inches in length or a combination of one such salmon and one such steelhead. Except closed on Wednesdays effective April 17 through May 29, 2002. Night closures and nonbuoyant lures restriction are in effect.
- (3) Klickitat River - effective April 1, through May 29, 2002, it is lawful to fish for salmonids in those waters of the Klickitat River from mouth to Fisher Hill Bridge - special

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daily limit of one chinook salmon greater than 12 inches in length or one hatchery steelhead greater than 20 inches in length. Open only on Mondays, Wednesdays and Saturdays. Night closures and nonbuoyant lures restriction are in effect.

(4) Wind River - effective March 16, 2002 until further notice it is lawful to fish for salmonids in those waters of the Wind River from buoy line/markers upstream to 400 feet below Shipherd Falls and effective May 1, 2002 until further notice it is lawful to fish for salmonids in those waters of the Wind River From 100 feet above Shipherd Falls to 400 feet below Coffor Dam and 100 feet above Coffor Dam to 800 yards downstream from the fishway at Carson National Fish Hatchery - special daily limit of two chinook salmon greater than 12 inches in length or two hatchery steelhead greater than 20 inches in length or a combination of one such salmon and one such steelhead. Night closures and nonbuoyant lures restriction are in effect.

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

**WSR 02-05-008
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 02-30—Filed February 8, 2002, 10:55 a.m., effective March 1, 2002, 12:01 a.m.]

Date of Adoption: February 6, 2002.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 232-28-61900R; and amending WAC 232-28-619.

Statutory Authority for Adoption: RCW 77.12.047.

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 preseason forecast for Humptulips River system wild winter steelhead returning this winter and spring (2001/2002) is 1,263 fish, 337 fish below the escapement goal of 1,600 fish. The fishing closures will eliminate hooking mortality and disturbance of spawning fish. 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: March 1, 2002, 12:01 a.m.

February 6, 2002

J. P. Koenings

Director

by Larry Peck

NEW SECTION

WAC 232-28-61900R Exceptions to statewide rules—Humptulips River. Notwithstanding the provisions of WAC 232-28-619, effective 12:01 a.m. March 1 through March 31, 2002 those waters of the Humptulips River and West Fork of the Humptulips River are closed to fishing.

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. April 1, 2002:

WAC 232-28-61900R Exceptions to statewide rules—Humptulips River.

**WSR 02-05-010
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 02-31—Filed February 8, 2002, 3:14 p.m., effective March 16, 2002, 12:01 a.m.]

Date of Adoption: February 8, 2002.

Purpose: Amend personal use rules.

Citation of Existing Rules Affected by this Order: Amending WAC 220-56-285 and 232-28-619.

Statutory Authority for Adoption: RCW 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: A management agreement for spring chinook was signed in 2001 that will allow for selective fishing for adipose fin-clipped (hatchery) spring chinook in the Columbia River, while minimizing impacts to protected fish. Shad fishery is open concurrent with on-going salmon fisheries. 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

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Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 2, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: March 16, 2002, 12:01 a.m.

February 8, 2002

Evan Jacoby

for Jeff Koenings

Director

NEW SECTION

WAC 220-56-28500B Shad—Areas and seasons. Notwithstanding the provisions of WAC 220-56-285, effective 12:01 a.m. April 1, 2002 through May 15, 2002 until further notice, it is lawful to take, fish for, or possess shad in those waters of the Columbia River downstream from Bonneville Dam.

NEW SECTION

WAC 232-28-61900S Exceptions to statewide rules - Columbia River Notwithstanding the provisions of WAC 232-28-619:

(1) Effective 12:01 a.m. March 16, 2002 until further notice, it is lawful to possess adipose fin-clipped spring chinook in those areas listed below.

Areas: a) Those waters of the Columbia River from the I-5 Bridge upstream to 600 feet below the fish ladder at Bonneville Dam,

b) The Dalles Reservoir,

c) John Day Reservoir,

Daily limit: a) Six chinook, no more than two of which may be adults, and all of which must be adipose fin-clipped, minimum size 12 inches in length.

(2) Effective April 1, 2002 until further notice it is lawful to fish for and possess trout in those waters of the Columbia River from Bonneville Dam to Buoy 10 and The Dalles and John Day Pools. Daily limit two trout minimum size 12 inches in length. Release wild steelhead. Release wild cutthroat below Bonneville Dam.

(3) Effective April 1, 2002 until further notice, it is lawful to possess adipose fin clipped spring chinook in those waters on the mainstem Columbia from the I-5 Bridge to Buoy 10. Daily limit is six chinook salmon no more than two of which may be adults and all must be adipose fin clipped, minimum size 12 inches in length.

**WSR 02-05-056
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Filed February 15, 2002, 1:41 p.m., effective February 18, 2002, 7:00 p.m.]

Date of Adoption: February 15, 2002.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-33-01000J; and amending WAC 220-33-010.

Statutory Authority for Adoption: RCW 77.12.047.

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 mainstem Columbia River season is a demonstration commercial fishery using results from testing in 2001. Harvestable numbers of hatchery salmon are available. The use of small mesh nets, short soak times, and recovery boxes will aid in the survival of spring chinook that are released. An interim management agreement signed in 2001 provides allocation of ESA impacts to upriver spring chinook to non-Indian fisheries, and Washington and Oregon Fish and Wildlife Commissions have provided guidance on sharing of impacts between commercial and recreational fishers. Impacts in this fishery are consistent with the management agreement and the biological opinion provided by the National Marine Fisheries Service. This rule is consistent with actions of the Columbia River Compact hearings of January 31, 2002, and conforms Washington and Oregon state rules. The select area fisheries in Blind Slough/Knappa Slough and Tongue Point/South Channel are part of an on-going BPA funded study to design fisheries in areas outside of the mainstem Columbia River. Several stocks of salmon have been released from net pens in these select areas to provide for fisheries. All salmon returning to these net pens are harvestable. Impacts to ESA-listed stocks in these fisheries are covered under the biological opinion for the interim management agreement. This rule is consistent with actions of the Columbia River Compact hearings of January 31, 2002, and conforms Washington and Oregon state rules. 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 Mak-

ing: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: February 18, 2002, 7:00 p.m.

February 15, 2002

J. P. Koenings

Director

by Larry Peck

NEW SECTION

WAC 220-33-01000J Columbia River gillnet seasons below Bonneville. Notwithstanding the provisions of WAC 220-33-010, WAC 220-33-020, and WAC 220-33-030, it is unlawful for a person to take or possess salmon, sturgeon, and shad, taken for commercial purposes from Columbia River Salmon Management and Catch Reporting Areas 1A, 1B, 1C, 1D, and 1E except during the times and conditions listed:

1) Area: SMCRA 1A, 1B, 1C, 1D, 1E.

- Dates: 5:00 a.m. to 7:00 p.m. February 25, 2002
- 5:00 a.m. to 7:00 p.m. February 27, 2002
- 5:00 a.m. to 7:00 p.m. March 1, 2002
- 5:00 a.m. to 7:00 p.m. March 4, 2002
- 5:00 a.m. to 7:00 p.m. March 6, 2002
- 5:00 a.m. to 7:00 p.m. March 8, 2002

Gear: 5 1/2 inch maximum mesh, single wall gill net. Net length not to exceed 150 fathoms. Monofilament gill nets are allowed. Gill nets that are fished from sunset to sunrise must have lighted buoys on both ends of the net unless the net is attached to the boat then one lighted buoy on the opposite end of the net from the boat is required.

Allowable Sale: Adipose fin-clipped chinook with a healed scar at the site, sturgeon, shad.

Sanctuaries: Grays River, Gnat Creek, Elokomin-A, Abernathy Creek, Cowlitz River, Kalama-A, Lewis-A, Washougal, Sandy.

A) Miscellaneous Regulations:

- 1) At least one fisher on each boat must possess a tangle net certificate issued by either WDFW or ODFW. The certificate must be displayed to WDFW or ODFW employees, fish and wildlife enforcement officers, or other peace officers upon request.
- 2) Soak times, defined as the time elapsed from when the first of the gill net web is deployed into the water until the gill net web is fully retrieved from the water, must not exceed 45 minutes.
- 3) Each boat will be required to have two operable recovery boxes or one box with two chambers, on board. The flow in the recovery box will be a minimum of 16 gallons per minute in each chamber of the box, not to exceed 20 gallons per minute. Each chamber of the recovery box must meet the following dimensions as measured from within the box; the inside length measurement must be at or within

39 1/2 inches to 48 inches, the inside width measurements must be at or within 8 to 10 inches, and the inside height measurement must be at or within 14 to 16 inches. Each chamber of the recovery box must include a water inlet hole between 3/4 inch and 1 inch in diameter, centered horizontally across the door or wall of chamber and 1 3/4 inches from the floor of the chamber. Each chamber of the recovery box must include a water outlet hole opposite the inflow that is a least 1 1/2 inches in diameter. The center of the outlet hole must be located a minimum of 12 inches above the floor of the box or chamber. The fisher must demonstrate to WDFW and ODFW employees, fish and wildlife enforcement officers, or other peace officers, upon request, that the pumping system is delivering the proper volume of fresh river water into each chamber.

- 4) All non-legal sturgeon, non-adipose fin-clipped chinook, and steelhead must be released immediately with care and the least possible injury to the fish to the river without violence or into an operating recovery box.
- 5) Any fish that is bleeding or lethargic must be placed in the recovery box prior to being released.
- 6) All fish placed in recovery boxes must be released to the river prior to landing or docking.
- 7) Quick reporting is required for Washington wholesale dealers, as per WAC 220-69-240.
- B) Tangle net permit. Any individual meeting the qualifications of RCW 77.65.040(2) may obtain a tangle net certificate by attending and completing an WDFW- or ODFW-sponsored workshop concerning live captive commercial fishing techniques. A tangle net certificate shall expire on December 31, 2002. No individual may obtain more than one tangle net certificate between January 1 and December 31, 2002.
- C) Nothing in this section sets any precedent for any fishery after the 2002 spring chinook fishery. The fact that an individual may hold a tangle net certificate in spring 2002 does not entitle the certificate holder to participate in any other fishery. If WDFW authorizes a tangle net fishery in spring 2003 or at any other time, WDFW may establish qualifications and requirements that are different from those established for 2002. In particular, WDFW may consider an individual's compliance with these rules in determining that individual's eligibility to participate in any future tangle net fisheries.
- 2) Blind Slough/Knappa Slough Select Area
Area: Open waters of Blind Slough extend from markers at the mouth of Gnat Creek located approximately 1/2 mile upstream of the county road bridge, downstream to markers at the mouth of Blind Slough. Concurrent Washington/Oregon waters extend downstream of the railroad bridge. Knappa Slough is open to fishing in all waters bounded by a line from the northerly most marker at the mouth of Blind Slough westerly to a marker on Karlson Island downstream to a north-south line defined by a marker on the eastern end of Minaker

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Island to markers on Karlson Island and the Oregon shore.

a) Blind Slough only

Gear: 8-inch minimum mesh. Monofilament gill nets are allowed. Nets restricted to 100 fathoms in length with no weight restriction on leadline.

Dates: 7:00 p.m. February 18 to 7:00 a.m. February 19, 2002
7:00 p.m. February 25 to 7:00 a.m. February 26, 2002
7:00 p.m. March 4 to 7:00 a.m. March 5, 2002

b) Blind Slough and Knappa Slough

Gear: 8-inch maximum mesh. Monofilament gill nets are allowed. Nets restricted to 100 fathoms in length with no weight restriction on leadline.

Dates: 7:00 p.m. April 18 to 7:00 a.m. April 19, 2002
7:00 p.m. April 25 to 7:00 a.m. April 26, 2002
7:00 p.m. April 30 to 7:00 a.m. May 1, 2002
7:00 p.m. May 2 to 7:00 a.m. May 3, 2002
7:00 p.m. May 7 to 7:00 a.m. May 8, 2002
7:00 p.m. May 9 to 7:00 a.m. May 10, 2002
7:00 p.m. May 14 to 7:00 a.m. May 15, 2002
7:00 p.m. May 16 to 7:00 a.m. May 17, 2002
7:00 p.m. May 21 to 7:00 a.m. May 22, 2002
7:00 p.m. May 23 to 7:00 a.m. May 24, 2002
7:00 p.m. May 28 to 7:00 a.m. May 29, 2002
7:00 p.m. May 30 to 7:00 a.m. May 31, 2002
7:00 p.m. June 4 to 7:00 a.m. June 5, 2002
7:00 a.m. June 6 to 7:00 a.m. June 7, 2002
7:00 p.m. June 11 to 7:00 a.m. June 12, 2002
7:00 p.m. June 13 to 7:00 a.m. June 14, 2002

Allowable Sale: Salmon, sturgeon, shad

3) Tongue Point/South Channel Select Area

Area: Tongue Point Basin is open to fishing in all waters bounded by a line from the red light at Tongue Point to the flashing green light at Tongue Point to the flashing green light at the rock jetty on the northwesterly tip of Mott Island, a line from a marker at the south end of Mott Island easterly to a marker on the northwest bank on Lois Island, and a line from a marker on the southwest end of Lois Island due westerly to a marker on the opposite bank. South Channel is open to fishing in all waters bounded by a line from a marker on John Day Point through the green buoy "7" thence to a marker on the southwest end of Lois Island upstream to an upper boundary line from a marker on Settler Point northwesterly to flashing red marker "10". All open waters are under concurrent jurisdiction.

Dates: 7:00 p.m. April 18 to 5:00 a.m. April 19, 2002
7:00 p.m. April 25 to 5:00 a.m. April 26, 2002
7:00 p.m. April 30 to 5:00 a.m. May 1, 2002
7:00 p.m. May 2 to 5:00 a.m. May 3, 2002
7:00 p.m. May 7 to 5:00 a.m. May 8, 2002
7:00 p.m. May 9 to 5:00 a.m. May 10, 2002
7:00 p.m. May 14 to 5:00 a.m. May 15, 2002

7:00 p.m. May 16 to 5:00 a.m. May 17, 2002
7:00 p.m. May 21 to 5:00 a.m. May 22, 2002
7:00 p.m. May 23 to 5:00 a.m. May 24, 2002
7:00 p.m. May 28 to 5:00 a.m. May 29, 2002
7:00 p.m. May 30 to 5:00 a.m. May 31, 2002
7:00 p.m. June 4 to 5:00 a.m. June 5, 2002
7:00 p.m. June 6 to 5:00 a.m. June 7, 2002
7:00 p.m. June 11 to 5:00 a.m. June 12, 2002

Gear: 8-inch maximum mesh. Monofilament gill nets are allowed. Legal gear restricted to a maximum length of 250 fathoms and weight on leadline not to exceed 2 pounds on any one fathom within Tongue Point Basin.

In South Channel, nets are restricted to 100 fathoms in length with no weight restrictions on the leadline. Fishers participating in the Tongue Point Basin fishery may have stored on board their boats, gill nets with leadline in excess of 2 pounds per fathom.

Allowable Sale: Salmon, sturgeon and shad.

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

Reviser's note: The 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 7:01 a.m. June 14, 2002:

WAC 220-33-01000J Columbia River gillnet seasons below Bonneville.

**WSR 02-05-075
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 02-34—Filed February 20, 2002, 8:59 a.m., effective March 1, 2002]

Date of Adoption: February 19, 2002.

Purpose: Amend 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 77.12.047.

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 2001/2002 wild winter steelhead runs for the Skagit, Snohomish, Stillaguamish, Nooksack and Puyallup River systems are forecasted to be below escapement needs. Predicted wild steelhead run sizes for the river systems are anticipated to be between approximately 60 and 83% of wild steelhead escapement require-

ments. Closures will eliminate potential hooking mortality and disturbance of spawning fish. Hatchery steelhead fisheries continue to be allowed by National Marine Fisheries Service in the Upper Columbia Evolutionary Significant Unit. 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: March 1, 2002.

February 19, 2002

J. P. Koening

Director

by Larry Peck

NEW SECTION

WAC 232-28-61900T Exceptions to statewide rules—Snohomish River, Snoqualmie River, Skykomish River (mainstem), Tokul Creek, Stillaguamish River (mainstem), North Fork Stillaguamish River, Puyallup River, Carbon River, Skagit River, Fisher Slough, Nooksack River (mainstem, North Fork, Middle Fork, South Fork), Columbia River (mainstem), Okanogan River and Similkameen River. Notwithstanding the provisions of WAC 232-28-619, effective 12:01 a.m. March 1, 2002:

Snohomish River	From mouth including all channels, sloughs and inter-connected waterways upstream to the U.S. Highway 2 bridge: March 1, 2002 through March 31, 2002, release all steelhead. From U.S. Highway 2 bridge, including all channels, sloughs and inter-connected waterways upstream to the confluence of the Skykomish and Snoqualmie rivers, all channels: Closed to fishing March 1, 2002 through March 31, 2002.
Snoqualmie River	From mouth to Snoqualmie Falls: Closed to fishing March 1, 2002 through March 31, 2002.
Skykomish River (Mainstem)	From mouth to the forks: Closed to fishing March 1, 2002 through March 31, 2002.
Tokul Creek	From mouth to posted cable boundary marker approximately 700 feet upstream of the mouth: Closed to fishing March 1, 2002 through March 31, 2002.
Stillaguamish River (Mainstem)	All sloughs downstream of Warm Beach-Stanwood Highway: Release all steelhead March 1, 2002 through May 31, 2002.

Stillaguamish River (North Fork)	From mouth to Swede Heaven Bridge: Closed to fishing March 1, 2002 through May 31, 2002.
Puyallup River	From 11th Street Bridge upstream to Soldier's Home Bridge in Orting: Closed to fishing March 1, 2002 through March 31, 2002.
Carbon River	From mouth to Highway 162 Bridge: Closed to fishing March 1, 2002 through March 31, 2002.
Skagit River	From mouth to Memorial Highway Bridge, Hwy. 536 at Mt. Vernon: <ul style="list-style-type: none"> • Closed to fishing March 1, 2002 through April 12, 2002. • Open April 13, 2002 through April 31, 2002, release all steelhead. From Memorial Highway Bridge, Hwy. 536 at Mt. Vernon to Dalles Bridge at Concrete: Closed to fishing March 1, 2002 through March 31, 2002.
Fisher Slough	From mouth to Highway 530 Bridge: Closed to fishing March 1, 2002 through May 31, 2002.
Nooksack River (Mainstem)	From mouth to forks: Closed to fishing March 1, 2002 through March 15, 2002.
Nooksack River (North Fork)	From mouth to Nooksack Falls: Closed to fishing March 1, 2002 through March 15, 2002.
Nooksack River (Middle Fork)	From mouth to Dam: Closed to fishing March 1, 2002 through March 15, 2002.
Nooksack River (South Fork)	From mouth to Skookum Creek: Closed to fishing March 1, 2002 through March 15, 2002.
Columbia River	Main stem from Highway 395 Bridge at Pasco upstream to the Old Hanford town site wooden power line towers upstream from Ringold Hatchery: Open to fish for and possess up to two hatchery steelhead per day March 1, 2002 through March 31, 2002. Except: <ul style="list-style-type: none"> • Any steelhead with either a radio tag wire protruding from the mouth or a disc tag attached near the dorsal fin must be released.
Okanogan River	Mouth upstream: Open to fish for and possess up to two hatchery steelhead per day March 1, 2002 through March 31, 2002. Except: <ul style="list-style-type: none"> • Any steelhead with either a radio tag wire protruding from the mouth or a disc tag attached near the dorsal fin must be released. • Selective gear rules apply for steelhead • Closed from Zosel Dam downstream to one-quarter mile below the railroad trestle. • Closed March 1, 2002 through March 31, 2002, those waters between the Highway 97 Bridge at Omak and a line across the river 500 feet above Omak Creek.
Similkameen River	Mouth to 400 feet below Enloe Dam: Open to fish for and possess up to two hatchery steelhead per day March 1, 2002 through March 31, 2002. Except: <ul style="list-style-type: none"> • Any steelhead with either a radio tag wire protruding from the mouth or a disc tag attached near the dorsal fin must be released. • Selective gear rules apply for steelhead, except it is lawful to use whitefish gear.

EMERGENCY

REPEALER

The following section of the Washington Administrative code is repealed effective 12:01 a.m. March 1, 2002:

WAC 232-28-61900D Similkameen, Okanogan, and mainstem Columbia rivers - Winter steelhead. (01-252)

WSR 02-05-086
EMERGENCY RULES
FOREST PRACTICES BOARD

[Filed February 20, 2002, 10:42 a.m.]

Date of Adoption: February 13, 2002.

Purpose: To correct an error to WAC 222-16-050 that, if implemented as written, would likely result in damages to public resources and also result in an inconsistency in the definition of Class II forest practices in RCW 76.09.050.

Citation of Existing Rules Affected by this Order: Amending WAC 222-16-050.

Statutory Authority for Adoption: RCW 76.09.040, 76.09.050, 76.09.370, and 34.05.350.

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 existing rules under WAC 222-16-050, that became effective on July 1, 2001, contain an error that would classify salvage logging as a Class II forest practice regardless of whether this action occurs within a riparian management zone of a Type F water, within a bankfull width of a Type Np water, within a wetland or wetland management zone, or salvage operations involving the use of mechanized equipment on slopes greater than 40%. This is outside the original intent of the Forest Practices Board and could result in damages to public resources. Additionally, this error causes existing rules to be inconsistent with chapter 76.09 RCW.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Effective Date of Rule: Immediately.

February 19, 2002

Pat McElroy
 Chair

AMENDATORY SECTION (Amending WSR 01-12-042, filed 5/30/01, effective 7/1/01)

WAC *222-16-050 Classes of forest practices. There are 4 classes of forest practices created by the act. All forest practices (including those in Classes I and II) must be conducted in accordance with the forest practices rules.

(1) "**Class IV - special.**" Except as provided in WAC 222-16-051, application to conduct forest practices involving the following circumstances requires an environmental checklist in compliance with the State Environmental Policy Act (SEPA), and SEPA guidelines, as they have been determined to have potential for a substantial impact on the environment. It may be determined that additional information or a detailed environmental statement is required before these forest practices may be conducted.

*(a) Aerial application of pesticides in a manner identified as having the potential for a substantial impact on the environment under WAC 222-16-070 or ground application of a pesticide within a Type A or B wetland.

(b) Specific forest practices listed in WAC 222-16-080 on lands designated as critical habitat (state) of threatened or endangered species.

(c) Harvesting, road construction, aerial application of pesticides and site preparation on all lands within the boundaries of any national park, state park, or any park of a local governmental entity, except harvest of less than 5 MBF within any developed park recreation area and park managed salvage of merchantable forest products.

*(d) Timber harvest, or construction of roads, landings, gravel pits, rock quarries, or spoil disposal areas, on potentially unstable slopes or landforms described in (i) below that has the potential to deliver sediment or debris to a public resource or that has the potential to threaten public safety, and which has been field verified by the department (see WAC 222-10-030 SEPA policies for potential unstable slopes and landforms).

(i) For the purpose of this rule, potentially unstable slopes or landforms are one of the following: (See the board manual section 16 for more descriptive definitions.)

(A) Inner gorges, convergent headwalls, or bedrock hollows with slopes steeper than 35 degrees (70%);

(B) Toes of deep-seated landslides, with slopes steeper than 33 degrees (65%);

(C) Ground water recharge areas for glacial deep-seated landslides;

(D) Outer edges of meander bends along valley walls or high terraces of an unconfined meandering stream; or

(E) Any areas containing features indicating the presence of potential slope instability which cumulatively indicate the presence of unstable slopes.

(ii) The department will base its classification of the application/notification on professional knowledge of the area, information such as soils, geologic or hazard zonation

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maps and reports or other information provided by the applicant.

(iii) An application would not be classified as Class IV-Special for potentially unstable slopes or landforms under this subsection if:

(A) The proposed forest practice is located within a WAU that is subject to an approved watershed analysis;

(B) The forest practices are to be conducted in accordance with an approved prescription from the watershed analysis (or as modified through the 5-year review process); and

(C) The applicable prescription is specific to the site or situation, as opposed to a prescription that calls for additional analysis. The need for an expert to determine whether the site contains specific landforms will not be considered "additional analysis," as long as specific prescriptions are established for such landforms.

*(e) Timber harvest, in a watershed administrative unit not subject to an approved watershed analysis under chapter 222-22 WAC, construction of roads, landings, rock quarries, gravel pits, borrow pits, and spoil disposal areas on snow avalanche slopes within those areas designated by the department, in consultation with department of transportation and local government, as high avalanche hazard where there is the potential to deliver sediment or debris to a public resource, or the potential to threaten public safety.

(f) Timber harvest, construction of roads, landings, rock quarries, gravel pits, borrow pits, and spoil disposal areas on archaeological or historic sites registered with the Washington state office of archaeology and historic preservation, or on sites containing evidence of Native American cairns, graves, or glyptic records, as provided for in chapters 27.44 and 27.53 RCW. The department shall consult with affected Indian tribes in identifying such sites.

*(g) Forest practices subject to an approved watershed analysis conducted under chapter 222-22 WAC in an area of resource sensitivity identified in that analysis which deviates from the prescriptions (which may include an alternate plan) in the watershed analysis.

*(h) Filling or draining of more than 0.5 acre of a wetland.

(2) "Class IV - general." Applications involving the following circumstances are "Class IV - general" forest practices unless they are listed in "Class IV - special." Upon receipt of an application, the department will determine the lead agency for purposes of compliance with the State Environmental Policy Act pursuant to WAC 197-11-924 and 197-11-938(4) and RCW 43.21C.037(2). Such applications are subject to a 30-day period for approval unless the lead agency determines a detailed statement under RCW 43.21C.030 (2)(c) is required. Upon receipt, if the department determines the application is for a proposal that will require a license from a county/city acting under the powers enumerated in RCW 76.09.240, the department shall notify the applicable county/city under WAC 197-11-924 that the department has determined according to WAC 197-11-938(4) that the county/city is the lead agency for purposes of compliance with State Environmental Policy Act.

(a) Forest practices (other than those in Class I) on lands platted after January 1, 1960, or on lands being converted to another use.

(b) Forest practices which would otherwise be Class III, but which are taking place on lands which are not to be reforested because of likelihood of future conversion to urban development. (See WAC 222-16-060 and 222-34-050.)

(3) "Class I." Those operations that have been determined to have no direct potential for damaging a public resource are Class I forest practices. When the conditions listed in "Class IV - Special" are not present, these operations may be commenced without notification or application.

(a) Culture and harvest of Christmas trees and seedlings.

*(b) Road maintenance except: (i) Replacement of bridges and culverts across Type S, F or flowing Type Np Waters; or (ii) movement of material that has a direct potential for entering Type S, F or flowing Type Np Waters or Type A or B Wetlands.

*(c) Construction of landings less than 1 acre in size, if not within a shoreline area of a Type S Water, the riparian management zone of a Type F Water, the bankfull width of a Type Np Water, a wetland management zone, a wetland, or the CRGNSA special management area.

*(d) Construction of less than 600 feet of road on a side-slope of 40 percent or less if the limits of construction are not within the shoreline area of a Type S Water, the riparian management zone of a Type F Water, the bankfull width of a Type Np Water, a wetland management zone, a wetland, or the CRGNSA special management area.

*(e) Installation or removal of a portable water crossing structure where such installation does not take place within the shoreline area of a Type S Water and does not involve disturbance of the beds or banks of any waters.

*(f) Initial installation and replacement of relief culverts and other drainage control facilities not requiring a hydraulic permit.

(g) Rocking an existing road.

(h) Loading and hauling timber from landings or decks.

(i) Precommercial thinning and pruning, if not within the CRGNSA special management area.

(j) Tree planting and seeding.

(k) Cutting and/or removal of less than 5,000 board feet of timber (including live, dead and down material) for personal use (i.e., firewood, fence posts, etc.) in any 12-month period, if not within the CRGNSA special management area.

(l) Emergency fire control and suppression.

(m) Slash burning pursuant to a burning permit (RCW 76.04.205).

*(n) Other slash control and site preparation not involving either off-road use of tractors on slopes exceeding 40 percent or off-road use of tractors within the shorelines of a Type S Water, the riparian management zone of any Type F Water, or the bankfull width of a Type Np Water, a wetland management zone, a wetland, or the CRGNSA special management area.

*(o) Ground application of chemicals, if not within the CRGNSA special management area. (See WAC 222-38-020 and 222-38-030.)

***(p)** Aerial application of chemicals (except insecticides), outside of the CRGNSA special management area when applied to not more than 40 contiguous acres if the application is part of a combined or cooperative project with another landowner and where the application does not take place within 100 feet of lands used for farming, or within 200 feet of a residence, unless such farmland or residence is owned by the forest landowner. Provisions of chapter 222-38 WAC shall apply.

(q) Forestry research studies and evaluation tests by an established research organization.

***(r)** Any of the following if none of the operation or limits of construction takes place within the shoreline area of a Type S Water or the riparian management zone of a Type F Water, the bankfull width of a Type Np Water or flowing Type Ns Water, or within the CRGNSA special management area and the operation does not involve off-road use of tractor or wheeled skidding systems on a sideslope of greater than 40 percent:

(i) Any forest practices within the boundaries of existing golf courses.

(ii) Any forest practices within the boundaries of existing cemeteries which are approved by the cemetery board.

(iii) Any forest practices involving a single landowner where contiguous ownership is less than two acres in size.

(s) Removal of beaver structures from culverts on active and inactive roads. A hydraulics project approval from the Washington department of fish and wildlife may be required.

(4) "Class II." Certain forest practices have been determined to have a less than ordinary potential to damage a public resource and may be conducted as Class II forest practices: Provided, That no forest practice enumerated below may be conducted as a Class II forest practice if the operation requires a hydraulic project approval (RCW 75.20.100) or is within a "shorelines of the state," or involves owner of perpetual timber rights subject to RCW 76.09.067 (other than renewals). Such forest practices require an application. No forest practice enumerated below may be conducted as a "Class II" forest practice if it takes place on lands platted after January 1, 1960, or on lands being converted to another use. Such forest practices require a Class IV application. Class II forest practices are the following:

(a) Renewal of a prior Class II notification where no change in the nature and extent of the forest practices is required under rules effective at the time of renewal.

(b) Renewal of a previously approved Class III or IV forest practice application where:

(i) No modification of the uncompleted operation is proposed;

(ii) No notices to comply, stop work orders or other enforcement actions are outstanding with respect to the prior application; and

(iii) No change in the nature and extent of the forest practice is required under rules effective at the time of renewal. Renewal of a previously approved multiyear permit for forest practices within a WAU with an approved watershed analysis requires completion of a necessary 5-year review of the watershed analysis.

***(c)** Any of the following if none of the operation or limits of construction takes place within the riparian management zone of a Type F Water, within the bankfull width of a Type Np Water, within a wetland management zone, within a wetland, or within the CRGNSA special management area:

(i) Construction of advance fire trails.

(ii) Opening a new pit of, or extending an existing pit by, less than 1 acre.

***(d)** (~~Any of the following~~) Salvage of logging residue if none of the operation or limits of construction takes place within the riparian management zone of a Type F Water, within the bankfull width of a Type Np Water, within a wetland management zone or within a wetland; and if none of the operations involve off-road use of tractor or wheeled skidding systems on a sideslope of greater than 40 percent.

~~*(e)~~ (~~Salvage of logging residue.~~

~~*(f)~~) Any of the following if none of the operation or limits of construction takes place within the riparian management zone of a Type F Water, within the bankfull width of a Type Np Water, within a wetland management zone, within a wetland, or within the CRGNSA special management area, and if none of the operations involve off-road use of tractor or wheeled skidding systems on a sideslope of greater than 40 percent, and if none of the operations are located on lands with a likelihood of future conversion (see WAC 222-16-060):

(i) West of the Cascade summit, partial cutting of 40 percent or less of the live timber volume.

(ii) East of the Cascade summit, partial cutting of 5,000 board feet per acre or less.

(iii) Salvage of dead, down, or dying timber if less than 40 percent of the total timber volume is removed in any 12-month period.

(iv) Any harvest on less than 40 acres.

(v) Construction of 600 or more feet of road, provided that the department shall be notified at least 2 business days before commencement of the construction.

(5) "Class III." Forest practices not listed under Classes IV, I or II above are "Class III" forest practices. Among Class III forest practices are the following:

(a) Those requiring hydraulic project approval (RCW 75.20.100).

***(b)** Those within the shorelines of the state other than those in a Class I forest practice.

***(c)** Aerial application of insecticides, except where classified as a Class IV forest practice.

***(d)** Aerial application of chemicals (except insecticides), except where classified as Class I or IV forest practices.

***(e)** Harvest or salvage of timber except where classed as Class I, II or IV forest practices.

***(f)** All road construction and reconstruction except as listed in Classes I, II and IV forest practices.

(g) Opening of new pits or extensions of existing pits over 1 acre.

***(h)** Road maintenance involving:

(i) Replacement of bridges or culverts across Type S, F or flowing Type Np Waters; or

(ii) Movement of material that has a direct potential for entering Type S, F or flowing Type Np Waters or Type A or B Wetlands.

(i) Operations involving owner of perpetual timber rights subject to RCW 76.09.067.

(j) Site preparation or slash abatement not listed in Classes I or IV forest practices.

(k) Harvesting, road construction, site preparation or aerial application of pesticides on lands which contain cultural, historic or archaeological resources which, at the time the application or notification is filed, are:

(i) On or are eligible for listing on the National Register of Historic Places; or

(ii) Have been identified to the department as being of interest to an affected Indian tribe.

(l) Harvesting exceeding 19 acres in a designated difficult regeneration area.

(m) Utilization of an alternate plan. See WAC 222-12-040.

*(n) Any filling of wetlands, except where classified as Class IV forest practices.

*(o) Multiyear permits.

WSR 02-05-005**NOTICE OF PUBLIC MEETINGS
WORKFORCE TRAINING AND
EDUCATION COORDINATING BOARD**

[Memorandum—February 7, 2002]

September Meeting Date Change and
Meeting Location and November 2002
Meeting Location of the
Washington State Workforce Training
and Education Coordinating Board (WTECB)

At the January 31, 2002, WTECB meeting, the September 26, 2002, meeting date was changed to October 2, 2002, and will be held at Wenatchee Valley College, Wenatchee, Washington.

The November 20, 2002, WTECB meeting will be held at South Seattle Community College, Seattle, Washington. There will be no dinner held On November 19, 2002.

Thursday, January 31, 2002 (Meeting)
(South Puget Sound Community College, Olympia, Washington)
Student Union Building

Thursday, March 28, 2002 (Meeting)
(Department of Information Services, Olympia, Washington)
Large Conference Room, 2nd Floor

Wednesday, May 29, 2002 (Dinner)
Thursday, May 30, 2002 (Meeting)
(Edmonds Community College, Edmonds, Washington)
Snohomish Hall

Thursday, July 25, 2002 (Retreat)
Friday, July 26, 2002 (Retreat)
(Sleeping Lady, Leavenworth, Washington)

Tuesday, October 1, 2002 (Dinner)
Wednesday, October 2, 2002 (Meeting)
(Wenatchee Valley College, Wenatchee, Washington)

Wednesday, November 20, 2002 (Meeting)
(South Seattle Community College, Seattle, Washington)

If you have any questions, please call Caroline Haggard at (360) 753-5677.

WSR 02-05-022**NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF LICENSING**

(Title and Registration Advisory Committee)

[Memorandum—February 4, 2002]

Following is a public meeting notice for the next **Title and Registration Advisory Committee (TRAC)** meeting:

DATE: February 22, 2002
TIME: 9:00 a.m. - 11:00 a.m.
PLACE: Highways-Licensing Building
Conference Room 413
1125 Washington Street
Olympia, WA 98504

WSR 02-05-023**DEPARTMENT OF
LABOR AND INDUSTRIES**

[Filed February 12, 2002, 8:00 a.m.]

As per RCW 39.12.015, 39.12.020 and WAC 296-127-011 and as was distributed to all state and local agencies, other interested parties, and posted on the Internet on August 1, 2001, the Industrial Statistician has determined the state-wide prevailing rates of wage as provided in the attachments. These prevailing rates of wage are effective for public works projects bid on or after March 3, 2002.

Every contractor and subcontractor on every public works project must file a Statement of Intent to Pay Prevailing Wages and an Affidavit of Wages Paid. Both forms must be filed on every project. The filing of the Affidavit of Wages Paid does not set aside the requirement to also file the Statement of Intent to Pay Prevailing Wages. The department may fine contractors \$500 for failure to file these forms.

For more information on prevailing wage or a copy of the rates please visit our website at www.lni.wa.gov/prevailingwage or call (360) 902-5335.

Jim Christensen
Industrial Statistician

WSR 02-05-024**RULES COORDINATOR
COUNTY ROAD ADMINISTRATION BOARD**

[Filed February 12, 2002, 8:02 a.m.]

Following is the designated rules coordinator for our agency: Karen Pendleton, County Road Administration Board, 2404 Chandler Court S.W., Suite 240, Olympia, WA 98504-0913, karen@crab.wa.gov.

Jay P. Weber
Executive Director

WSR 02-05-026**NOTICE OF PUBLIC MEETINGS
WASHINGTON STATE LIBRARY**

(Library Commission)

[Memorandum—February 11, 2002]

A special meeting of the Washington State Library Commission is called by the presiding officer, Anne Haley, for Wednesday, February 13, 2002, at 11:00 a.m. The meeting will be conducted by conference call for the purpose of discussing and taking action regarding the establishment of the state library in the Office of Secretary of State.

For further information, call (360) 704-5249.

WSR 02-05-038
INTERPRETIVE OR POLICY STATEMENT
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

[Filed February 13, 2002, 9:27 a.m.]

DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT

Document Title: PCM 02-002.

Subject: Clarification on applying the statute of limitations.

Effective Date: January 7, 2002.

Document Description: This memo to the Division of Child Support staff clarifies how staff are to apply the statute of limitations when determining child support amounts.

To receive a copy of the interpretive or policy statement, contact Stephanie Schiller, Division of Child Support, P.O. Box 9162, Olympia, WA 98507-9162, phone (360) 664-5230, TDD (360) 753-9122, fax (360) 586-3274, e-mail sschille@dshs.wa.gov.

January 25, 2002
Stephanie E. Schiller

WSR 02-05-039
INTERPRETIVE OR POLICY STATEMENT
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

[Filed February 13, 2002, 9:28 a.m.]

DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT

Document Title: CN - 217.

Subject: The uniform hearing log.

Effective Date: January 2, 2002.

Document Description: This document explains to staff how to use a new centralized log to track Division of Child Support hearings.

To receive a copy of the interpretive or policy statement, contact Stephanie Schiller, Division of Child Support, P.O. Box 9162, Olympia, WA 98507-9162, phone (360) 664-5230, TDD (360) 753-9122, fax (360) 586-3274, e-mail sschille@dshs.wa.gov.

February 7, 2002
Stephanie E. Schiller

WSR 02-05-040
INTERPRETIVE OR POLICY STATEMENT
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

[Filed February 13, 2002, 9:30 a.m.]

DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT

Document Title: CN 218.

Subject: Foster care - One case per child process.

Effective Date: December 24, 2001.

Document Description: This notice explains to the Division of Child Support (DCS) staff how to split foster care

cases so that each child has a separate case in the DCS database.

To receive a copy of the interpretive or policy statement, contact Stephanie Schiller, Division of Child Support, P.O. Box 9162, Olympia, WA 98507-9162, phone (360) 664-5230, TDD (360) 753-9122, fax (360) 586-3274, e-mail sschille@dshs.wa.gov.

February 7, 2002
Stephanie E. Schiller

WSR 02-05-041
INTERPRETIVE OR POLICY STATEMENT
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

[Filed February 13, 2002, 9:31 a.m.]

DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT

Document Title: PCM 02-001.

Subject: How the Division of Child Support (DCS) works with parents who become unemployed.

Effective Date: January 2, 2002.

Document Description: This memo to DCS staff outlines and clarifies different ways that DCS works with parents in our caseload that become unemployed.

To receive a copy of the interpretive or policy statement, contact Stephanie Schiller, Division of Child Support, P.O. Box 9162, Olympia, WA 98507-9162, phone (360) 664-5230, TDD (360) 753-9122, fax (360) 586-3274, e-mail sschille@dshs.wa.gov.

February 7, 2002
Stephanie E. Schiller

WSR 02-05-044
PROCLAMATION
OFFICE OF THE GOVERNOR

[Filed February 13, 2002, 10:23 a.m.]

AMENDMENT TO STATE OF EMERGENCY

The series of storm events, addressed in the Proclamation dated January 8, 2002, which began on November 21, 2001, is continuing to threaten citizens and property in Washington State.

WHEREAS, the storm activity is causing extensive damage to homes, businesses, public utilities, public facilities, and infrastructure in Mason and Whatcom Counties.

NOW THEREFORE, I, GARY LOCKE, Governor of the state of Washington, as a result of the aforementioned situation and under RCW 38.08, 38.52, and 43.06, do hereby amend the Proclamation of January 8, 2002, and further proclaim that a State of Emergency exists in Mason and Whatcom counties.

MISC.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the state of Washington to be affixed at Olympia this 12th day of February, A.D., Two Thousand and Two.

Gary Locke

Governor of Washington

BY THE GOVERNOR:

Stephen Excell

Assistant Secretary of State

October 15 Room 3B
November 19 Room 310
December 17 Room 310

WSR 02-05-067
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

[Filed February 15, 2002, 3:56 p.m.]

DESCRIPTION OF WASHINGTON STATE PLAN AMENDMENT

Document Title: Washington State Plan Amendment.

Subject: Change in payment methodology for federally qualified health centers and rural health clinics.

Effective Date: January 1, 2002.

Required Information: Description of Changes in Method: Effective January 1, 2002, the Department of Social and Health Services (DSHS), Medical Assistance Administration (MAA) implemented a prospective payment system (PPS) for federally qualified health centers (FQHC) and rural health clinics (RHC) as described in section 702 of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act (BIPA) of 2000. MAA made the following changes to its reimbursement methodology:

- Prior to January 1, 2002, MAA reimbursed FQHCs based on 100% of their reasonable and necessary costs for Medicaid-covered services each year, as reported by the centers in an annual cost report. MAA audited these cost reports in order to insure their accuracy, and established an all-inclusive encounter rate based on the audited cost reports. In order to insure the center was receiving cost-based reimbursement for MAA clients assigned to a managed care plan, MAA also paid an enhanced premium to each FQHC for enrolled members on a per member, per month basis.
• Prior to January 1, 2002, MAA reimbursed RHCs using an all-inclusive encounter rate for RHC-covered services, using Medicare-determined rates and services. In order to insure the center was receiving cost-based reimbursement for MAA clients assigned to a managed care plan, MAA also paid each RHC an enhanced premium for enrolled members on a per member, per month basis.
• Effective January 1, 2002, MAA pays both FQHCs and RHCs on an all-inclusive encounter rate basis as defined in BIPA 2000, using a PPS methodology. This methodology sets the payment prospectively, using a weighted average of 100% of the FQHC or RHC's total reasonable costs for calendar years 1999 and 2000 and adjusted for any increase or decrease in scope of services furnished during calendar year 2001; this establishes a base encounter rate. Beginning calendar year 2002 and any year thereafter, the base encounter rate is increased by the percentage increase in the Medicare Economic Index (MEI) for primary care services, and adjusted for any increases or decreases within the clinic's scope of services. For clients enrolled with a managed care plan, the state pays the clinic a supplemental payment of a per

WSR 02-05-049
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF CORRECTIONS

[Memorandum—February 14, 2002]

Department of Corrections
Office of Correctional Operations
Correctional Industries
Board of Directors

Table with 3 columns: Date, Location, and Time. Rows include meetings on March 22, 23, 2002; June 22, 2001; September 21, 2002; December 6, 2002; and December 7, 2002.

Contact Sheila Pearson, (360) 753-5861.

WSR 02-05-063
NOTICE OF PUBLIC MEETINGS
CONVENTION AND TRADE
CENTER

[Memorandum—February 14, 2002]

The following is the schedule for the WSCTC board of directors meetings, year 2002. All dates are Tuesdays, and meetings begin at 2:00 p.m.

Table with 2 columns: Date and Room. Rows include meetings from January 8 to September 17 in various rooms (310, 201, 310, 5th Floor Board Room, 310, 303, 310, 303).

MISC.

member, per month basis in addition to the amount paid by the managed care plan. The state will obtain data from the plan on a quarterly basis to insure these supplemental payments meet the amount of payments the clinic is entitled to under BIPA PPS.

Estimate of any expected increase or decrease in annual aggregate expenditures: The state expects to see a decrease of approximately \$5 million in annual aggregate expenditures with implementation of the FQHC/RHC PPS methodology.

Explanation of why agency is changing its methods and standards: MAA is changing its payment methodology for FQHCs and RHCs in order to conform to the requirements of BIPA and to simplify its administrative procedures for reimbursing FQHCs and RHCs.

Local agency in each county where copies of the proposed changes are available for public review: Available from DSHS/Medical Assistance Administration in Olympia, Washington, from the person identified below.

To receive a copy of the state plan amendment, contact Joanie Scotson, Department of Social and Health Services, Medical Assistance Administration, Division of Client Support, P.O. Box 45534, Olympia, WA 98504, phone (360) 725-1330, TDD 1-800-204-6430, fax (360) 664-0910, e-mail scottsjk@dshs.wa.gov.

January 29, 2002

Larry Laux

WSR 02-05-072

**INTERPRETIVE OR POLICY STATEMENT
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES**

[Filed February 19, 2002, 4:52 p.m.]

DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT

Document Title: Billing Instruction.

Subject: Maternity support services.

Effective Date: March 1, 2002.

Document Description: This manual describes the Department of Social and Health Services guidelines for maternity support services delivered to medical assistance clients. Included in this document are the following sections: About the Program, Client Eligibility, Provider Requirements, Quality Assurance, Direct Client Service Requirements, First Steps Childcare, Billing/Fee Schedule, Claim Form Instructions and Samples.

To receive a copy of the interpretive or policy statement, contact Kevin Sullivan, Regulatory Improvement Coordinator, Department of Social and Health Services, Medical Assistance Administration, Division of Program Support, P.O. Box 45533, Olympia, WA 98504, phone (360) 725-1344 or go to website <http://maa.dshs.wa.gov> (click on Numbered Memorandum link), TDD 1-800-848-5429, fax (360) 586-9727, e-mail <mailto:sullikm@dshs.wa.gov>.

February 14, 2002

E. A. Myers, Acting Manager
Regulatory Improvement Project

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
- X = Expedited rule making
- XA = Expedited adoption
- XR = Expedited repeal

No suffix means permanent action

WAC # Shows the section number under which an agency rule is or will be codified in the Washington Administrative Code.

WSR # Shows the issue of the Washington State Register where the document may be found; the last three digits identify the document within the issue.

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
4-25-410	AMD	02-04-064	16-154-100	REP-P	02-04-109	16-158-060	REP-P	02-04-109
4-25-520	AMD	02-04-064	16-154-110	REP-P	02-04-109	16-158-080	REP-P	02-04-109
4-25-540	AMD	02-04-064	16-154-120	REP-P	02-04-109	16-158-090	REP-P	02-04-109
4-25-610	AMD	02-04-064	16-154-180	REP-P	02-04-109	16-158-100	REP-P	02-04-109
4-25-620	AMD	02-04-064	16-156-003	REP-P	02-04-109	16-158-110	REP-P	02-04-109
4-25-626	AMD	02-04-064	16-156-004	REP-P	02-04-109	16-158-120	REP-P	02-04-109
4-25-630	AMD	02-04-064	16-156-005	REP-P	02-04-109	16-158-130	REP-P	02-04-109
4-25-631	AMD	02-04-064	16-156-010	REP-P	02-04-109	16-158-135	REP-P	02-04-109
4-25-640	AMD-W	02-04-062	16-156-020	REP-P	02-04-109	16-158-150	REP-P	02-04-109
4-25-640	PREP	02-04-063	16-156-030	REP-P	02-04-109	16-162-010	REP-P	02-04-109
4-25-660	AMD	02-04-064	16-156-035	REP-P	02-04-109	16-162-025	REP-P	02-04-109
4-25-710	PREP	02-04-063	16-156-040	REP-P	02-04-109	16-162-030	REP-P	02-04-109
4-25-710	AMD	02-04-064	16-156-050	REP-P	02-04-109	16-162-034	REP-P	02-04-109
4-25-720	AMD	02-04-064	16-156-060	REP-P	02-04-109	16-162-036	REP-P	02-04-109
4-25-721	AMD	02-04-064	16-156-070	REP-P	02-04-109	16-162-037	REP-P	02-04-109
4-25-730	AMD	02-04-064	16-157-010	NEW-P	02-04-109	16-162-040	REP-P	02-04-109
4-25-735	NEW	02-04-064	16-157-020	NEW-P	02-04-109	16-162-045	REP-P	02-04-109
4-25-745	AMD	02-04-064	16-157-030	NEW-P	02-04-109	16-162-050	REP-P	02-04-109
4-25-746	AMD	02-04-064	16-157-100	NEW-P	02-04-109	16-162-070	REP-P	02-04-109
4-25-750	AMD	02-04-064	16-157-110	NEW-P	02-04-109	16-162-100	REP-P	02-04-109
4-25-752	NEW	02-04-064	16-157-120	NEW-P	02-04-109	16-164-010	REP-P	02-04-109
4-25-756	NEW	02-04-064	16-157-200	NEW-P	02-04-109	16-164-020	REP-P	02-04-109
4-25-783	AMD	02-04-064	16-157-210	NEW-P	02-04-109	16-164-035	REP-P	02-04-109
4-25-790	AMD	02-04-064	16-157-220	NEW-P	02-04-109	16-164-037	REP-P	02-04-109
4-25-791	AMD	02-04-064	16-157-230	NEW-P	02-04-109	16-164-040	REP-P	02-04-109
4-25-792	AMD	02-04-064	16-157-240	NEW-P	02-04-109	16-164-050	REP-P	02-04-109
4-25-793	NEW	02-04-064	16-157-250	NEW-P	02-04-109	16-164-055	REP-P	02-04-109
4-25-795	AMD	02-04-064	16-157-255	NEW-P	02-04-109	16-164-060	REP-P	02-04-109
4-25-820	AMD	02-04-064	16-157-260	NEW-P	02-04-109	16-164-070	REP-P	02-04-109
4-25-830	AMD	02-04-064	16-157-270	NEW-P	02-04-109	16-164-080	REP-P	02-04-109
4-25-910	AMD	02-04-064	16-157-275	NEW-P	02-04-109	16-164-085	REP-P	02-04-109
16-154-010	REP-P	02-04-109	16-157-280	NEW-P	02-04-109	16-164-090	REP-P	02-04-109
16-154-030	REP-P	02-04-109	16-157-290	NEW-P	02-04-109	16-164-100	REP-P	02-04-109
16-154-040	REP-P	02-04-109	16-158-010	REP-P	02-04-109	16-164-110	REP-P	02-04-109
16-154-050	REP-P	02-04-109	16-158-020	REP-P	02-04-109	16-228-1231	AMD	02-04-041
16-154-053	REP-P	02-04-109	16-158-027	REP-P	02-04-109	16-301-025	PREP	02-05-083
16-154-060	REP-P	02-04-109	16-158-028	REP-P	02-04-109	16-301-045	PREP	02-05-083
16-154-070	REP-P	02-04-109	16-158-030	REP-P	02-04-109	16-301-050	PREP	02-05-083
16-154-080	REP-P	02-04-109	16-158-040	REP-P	02-04-109	16-302-091	PREP	02-05-083
16-154-090	REP-P	02-04-109	16-158-050	REP-P	02-04-109	16-302-125	PREP	02-05-083

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16-302-250	PREP	02-05-083	36- 12-363	REP	02-03-069	132N-150-280	NEW	02-04-068
16-302-260	PREP	02-05-083	36- 12-364	AMD	02-03-069	132Z-116-005	NEW-P	02-03-089
16-302-330	PREP	02-05-083	36- 12-465	AMD	02-03-069	132Z-116-005	NEW-E	02-04-061
16-302-385	PREP	02-05-083	51- 56-1500	NEW-W	02-05-032	132Z-116-010	NEW-P	02-03-089
16-302-390	PREP	02-05-083	130- 14-010	AMD-P	02-03-131	132Z-116-010	NEW-E	02-04-061
16-302-410	PREP	02-05-083	130- 14-030	AMD-P	02-03-131	132Z-116-020	NEW-P	02-03-089
16-302-435	PREP	02-05-083	130- 14-050	AMD-P	02-03-131	132Z-116-020	NEW-E	02-04-061
16-302-440	PREP	02-05-083	130- 14-060	AMD-P	02-03-131	132Z-116-030	NEW-P	02-03-089
16-302-490	PREP	02-05-083	132H-106-030	AMD-P	02-05-052	132Z-116-030	NEW-E	02-04-061
16-302-545	PREP	02-05-083	132H-120-030	AMD-P	02-03-106	132Z-116-040	NEW-P	02-03-089
16-302-685	PREP	02-05-083	132H-120-050	AMD-P	02-03-106	132Z-116-040	NEW-E	02-04-061
16-303-200	PREP	02-03-127	132H-120-200	AMD-P	02-03-106	132Z-116-050	NEW-P	02-03-089
16-303-210	PREP	02-03-127	132H-120-220	AMD-P	02-03-106	132Z-116-050	NEW-E	02-04-061
16-303-230	PREP	02-03-127	132H-120-300	AMD-P	02-03-106	132Z-116-060	NEW-P	02-03-089
16-303-250	PREP	02-03-127	132H-120-350	AMD-P	02-03-106	132Z-116-060	NEW-E	02-04-061
16-303-250	PREP	02-05-083	132H-120-410	AMD-P	02-03-106	132Z-116-070	NEW-P	02-03-089
16-303-300	PREP	02-03-127	132H-120-420	AMD-P	02-03-106	132Z-116-070	NEW-E	02-04-061
16-303-310	PREP	02-03-127	132H-120-440	AMD-P	02-03-106	132Z-116-080	NEW-P	02-03-089
16-303-317	PREP	02-03-127	132H-120-450	AMD-P	02-03-106	132Z-116-080	NEW-E	02-04-061
16-303-320	PREP	02-03-127	132H-140	PREP	02-05-051	132Z-116-090	NEW-P	02-03-089
16-303-330	PREP	02-03-127	132H-152-135	PREP	02-03-104	132Z-116-090	NEW-E	02-04-061
16-303-340	AMD	02-05-082	132H-410-010	NEW-P	02-03-107	132Z-116-100	NEW-P	02-03-089
16-319-041	AMD	02-05-081	132H-410-020	NEW-P	02-03-107	132Z-116-100	NEW-E	02-04-061
16-324	PREP	02-03-132	132H-410-030	NEW-P	02-03-107	132Z-116-100	NEW-E	02-04-061
16-325-015	AMD-X	02-04-020	132H-410-040	NEW-P	02-03-107	132Z-116-110	NEW-P	02-03-089
16-403-190	PREP	02-03-128	132H-410-050	NEW-P	02-03-107	132Z-116-110	NEW-E	02-04-061
16-752	PREP	02-05-089	132H-410-060	NEW-P	02-03-107	132Z-116-200	NEW-P	02-03-089
36- 12-010	REP	02-03-069	132H-410-070	NEW-P	02-03-107	132Z-116-200	NEW-E	02-04-061
36- 12-011	AMD	02-03-069	132H-410-080	NEW-P	02-03-107	132Z-116-210	NEW-P	02-03-089
36- 12-020	AMD	02-03-069	132H-410-090	NEW-P	02-03-107	132Z-116-210	NEW-E	02-04-061
36- 12-030	AMD	02-03-069	132H-410-100	NEW-P	02-03-107	132Z-116-220	NEW-P	02-03-089
36- 12-040	AMD	02-03-069	132H-410-110	NEW-P	02-03-107	132Z-116-220	NEW-E	02-04-061
36- 12-050	AMD	02-03-069	132H-450-010	NEW-P	02-05-053	132Z-116-230	NEW-P	02-03-089
36- 12-060	REP	02-03-069	132N-144-010	REP	02-04-068	132Z-116-230	NEW-E	02-04-061
36- 12-070	AMD	02-03-069	132N-144-020	REP	02-04-068	132Z-116-240	NEW-P	02-03-089
36- 12-080	REP	02-03-069	132N-150-010	NEW	02-04-068	132Z-116-240	NEW-E	02-04-061
36- 12-100	AMD	02-03-069	132N-150-020	NEW	02-04-068	132Z-116-250	NEW-P	02-03-089
36- 12-110	AMD	02-03-069	132N-150-030	NEW	02-04-068	132Z-116-250	NEW-E	02-04-061
36- 12-120	REP	02-03-069	132N-150-040	NEW	02-04-068	132Z-116-260	NEW-P	02-03-089
36- 12-130	AMD	02-03-069	132N-150-050	NEW	02-04-068	132Z-116-260	NEW-E	02-04-061
36- 12-140	AMD	02-03-069	132N-150-060	NEW	02-04-068	132Z-116-270	NEW-P	02-03-089
36- 12-150	AMD	02-03-069	132N-150-070	NEW	02-04-068	132Z-116-270	NEW-E	02-04-061
36- 12-160	REP	02-03-069	132N-150-080	NEW	02-04-068	132Z-116-280	NEW-P	02-03-089
36- 12-170	AMD	02-03-069	132N-150-090	NEW	02-04-068	132Z-116-280	NEW-E	02-04-061
36- 12-190	AMD	02-03-069	132N-150-100	NEW	02-04-068	132Z-116-300	NEW-P	02-03-089
36- 12-200	AMD	02-03-069	132N-150-110	NEW	02-04-068	132Z-116-300	NEW-E	02-04-061
36- 12-210	REP	02-03-069	132N-150-120	NEW	02-04-068	132Z-116-310	NEW-P	02-03-089
36- 12-220	REP	02-03-069	132N-150-130	NEW	02-04-068	132Z-116-310	NEW-E	02-04-061
36- 12-240	AMD	02-03-069	132N-150-140	NEW	02-04-068	132Z-116-320	NEW-P	02-03-089
36- 12-250	AMD	02-03-069	132N-150-150	NEW	02-04-068	132Z-116-320	NEW-E	02-04-061
36- 12-260	AMD	02-03-069	132N-150-160	NEW	02-04-068	132Z-116-400	NEW-P	02-03-089
36- 12-270	AMD	02-03-069	132N-150-170	NEW	02-04-068	132Z-116-400	NEW-E	02-04-061
36- 12-280	AMD	02-03-069	132N-150-180	NEW	02-04-068	132Z-116-410	NEW-P	02-03-089
36- 12-285	NEW	02-03-069	132N-150-190	NEW	02-04-068	132Z-116-410	NEW-E	02-04-061
36- 12-290	AMD	02-03-069	132N-150-200	NEW	02-04-068	137- 28	PREP	02-03-075
36- 12-300	AMD	02-03-069	132N-150-210	NEW	02-04-068	173-173-030	NEW-W	02-05-034
36- 12-310	AMD	02-03-069	132N-150-220	NEW	02-04-068	173-173-070	NEW-W	02-05-034
36- 12-320	AMD	02-03-069	132N-150-230	NEW	02-04-068	173-216-125	AMD	02-05-055
36- 12-330	REP	02-03-069	132N-150-240	NEW	02-04-068	173-220-210	AMD	02-05-055
36- 12-340	REP	02-03-069	132N-150-250	NEW	02-04-068	173-226-090	AMD	02-05-055
36- 12-350	REP	02-03-069	132N-150-260	NEW	02-04-068	173-303	PREP	02-05-054
36- 12-360	AMD	02-03-069	132N-150-270	NEW	02-04-068	173-303-071	AMD-E	02-04-030
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173-312-020	AMD	02-05-070	180- 82A-204	NEW	02-04-013	220- 32-05100K	REP-E	02-04-073
173-312-040	AMD	02-05-070	180- 82A-206	NEW	02-04-013	220- 32-05100L	NEW-E	02-04-073
173-312-050	AMD	02-05-070	180- 82A-215	NEW	02-04-013	220- 32-05100L	REP-E	02-04-073
173-312-060	AMD	02-05-070	180- 85-035	AMD	02-04-017	220- 33-01000I	NEW-E	02-04-077
173-312-070	AMD	02-05-070	180- 85-075	AMD	02-04-017	220- 33-01000I	REP-E	02-04-077
173-312-080	AMD	02-05-070	180- 86-020	PREP	02-03-084	220- 33-01000J	NEW-E	02-05-056
173-312-090	AMD	02-05-070	180- 86-055	PREP	02-03-084	220- 33-01000J	REP-E	02-05-056
173-312-100	AMD	02-05-070	182- 12-230	NEW-P	02-05-078	220- 33-04000N	REP-E	02-04-072
173-401	PREP	02-05-011	192- 16-033	REP-E	02-03-074	220- 33-04000P	NEW-E	02-04-072
173-422	PREP	02-05-071	192- 16-036	REP-E	02-03-074	220- 33-04000P	REP-E	02-04-072
180- 77	AMD	02-04-018	192- 16-040	REP-E	02-03-074	220- 33-04000P	REP-E	02-04-102
180- 77-002	AMD	02-04-018	192- 16-042	REP-E	02-03-074	220- 33-04000Q	NEW-E	02-04-102
180- 77-003	AMD	02-04-018	192- 16-045	REP-E	02-03-074	220- 33-04000Q	REP-E	02-04-102
180- 77-005	AMD	02-04-018	192- 16-047	REP-E	02-03-074	220- 44-05000H	REP-E	02-04-060
180- 77-012	AMD	02-04-018	192-240-010	NEW-E	02-03-074	220- 44-05000I	NEW-E	02-04-060
180- 77-014	AMD	02-04-018	192-240-015	NEW-E	02-03-074	220- 52-04000F	REP-E	02-03-068
180- 77-020	AMD	02-04-018	192-240-020	NEW-E	02-03-074	220- 52-04600A	REP-E	02-03-024
180- 77-025	AMD	02-04-018	192-240-025	NEW-E	02-03-074	220- 52-04600B	NEW-E	02-03-024
180- 77-031	AMD	02-04-018	192-240-030	NEW-E	02-03-074	220- 52-04600B	REP-E	02-03-050
180- 77-041	AMD	02-04-018	192-240-035	NEW-E	02-03-074	220- 52-04600C	NEW-E	02-03-050
180- 77-068	AMD	02-04-018	192-240-040	NEW-E	02-03-074	220- 52-04600C	REP-E	02-04-093
180- 77-070	AMD	02-04-018	208-472	AMD	02-04-094	220- 52-04600D	NEW-E	02-04-093
180- 77-075	AMD	02-04-018	208-472-010	AMD	02-04-094	220- 52-07300Q	REP-E	02-03-025
180- 77-080	AMD	02-04-018	208-472-012	REP	02-04-094	220- 52-07300R	NEW-E	02-03-025
180- 77-110	AMD	02-04-018	208-472-015	AMD	02-04-094	220- 52-07300R	REP-E	02-03-067
180- 77-120	AMD	02-04-018	208-472-020	AMD	02-04-094	220- 52-07300S	NEW-E	02-03-067
180- 77-122	AMD	02-04-018	208-472-025	AMD	02-04-094	220- 52-07300S	REP-E	02-03-090
180- 77A	AMD	02-04-018	208-472-030	NEW	02-04-094	220- 52-07300T	NEW-E	02-03-090
180- 77A-004	AMD	02-04-018	208-472-035	NEW	02-04-094	220- 52-07300T	REP-E	02-04-035
180- 77A-006	AMD	02-04-018	208-472-041	REP	02-04-094	220- 52-07300U	NEW-E	02-04-035
180- 77A-025	AMD	02-04-018	208-472-045	REP	02-04-094	220- 52-07300U	REP-E	02-04-078
180- 77A-029	AMD	02-04-018	208-472-050	REP	02-04-094	220- 52-07300V	NEW-E	02-04-078
180- 77A-030	AMD	02-04-018	208-472-060	REP	02-04-094	220- 56-23500L	NEW-E	02-03-002
180- 77A-033	AMD	02-04-018	208-472-065	REP	02-04-094	220- 56-28500B	NEW-E	02-05-010
180- 77A-037	AMD	02-04-018	208-472-070	REP	02-04-094	220- 56-33000D	NEW-E	02-03-051
180- 77A-040	AMD	02-04-018	208-472-075	REP	02-04-094	220- 56-33000D	REP-E	02-05-001
180- 77A-057	AMD	02-04-018	208-472-080	REP	02-04-094	220- 56-33000E	NEW-E	02-05-001
180- 77A-165	AMD	02-04-018	212- 12-200	NEW-E	02-03-060	220- 56-36000L	NEW-E	02-03-053
180- 77A-180	AMD	02-04-018	212- 12-210	NEW-E	02-03-060	220- 56-36000L	REP-E	02-03-053
180- 77A-195	AMD	02-04-018	212- 12-220	NEW-E	02-03-060	220- 56-36000L	REP-E	02-04-039
180- 78A-209	AMD	02-04-018	212- 12-230	NEW-E	02-03-060	220- 56-36000M	NEW-E	02-04-039
180- 78A-220	AMD	02-04-014	212- 12-240	NEW-E	02-03-060	220- 56-36000M	REP-E	02-04-039
180- 78A-255	AMD	02-04-014	212- 12-250	NEW-E	02-03-060	220- 77-09000A	NEW-E	02-04-069
180- 78A-261	AMD	02-04-014	212- 12-260	NEW-E	02-03-060	220- 77-09000A	REP-E	02-04-089
180- 78A-264	AMD	02-04-014	212- 12-270	NEW-E	02-03-060	220- 77-09000B	NEW-E	02-04-089
180- 78A-270	AMD	02-04-018	212- 12-280	NEW-E	02-03-060	220-130-040	AMD-W	02-02-089
180- 79A-030	AMD	02-04-015	212- 12-290	NEW-E	02-03-060	222- 10-040	AMD-P	02-05-087
180- 79A-117	AMD	02-04-018	212- 12-300	NEW-E	02-03-060	222- 10-041	AMD-P	02-05-087
180- 79A-130	AMD	02-04-018	212- 12-310	NEW-E	02-03-060	222- 16-050	AMD-E	02-05-086
180- 79A-140	AMD	02-04-018	212- 12-320	NEW-E	02-03-060	222- 21-010	AMD	02-05-084
180- 79A-150	AMD	02-04-018	212- 12-330	NEW-E	02-03-060	222- 21-020	AMD	02-05-084
180- 79A-206	PREP	02-05-061	212- 12-340	NEW-E	02-03-060	222- 21-045	AMD	02-05-084
180- 79A-211	AMD	02-04-018	212- 12-350	NEW-E	02-03-060	222- 21-050	AMD	02-05-084
180- 79A-250	PREP	02-05-060	212- 12-360	NEW-E	02-03-060	222- 21-061	NEW	02-05-084
180- 82-105	AMD	02-04-018	212- 12-370	NEW-E	02-03-060	226- 01-040	AMD-X	02-03-038
180- 82-202	AMD	02-04-018	212- 12-380	NEW-E	02-03-060	226- 01-050	AMD-X	02-03-038
180- 82-322	AMD	02-04-018	212- 12-390	NEW-E	02-03-060	226- 12-080	AMD-X	02-03-038
180- 82-346	AMD	02-04-016	212- 12-400	NEW-E	02-03-060	226- 16-160	AMD-X	02-03-038
180- 82-350	AMD	02-04-018	212- 12-410	NEW-E	02-03-060	226- 20-010	AMD-X	02-03-038
180- 82A-002	NEW	02-04-013	212- 12-420	NEW-E	02-03-060	230- 02-205	AMD-S	02-03-077
180- 82A-200	NEW	02-04-013	220- 16-410	AMD-W	02-05-035	230- 04-202	AMD-W	02-02-090
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232- 28-42500C	REP-E	02-03-052	296- 05-300	AMD-X	02-04-004	296- 52-489	REP	02-03-125
232- 28-61900D	REP-E	02-05-075	296- 05-316	AMD-X	02-04-004	296- 52-493	REP	02-03-125
232- 28-61900H	REP-E	02-03-014	296- 05-402	AMD-X	02-04-004	296- 52-497	REP	02-03-125
232- 28-61900I	NEW-E	02-03-022	296- 150C	PREP	02-04-106	296- 52-501	REP	02-03-125
232- 28-61900I	REP-E	02-03-022	296- 150F	PREP	02-04-106	296- 52-505	REP	02-03-125
232- 28-61900J	NEW-E	02-03-023	296- 150M	PREP	02-04-106	296- 52-509	REP	02-03-125
232- 28-61900K	NEW-E	02-03-014	296- 150P	PREP	02-04-106	296- 52-510	REP	02-03-125
232- 28-61900L	NEW-E	02-03-015	296- 150R	PREP	02-04-106	296- 52-550	REP	02-03-125
232- 28-61900L	REP-E	02-03-015	296- 150V	PREP	02-04-106	296- 52-552	REP	02-03-125
232- 28-61900M	NEW-E	02-03-066	296- 17-35203	AMD-P	02-03-123	296- 52-555	REP	02-03-125
232- 28-61900N	NEW-E	02-04-019	296- 17-52140	AMD-P	02-03-123	296- 52-60005	NEW	02-03-125
232- 28-61900N	REP-E	02-04-019	296- 17-52141	AMD-P	02-03-123	296- 52-60010	NEW	02-03-125
232- 28-61900P	NEW-E	02-04-103	296- 17-52150	AMD-P	02-03-123	296- 52-60015	NEW	02-03-125
232- 28-61900Q	NEW-E	02-05-007	296- 17-52151	AMD-P	02-03-123	296- 52-60020	NEW	02-03-125
232- 28-61900R	NEW-E	02-05-008	296- 200A	PREP	02-04-106	296- 52-60030	NEW	02-03-125
232- 28-61900R	REP-E	02-05-008	296- 20-135	AMD-P	02-05-076	296- 52-60035	NEW	02-03-125
232- 28-61900S	NEW-E	02-05-010	296- 23-220	AMD-P	02-05-076	296- 52-60045	NEW	02-03-125
232- 28-61900T	NEW-E	02-05-075	296- 23-230	AMD-P	02-05-076	296- 52-60050	NEW	02-03-125
232- 28-61900U	REP-E	02-03-022	296- 24	PREP	02-04-107	296- 52-60055	NEW	02-03-125
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246-254-053	AMD-P	02-04-034	296- 24-012	AMD-X	02-05-077	296- 52-60065	NEW	02-03-125
246-254-070	AMD	02-04-025	296- 24-14001	AMD-X	02-05-077	296- 52-60075	NEW	02-03-125
246-254-080	AMD	02-04-025	296- 24-23003	AMD-X	02-05-077	296- 52-60080	NEW	02-03-125
246-254-090	AMD	02-04-025	296- 24-51009	AMD-X	02-05-077	296- 52-60085	NEW	02-03-125
246-254-100	AMD	02-04-025	296- 24-51011	AMD-X	02-05-077	296- 52-60090	NEW	02-03-125
246-254-120	AMD	02-04-025	296- 24-51015	AMD-X	02-05-077	296- 52-60095	NEW	02-03-125
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246-338-020	PREP	02-03-138	296- 24-63499	AMD-X	02-05-077	296- 52-60105	NEW	02-03-125
246-338-990	PREP	02-03-138	296- 24-67513	AMD-X	02-05-077	296- 52-60115	NEW	02-03-125
246-650	PREP	02-03-136	296- 24-67515	AMD-X	02-05-077	296- 52-60120	NEW	02-03-125
246-650	PREP-W	02-04-024	296- 32-240	AMD-P	02-05-080	296- 52-60125	NEW	02-03-125
246-840-020	PREP	02-04-033	296- 32-250	AMD-X	02-05-077	296- 52-60130	NEW	02-03-125
246-840-030	PREP	02-04-033	296- 32-280	AMD-X	02-05-077	296- 52-61005	NEW	02-03-125
246-840-040	PREP	02-04-033	296- 400A	PREP	02-04-106	296- 52-61010	NEW	02-03-125
246-840-050	PREP	02-04-033	296- 401B	PREP	02-04-106	296- 52-61015	NEW	02-03-125
246-840-060	PREP	02-04-033	296- 45-52530	AMD-P	02-05-080	296- 52-61020	NEW	02-03-125
246-840-070	PREP	02-04-033	296- 46A	PREP	02-04-106	296- 52-61025	NEW	02-03-125
246-840-080	PREP	02-04-031	296- 52	AMD	02-03-125	296- 52-61030	NEW	02-03-125
246-840-090	PREP	02-04-031	296- 52-401	REP	02-03-125	296- 52-61035	NEW	02-03-125
246-851-150	AMD-C	02-04-090	296- 52-405	REP	02-03-125	296- 52-61040	NEW	02-03-125
246-851-160	AMD-C	02-04-090	296- 52-409	REP	02-03-125	296- 52-61045	NEW	02-03-125
246-851-250	AMD-C	02-04-090	296- 52-413	REP	02-03-125	296- 52-61050	NEW	02-03-125
246-851-300	AMD-C	02-04-090	296- 52-417	REP	02-03-125	296- 52-62005	NEW	02-03-125
246-851-310	AMD-C	02-04-090	296- 52-419	REP	02-03-125	296- 52-62010	NEW	02-03-125
246-851-330	AMD-C	02-04-090	296- 52-421	REP	02-03-125	296- 52-62025	NEW	02-03-125
246-851-520	AMD-C	02-04-090	296- 52-423	REP	02-03-125	296- 52-62030	NEW	02-03-125
246-918-990	AMD	02-05-009	296- 52-425	REP	02-03-125	296- 52-62035	NEW	02-03-125
246-919-990	AMD	02-05-009	296- 52-429	REP	02-03-125	296- 52-62040	NEW	02-03-125
246-976-935	AMD	02-04-045	296- 52-433	REP	02-03-125	296- 52-62045	NEW	02-03-125
250- 66-030	AMD	02-05-006	296- 52-437	REP	02-03-125	296- 52-63005	NEW	02-03-125
251- 01-240	AMD-P	02-04-081	296- 52-441	REP	02-03-125	296- 52-63010	NEW	02-03-125
251- 12-073	REP-P	02-04-079	296- 52-445	REP	02-03-125	296- 52-63020	NEW	02-03-125
251- 17-200	AMD-P	02-04-080	296- 52-449	REP	02-03-125	296- 52-63025	NEW	02-03-125
251- 19-120	AMD-P	02-04-081	296- 52-453	REP	02-03-125	296- 52-63030	NEW	02-03-125
260- 36-040	AMD-P	02-05-029	296- 52-457	REP	02-03-125	296- 52-64005	NEW	02-03-125
260- 48-930	NEW-P	02-05-028	296- 52-461	REP	02-03-125	296- 52-64020	NEW	02-03-125
260- 48-930	NEW-W	02-05-033	296- 52-465	REP	02-03-125	296- 52-64030	NEW	02-03-125
260- 70-650	AMD-P	02-05-030	296- 52-469	REP	02-03-125	296- 52-64035	NEW	02-03-125
260- 70-660	PREP	02-05-027	296- 52-477	REP	02-03-125	296- 52-64040	NEW	02-03-125
292-120-030	AMD	02-04-003	296- 52-481	REP	02-03-125	296- 52-64045	NEW	02-03-125
292-120-035	NEW	02-04-003	296- 52-485	REP	02-03-125	296- 52-64050	NEW	02-03-125

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296- 52-64055	NEW	02-03-125	296- 52-67215	NEW	02-03-125	296- 52-71015	NEW	02-03-125
296- 52-64065	NEW	02-03-125	296- 52-67220	NEW	02-03-125	296- 52-71020	NEW	02-03-125
296- 52-64075	NEW	02-03-125	296- 52-67225	NEW	02-03-125	296- 52-71025	NEW	02-03-125
296- 52-64080	NEW	02-03-125	296- 52-67230	NEW	02-03-125	296- 52-71035	NEW	02-03-125
296- 52-64085	NEW	02-03-125	296- 52-67235	NEW	02-03-125	296- 52-71040	NEW	02-03-125
296- 52-64090	NEW	02-03-125	296- 52-67240	NEW	02-03-125	296- 52-71045	NEW	02-03-125
296- 52-64095	NEW	02-03-125	296- 52-67245	NEW	02-03-125	296- 52-71055	NEW	02-03-125
296- 52-64100	NEW	02-03-125	296- 52-68010	NEW	02-03-125	296- 52-71060	NEW	02-03-125
296- 52-650	NEW	02-03-125	296- 52-68015	NEW	02-03-125	296- 52-71065	NEW	02-03-125
296- 52-65005	NEW	02-03-125	296- 52-68020	NEW	02-03-125	296- 52-71075	NEW	02-03-125
296- 52-65010	NEW	02-03-125	296- 52-68025	NEW	02-03-125	296- 52-71080	NEW	02-03-125
296- 52-65015	NEW	02-03-125	296- 52-68030	NEW	02-03-125	296- 52-71090	NEW	02-03-125
296- 52-65020	NEW	02-03-125	296- 52-68040	NEW	02-03-125	296- 52-71095	NEW	02-03-125
296- 52-65025	NEW	02-03-125	296- 52-68045	NEW	02-03-125	296- 52-71100	NEW	02-03-125
296- 52-65030	NEW	02-03-125	296- 52-68050	NEW	02-03-125	296- 52-71105	NEW	02-03-125
296- 52-660	NEW	02-03-125	296- 52-68055	NEW	02-03-125	296- 52-720	NEW	02-03-125
296- 52-66005	NEW	02-03-125	296- 52-68060	NEW	02-03-125	296- 52-725	NEW	02-03-125
296- 52-66010	NEW	02-03-125	296- 52-68065	NEW	02-03-125	296- 62	PREP	02-04-107
296- 52-66015	NEW	02-03-125	296- 52-68075	NEW	02-03-125	296- 62-07302	AMD-X	02-05-077
296- 52-66020	NEW	02-03-125	296- 52-68080	NEW	02-03-125	296- 62-07304	AMD-X	02-05-077
296- 52-66030	NEW	02-03-125	296- 52-68085	NEW	02-03-125	296- 62-07312	AMD-X	02-05-077
296- 52-66035	NEW	02-03-125	296- 52-69005	NEW	02-03-125	296- 62-07314	AMD-X	02-05-077
296- 52-66040	NEW	02-03-125	296- 52-69010	NEW	02-03-125	296- 62-07421	AMD-X	02-05-077
296- 52-66045	NEW	02-03-125	296- 52-69015	NEW	02-03-125	296- 62-07501	AMD-X	02-05-077
296- 52-66050	NEW	02-03-125	296- 52-69020	NEW	02-03-125	296- 62-07527	AMD-X	02-05-077
296- 52-66055	NEW	02-03-125	296- 52-69025	NEW	02-03-125	296- 62-07540	AMD-X	02-05-077
296- 52-66060	NEW	02-03-125	296- 52-69030	NEW	02-03-125	296- 62-14105	AMD-X	02-05-077
296- 52-67010	NEW	02-03-125	296- 52-69035	NEW	02-03-125	296- 62-14110	AMD-X	02-05-077
296- 52-67020	NEW	02-03-125	296- 52-69040	NEW	02-03-125	296- 62-14155	AMD-X	02-05-077
296- 52-67025	NEW	02-03-125	296- 52-69045	NEW	02-03-125	296- 62-14171	AMD-X	02-05-077
296- 52-67030	NEW	02-03-125	296- 52-69050	NEW	02-03-125	296- 78-56501	AMD	02-03-124
296- 52-67035	NEW	02-03-125	296- 52-69055	NEW	02-03-125	296- 78-56505	AMD	02-03-124
296- 52-67040	NEW	02-03-125	296- 52-69060	NEW	02-03-125	296- 79-140	AMD-X	02-05-077
296- 52-67045	NEW	02-03-125	296- 52-69065	NEW	02-03-125	296- 96	PREP	02-04-106
296- 52-67050	NEW	02-03-125	296- 52-69070	NEW	02-03-125	296-104	PREP	02-04-105
296- 52-67055	NEW	02-03-125	296- 52-69080	NEW	02-03-125	296-150M-0020	AMD	02-03-048
296- 52-67060	NEW	02-03-125	296- 52-69085	NEW	02-03-125	296-150M-0049	NEW	02-03-048
296- 52-67065	NEW	02-03-125	296- 52-69090	NEW	02-03-125	296-150M-0140	AMD	02-03-048
296- 52-67070	NEW	02-03-125	296- 52-69095	NEW	02-03-125	296-150M-0302	NEW	02-03-048
296- 52-67075	NEW	02-03-125	296- 52-69105	NEW	02-03-125	296-155-110	AMD-P	02-05-080
296- 52-67080	NEW	02-03-125	296- 52-69110	NEW	02-03-125	296-155-165	AMD-P	02-05-080
296- 52-67085	NEW	02-03-125	296- 52-69115	NEW	02-03-125	296-155-200	AMD-P	02-05-080
296- 52-67090	NEW	02-03-125	296- 52-69120	NEW	02-03-125	296-155-24525	AMD-X	02-05-077
296- 52-67095	NEW	02-03-125	296- 52-69125	NEW	02-03-125	296-155-441	AMD-X	02-05-077
296- 52-67100	NEW	02-03-125	296- 52-700	NEW	02-03-125	296-155-525	AMD-X	02-05-077
296- 52-67105	NEW	02-03-125	296- 52-70005	NEW	02-03-125	296-155-530	AMD-X	02-05-077
296- 52-67110	NEW	02-03-125	296- 52-70010	NEW	02-03-125	296-155-601	NEW-P	02-05-080
296- 52-67115	NEW	02-03-125	296- 52-70015	NEW	02-03-125	296-155-602	NEW-P	02-05-080
296- 52-67125	NEW	02-03-125	296- 52-70020	NEW	02-03-125	296-155-603	NEW-P	02-05-080
296- 52-67130	NEW	02-03-125	296- 52-70025	NEW	02-03-125	296-155-604	NEW-P	02-05-080
296- 52-67135	NEW	02-03-125	296- 52-70030	NEW	02-03-125	296-155-605	AMD-P	02-05-080
296- 52-67140	NEW	02-03-125	296- 52-70035	NEW	02-03-125	296-155-606	NEW-P	02-05-080
296- 52-67145	NEW	02-03-125	296- 52-70040	NEW	02-03-125	296-155-607	NEW-P	02-05-080
296- 52-67160	NEW	02-03-125	296- 52-70045	NEW	02-03-125	296-155-608	NEW-P	02-05-080
296- 52-67165	NEW	02-03-125	296- 52-70050	NEW	02-03-125	296-155-609	NEW-P	02-05-080
296- 52-67170	NEW	02-03-125	296- 52-70055	NEW	02-03-125	296-155-610	AMD-P	02-05-080
296- 52-67180	NEW	02-03-125	296- 52-70060	NEW	02-03-125	296-155-611	NEW-P	02-05-080
296- 52-67185	NEW	02-03-125	296- 52-70065	NEW	02-03-125	296-155-612	NEW-P	02-05-080
296- 52-67190	NEW	02-03-125	296- 52-70070	NEW	02-03-125	296-155-615	AMD-P	02-05-080
296- 52-67195	NEW	02-03-125	296- 52-70080	NEW	02-03-125	296-155-655	AMD-P	02-05-080
296- 52-67200	NEW	02-03-125	296- 52-70085	NEW	02-03-125	296-155-66405	AMD-X	02-05-077
296- 52-67210	NEW	02-03-125	296- 52-710	NEW	02-03-125	296-155-66411	AMD-X	02-05-077

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296-305-04001	AMD-X	02-05-077	308- 56A-115	PREP	02-05-019	308- 96A-207	AMD-P	02-05-057
296-305-05003	AMD-X	02-05-077	308- 56A-140	PREP	02-05-018	308- 96A-208	AMD-P	02-05-057
296-307	PREP	02-04-107	308- 56A-150	PREP	02-05-018	308- 96A-306	AMD	02-04-002
296-307-039	AMD-X	02-05-077	308- 56A-160	PREP	02-05-018	308- 96A-311	AMD	02-04-002
296-307-08009	AMD-X	02-05-077	308- 56A-200	PREP	02-05-018	308- 96A-312	AMD	02-04-002
296-800	PREP	02-04-107	308- 56A-210	PREP	02-05-019	308- 96A-313	AMD	02-04-002
308- 12-010	AMD-P	02-04-114	308- 56A-215	PREP	02-05-018	308- 96A-314	AMD	02-04-002
308- 12-031	AMD-P	02-04-114	308- 56A-250	PREP	02-05-016	308- 96A-316	AMD	02-04-002
308- 12-050	AMD-P	02-04-114	308- 56A-265	PREP	02-05-016	308- 96A-530	PREP	02-05-002
308- 12-081	AMD-P	02-04-114	308- 56A-270	PREP	02-05-016	308-100-140	AMD	02-04-076
308- 12-085	AMD-P	02-04-114	308- 56A-275	PREP	02-05-016	308-124A-110	AMD-P	02-03-058
308- 12-115	AMD-P	02-04-114	308- 56A-295	PREP	02-05-019	308-124A-460	AMD	02-03-057
308- 12-150	AMD-P	02-04-114	308- 56A-300	PREP	02-05-014	308-124A-600	AMD	02-03-080
308- 12-210	AMD-P	02-04-114	308- 56A-305	PREP	02-05-014	308-124A-605	NEW	02-03-080
308- 12-220	AMD-P	02-04-114	308- 56A-310	PREP	02-05-014	308-124B-150	AMD	02-03-054
308- 12-230	AMD-P	02-04-114	308- 56A-315	PREP	02-05-014	308-124H-014	NEW	02-03-055
308- 12-240	AMD-P	02-04-114	308- 56A-320	PREP	02-05-014	308-124H-025	AMD	02-03-055
308- 12-320	AMD-P	02-04-114	308- 56A-325	PREP	02-05-014	308-124H-061	AMD	02-03-056
308- 12-321	REP-P	02-04-114	308- 56A-330	PREP	02-05-014	308-124H-062	AMD	02-03-056
308- 12-322	REP-P	02-04-114	308- 56A-640	PREP	02-05-013	308-125-085	AMD-P	02-04-083
308- 12-323	REP-P	02-04-114	308- 56A-640	PREP	02-05-017	308-125-120	AMD	02-03-011
308- 12-324	REP-P	02-04-114	308- 66	PREP	02-04-059	308-125-200	AMD	02-03-012
308- 12-325	REP-P	02-04-114	308- 90-040	AMD	02-05-073	308-330-305	AMD	02-04-075
308- 12-330	NEW-P	02-04-114	308- 90-070	AMD	02-05-073	308-330-307	AMD	02-04-075
308- 13-005	AMD-P	02-04-113	308- 90-080	AMD	02-05-073	308-330-320	AMD	02-04-075
308- 13-020	AMD-P	02-04-113	308- 90-090	AMD	02-05-073	308-330-464	AMD	02-04-075
308- 13-024	AMD-P	02-04-113	308- 90-100	AMD	02-05-073	308-330-481	AMD	02-04-075
308- 13-036	NEW-P	02-04-113	308- 90-110	AMD	02-05-073	308-330-705	AMD	02-04-075
308- 13-050	AMD-P	02-04-113	308- 90-130	AMD	02-05-073	314- 02-010	AMD-P	02-04-115
308- 13-100	AMD-P	02-04-113	308- 90-140	AMD	02-05-073	314- 02-015	AMD-P	02-04-115
308- 15-040	PREP	02-05-079	308- 90-150	AMD	02-05-073	314- 02-020	AMD-P	02-04-115
308- 15-140	PREP	02-05-079	308- 90-160	AMD	02-05-073	314- 02-025	AMD-P	02-04-115
308- 17-150	AMD-P	02-03-130	308- 93-230	AMD	02-04-001	314- 02-030	AMD-P	02-04-115
308- 18-150	AMD-P	02-02-096	308- 93-250	REP	02-04-001	314- 02-033	NEW-P	02-04-115
308- 19-130	AMD-P	02-02-095	308- 93-270	AMD	02-04-001	314- 02-035	AMD-P	02-04-115
308- 19-240	AMD-P	02-02-095	308- 93-275	NEW	02-04-001	314- 02-045	AMD-P	02-04-115
308- 20-010	AMD	02-04-012	308- 93-280	AMD	02-04-001	314- 02-050	REP-P	02-04-115
308- 20-030	REP	02-04-012	308- 93-280	AMD	02-05-059	314- 02-055	AMD-P	02-04-115
308- 20-040	AMD	02-04-012	308- 93-520	AMD	02-05-059	314- 02-115	AMD-P	02-04-115
308- 20-045	REP	02-04-012	308- 93-530	AMD	02-05-059	314- 02-125	AMD-P	02-04-115
308- 20-080	AMD	02-04-012	308- 93-540	AMD	02-05-059	314- 02-130	AMD-P	02-04-115
308- 20-090	AMD	02-04-012	308- 93-700	AMD	02-05-058	314- 11-015	AMD-P	02-04-110
308- 20-105	AMD	02-04-012	308- 93-710	AMD	02-05-058	314- 11-020	AMD-P	02-04-110
308- 20-107	AMD	02-04-012	308- 93-720	AMD	02-05-058	314- 11-025	AMD-P	02-04-110
308- 20-110	AMD	02-04-012	308- 93-730	AMD	02-05-058	314- 11-030	AMD-P	02-04-110
308- 20-120	AMD	02-04-012	308- 93-740	AMD	02-05-058	314- 11-035	AMD-P	02-04-110
308- 20-122	NEW	02-04-012	308- 93-750	AMD	02-05-058	314- 11-040	AMD-P	02-04-110
308- 20-130	REP	02-04-012	308- 93-760	AMD	02-05-058	314- 11-045	AMD-P	02-04-110
308- 20-150	REP	02-04-012	308- 93-770	AMD	02-05-058	314- 11-060	AMD-P	02-04-110
308- 20-155	REP	02-04-012	308- 96A-046	PREP	02-05-002	314- 11-065	AMD-P	02-04-110
308- 20-171	REP	02-04-012	308- 96A-050	PREP	02-05-002	314- 11-070	AMD-P	02-04-110
308- 20-172	REP	02-04-012	308- 96A-056	PREP	02-05-002	314- 11-072	NEW-P	02-04-110
308- 20-210	AMD-P	02-04-088	308- 96A-057	PREP	02-05-002	314- 11-095	AMD-P	02-04-110
308- 20-310	REP	02-04-012	308- 96A-073	PREP	02-05-002	314- 16-190	REP-P	02-04-115
308- 20-590	REP	02-04-012	308- 96A-074	PREP	02-05-002	314- 16-196	REP-P	02-04-115
308- 56A-030	PREP	02-05-019	308- 96A-080	PREP	02-05-020	314- 21-005	NEW-P	02-04-112
308- 56A-040	PREP	02-05-019	308- 96A-085	PREP	02-05-020	314- 21-015	NEW-P	02-04-112
308- 56A-056	PREP	02-05-019	308- 96A-090	PREP	02-05-020	314- 21-025	NEW-P	02-04-112
308- 56A-060	PREP	02-05-019	308- 96A-095	PREP	02-05-020	314- 60-040	AMD-P	02-04-111
308- 56A-070	PREP	02-05-015	308- 96A-101	PREP	02-03-086	315- 10	PREP	02-05-048
308- 56A-075	PREP	02-05-015	308- 96A-110	PREP	02-03-086	315- 20-010	AMD-C	02-03-108
			308- 96A-136	PREP	02-03-086			

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315- 37-010	NEW-P	02-03-109	388- 15-049	NEW-P	02-03-118	388- 76-535	AMD-P	02-03-117
315- 37-020	NEW-P	02-03-109	388- 15-053	NEW-P	02-03-118	388- 76-540	PREP	02-04-096
315- 37-030	NEW-P	02-03-109	388- 15-057	NEW-P	02-03-118	388- 76-61510	AMD-P	02-03-117
315- 37-040	NEW-P	02-03-109	388- 15-061	NEW-P	02-03-118	388- 76-640	REP-P	02-03-117
315- 37-050	NEW-P	02-03-109	388- 15-065	NEW-P	02-03-118	388- 76-64005	NEW-P	02-03-117
315- 37-060	NEW-P	02-03-109	388- 15-069	NEW-P	02-03-118	388- 76-64010	NEW-P	02-03-117
315- 37-070	NEW-P	02-03-109	388- 15-073	NEW-P	02-03-118	388- 76-64015	NEW-P	02-03-117
315- 37-080	NEW-P	02-03-109	388- 15-077	NEW-P	02-03-118	388- 76-64020	NEW-P	02-03-117
315- 37-090	NEW-P	02-03-109	388- 15-081	NEW-P	02-03-118	388- 76-64025	NEW-P	02-03-117
315- 37-100	NEW-P	02-03-109	388- 15-085	NEW-P	02-03-118	388- 76-64030	NEW-P	02-03-117
315- 37-110	NEW-P	02-03-109	388- 15-089	NEW-P	02-03-118	388- 76-64035	NEW-P	02-03-117
315- 37-120	NEW-P	02-03-109	388- 15-093	NEW-P	02-03-118	388- 76-710	AMD-P	02-03-117
332- 30-106	AMD-P	02-03-111	388- 15-097	NEW-P	02-03-118	388- 96-713	AMD-E	02-04-011
332- 30-115	AMD-P	02-03-111	388- 15-101	NEW-P	02-03-118	388- 96-901	AMD-E	02-04-011
332- 30-139	AMD-P	02-03-111	388- 15-105	NEW-P	02-03-118	388-110-020	PREP	02-04-096
332- 30-144	AMD-P	02-03-111	388- 15-109	NEW-P	02-03-118	388-110-210	PREP	02-04-096
332- 30-148	AMD-P	02-03-111	388- 15-113	NEW-P	02-03-118	388-110-230	PREP	02-04-096
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